

**VARIED FORMAL REQUIREMENTS IN CIVIL AND  
ADMINISTRATIVE LAWSUIT  
(STUDY IN JORDANIAN LEGISLATION)**

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**Abstract**

The research deals with the variation between the formal and substantive conditions in both civil and administrative lawsuits, as the Jordanian administrative judiciary has been regulated under Law No. 27 of 2014 stating the formal and substantive conditions for filing an administrative lawsuit.

The study focus on breaching the formal conditions for case registration, which leads to dismissal, nullity, and rejection, thus, missing out benefits for the appellants.

**Keyword: variation, administrative, judiciary, nullity, administrative.**

## **Introduction**

The Jordanian judiciary has witnessed various developments when the judicial system that prevailed in the Ottoman Empire in eastern Jordan continued until the Basic Law of the Emirate of Transjordan was issued in 1928, which regulated the judiciary and identified the three types of courts, civil, religious and private courts, and governed all disputes, even those involving the public administration. The Government Claims Act was subsequently issued in 1935 as a law on which responsibility of government administration is based. Following the promulgation of the Jordanian Constitution in 1952, constitutional provisions included the issuance of a law to regulate Jordanian administrative law and the establishment of a supreme court of justice.

After the entry into force of the Constitution of 1952, the Jordanian Courts Formation Law was issued, which included the establishment of the Magistrates' Courts, First Instance, Appeal and Discrimination Courts.

The Constitution defines three tasks for the Court of Cassation to hear cases through, a civil task for the consideration of rights-related disputes, a penal task in criminal cases, and an administrative prescription when considering applications for annulment of administrative decision and appeals relating to municipal and local council elections exclusively. It also had jurisdiction only to repeal without compensation and was convened to consider it as a Supreme Court of Justice.

The Interim Supreme Court of Justice Act was subsequently promulgated, establishing the Supreme Court of Justice as an independent court. Accordingly, the administrative judiciary became

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separate from the regular judiciary. After the 1989 elections, the Supreme Court of Justice Act was enacted and was a serious step in shaping the Jordanian administrative judiciary. This law extended the jurisdiction of the administrative judiciary, recognizing the compensation judiciary as well as the annulment and contesting the election of municipal and local councils. One criticism of the administrative judiciary was that it was of one level and that the decision of the Supreme Court of Justice did not accept appeal to any court.

Subsequently, the Administrative Court Law No. 27 of 2014 was issued, which is considered a real qualitative leap and development in the field of the Jordanian administrative judiciary. Administrative judiciary has achieved the following features:

**First:** It establishes a judiciary that is called the Administrative Judiciary in the Hashemite Kingdom of Jordan. This shall grant full independence to the administrative judiciary (Article 3 of the Administrative Judiciary Law).

**Second:** It makes administrative litigation of two levels, consisting of the Administrative Court as the first level and the Supreme Administrative Court as the second level.

**Third:** It expands the jurisdiction of the administrative judiciary, where the Administrative Court is competent to hear all appeals related to the final administrative decisions as well as:

1. Appeals against the results of the elections of the councils of chambers of industry and commerce, trade unions, associations and clubs registered in the Kingdom, and electoral appeals conducted in

accordance with the laws and regulations in force, unless otherwise stipulated in another law to give this jurisdiction to another court.

2. Appeals filed by the concerned parties in the final administrative decisions related to appointment to public office, promotion, transfer, assignment, secondment, commissioning, and confirmation of service or classification.

3. Appeals to public officials concerning the cancellation of final administrative decisions related to termination or suspension of their services.

4. Appeals to public officials concerning the cancellation of final decisions issued by the disciplinary authorities.

5. Appeals for salaries, allowances, bonuses, annual increases and retirement rights due to public officials or retirees or their heirs under the legislation in force.

6. Appeals filed by any aggrieved party requesting the cancellation of any system, instruction or decision based on the system's violation of the law issued pursuant thereto, violation of the instructions of the law or the order issued pursuant thereto, or violation of the decision of the law, order or instructions issued on the basis thereof.

7. Appeals made by any aggrieved party relating to the cancellation of final administrative decisions even if they are immune to the law issued pursuant thereto.

8. Appeals against any final decisions issued by administrative bodies with jurisdiction, except those issued by conciliation and arbitration bodies in labor disputes.

9. Appeals that are the jurisdiction of the Administrative Court under any other law.

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**10. The Administrative Court shall have jurisdiction to hear claims for damages suffered as a result of the decisions and procedures stipulated if it is submitted to it pursuant to the cancellation claim.**

**Given this important development, it was necessary to discuss the formal aspects of accepting the administrative case, as this dispute is of a special nature and has a special court, as it has a special legal form that must be followed before the administrative court, especially since it is newly applied. It was necessary to discuss the formal conditions of the statement of claim in the general form, and the conditions for those who file the lawsuit and the conditions of the administrative decision subject to appeal.**

**The Administrative Judiciary Law required data concerning the administrative lawsuit and whoever filed the administrative lawsuit. The law has required the signature of a lawyer who practiced the legal profession for a period of not less than five years.**

**Since the Administrative Court was modern, it was necessary to discuss the formal stages of the registration of the administrative case, and the stages of registration before the Supreme Administrative Court, because of the need to provide a practical and formal acceptance of the administrative case to reach the results and recommendations of this study.**

### **Problem of the study**

**The problem of the study revolves around what are the formal requirements for filing the administrative lawsuit.**

### **Limits of the current study**

**The Jordanian Administrative Law and conducting a comparison between the formal requirements for registering the lawsuit in general and the administrative lawsuit in particular.**

**Methodology**

**Descriptive Analytical Approach.**

**Hypotheses**

- 1 - There are formal requirements for the lawsuit in general.**
- 2. There are special formal requirements for administrative lawsuit.**
- 3. Failure to follow the formalism leads to the inadmissibility of the lawsuit.**

**Importance of the study**

**The law of administrative justice is new, and it needs to be enriched and debated in all its aspects, but the subject of the study is the importance of the availability of formal requirements for the registration of administrative proceedings, because the failure to comply with the formal requirements for the registration of administrative lawsuit leads to its invalidity makes the appellant lose his rights. Since there are no in-depth studies on these conditions , it was necessary to discuss them to make it easy for lawyers to access to them and be the beginning of subsequent studies, especially since any modern law needs a lot of studies.**

**Division of the current study**

**Topic (1): the special conditions of statement of claim before the judiciary.**

**Topic (2): the special data in the statement of claim of administrative lawsuit.**

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**Topic (3): the formal requirements in the procedures of the registration of the administrative case**

### **Conclusion**

**Topic (1): the special conditions in the list of lawsuit before the judiciary**

The law requires a set of formal requirements relating to public order which, if not available, lead to the invalidity of the lawsuit. There are two conditions: Registration and signature of a lawyer, which we will discuss<sup>1</sup> in Jordanian law in three sections. Section (1) shall be in the examination of the special conditions for the registration of the lawsuit in general, and Section (2) shall be on the formal conditions for those who file the administrative lawsuit. Section (3) shall be on the formal formalities in the administrative decision subject to appeal.

**Section (1): the special conditions for the registration of the lawsuit in general**

Article 52 of the Code of Civil Procedure stipulates the data to be available in the statement of claim<sup>2</sup>:

**First: The name of the court before which the lawsuit is filed.**

The law stipulates that the name of the competent court shall be written in the statement of claim, but if the name of the court is not mentioned in the list of lawsuit, this does not render the case invalid and this is stipulated by the Court of Cassation (Resolution No. 2589/2000)<sup>3</sup>. In another Resolution (Article 56/1 of the Code of Civil Procedure

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<sup>1</sup> Journal of the Bar Association of 2003.

<sup>2</sup> The Jordanian Code of Civil Procedure No. 52 of 1985 as amended.

<sup>3</sup> Journal of the Bar Association of 2003.

required the lawsuit to include the name of the court, and the provisions of the Code of Civil Procedure did not include the nullification of the lawsuit due to omission of the name of the court in the statement of claim, even if this is necessary to identify the competent court. The lawsuit shall be valid and of full effect from the date of its registration in the Registry of the Court, even if it is not competent. In such a case, the court shall refer the lawsuit to the competent court as required by articles 57/2 and 112 of the Code of Civil Procedure<sup>1</sup> (Decree No. 1910/2007).

**Second:** The name of the plaintiff, his status, his place of work, his place of residence, the name of his representative, status and address of the person representing him, if any.

The name of the plaintiff must be mentioned in the statement of claim, in order to clearly identify the plaintiff, so that the defendant can know his opponent in the case and indicate whether he is claiming for himself or others as an agent. The name must also match civil records, so it is necessary to add the national number of the plaintiff. The domicile is necessary in order for the court to consider spatial jurisdiction and to follow up the requirements of legal notices that require the determination of the person's legal domicile.

**Third:** The defendant's name, his status, place of work and place of residence.

This requirement is for the defendant to be clearly identified and for the court to be able to inform him and call him to trial. The legal status of the defendant must be determined if he is disabled. This statement

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<sup>1</sup> Journal of the Bar Association of 2003.



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identifies the real opponent where the law requires that the lawsuit be filed against real opponents, and may not involve the real opponent if it turns out that the opponent is imaginary.

The Court of Cassation states that (one of the recognized principles of jurisprudence and law that the inclusion of a second defendant in the lawsuit after its establishment is not permissible unless the original lawsuit is based on a real opponent) decision No. 112/1985.<sup>1</sup>

If the defendant is a legal person, the name of the legal person shall be mentioned, and the representative of the legal person shall be mentioned.

### **Fifth: The facts of the lawsuit**

This includes the legal and material facts of the case, the date of its creation and the requests clarifying to the court the competence to consider the case. The facts vary according to the type of dispute, and they form the basis on which the opponent rely to claim right, whether such rights are stipulated by the law, contract, injurious act, beneficial act or sole will. Article 56 of the Code of Civil Procedure stipulates that the list of lawsuit shall include all what the plaintiff has the right to claim at the time of filing the lawsuit. Article 57 of the Code of Civil Procedure stipulates that requests made by a legal representative may not be combined with requests relating to his or her personality.

Article 58 stipulates that the Court cannot examine all the reasons together and may order the examination of each cause separately, or issue such decisions as it deems appropriate according to Article 59.

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<sup>1</sup> Journal of the Bar Association of 1990.

**6. Signature of Plaintiff and his agent**

In order for the regulation to be valid for accreditation, it must include the signature of the plaintiff or his agent to demonstrate the true binding will to file this lawsuit. The signature of the lawsuit by the agent shall be accompanied by proof of the agent's capacity and power to sign on behalf of the principal attached to a certified power of attorney. (Article 63 of the Code of Civil Procedure forbids individuals other than lawyers to appear before judges to hear a case, except by an attorneys representing them under a power of attorney. The attorney also has the right to prove his power f attorney via an official document if power of attorney is general or certified by the principal's signature if it is special and the lawyer's signature must be on the statement of claim or the appeal (Court of Cassation decision 1732/1997).<sup>1</sup>

Moreover, the jurisprudence indicates that although Article 56/7 of the Civil Procedure Law stipulated that statement of claim should be signed by the plaintiff or his agent, it did not indicate its nullity for the breach of the law. Such an end would be achieved by subsequent acknowledgment, recurrence or endorsement by the Court before the trial proceedings were entered into. Decision No. 1814/2004. The decision has also stipulated that<sup>2</sup>:

If the original attorney attends the first session of the trial and reiterates the statement of claim signed by the apprentice attorney and then continues to present the evidence and pleadings himself, the

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<sup>1</sup> Journal of the Bar Association of 1998.

<sup>2</sup> Journal of the Bar Association of 2005.

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signing of the statement of claim by the apprentice attorney does not require the dismissal of the case because the purpose of the plaintiff's signature of the attorney is to redress decision 2000/2002.

**Section (2): the special conditions of the plaintiff who files administrative lawsuit.**

**- Interest in the Administrative lawsuit:**

The administrative claimant must have an interest in making this case, otherwise the lawsuit will become unacceptable.

The interest is defined as the need to protect the law. It is defined by some as the practical benefit of the plaintiff, and this interest is either a positive request (benefit from the lawsuit) or negative request to prevent the enforcement of an illegal right.

The jurisprudence considers interest as the only condition for accepting the lawsuit<sup>1</sup> because the status is the personal and direct interest of the person. The Interest must meet several conditions:

Interest must be legal, personal, direct and existed (will be discussed hereinafter).

**1- Legal interest:**

The interest shall be based on a legal right or status, and the case shall be for the protection of this right or status, not contrary to public order or morals. The legal rule in contravention of the contested administrative decision must be in favor of individuals or bodies that have challenged the decision and not in favor of the administrative authority.<sup>2</sup>

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<sup>1</sup> Mahmoud al-Kilani, The Civil Procedures Law, 2006, Dar Al-Thaqafa, p. 157

<sup>2</sup> Mahmoud Maher Abul-Enein, Abolition Law, Dar Al-Nahda, 1988, p. 460

**2. The interest shall be personal and direct: The plaintiff must be the right holder or his representative as the agent. A person shall not claim the right of others unless he is an agent or representative. It is sufficient in the administrative case that the appellant has a direct right where the decision affects his personal interest directly and does not mix with the public interest.<sup>1</sup>**

**Accordingly, the Supreme Administrative Court decision No. 180 of 2015 (the Court recognized that the requirement of interest - as a condition of admission of an administrative case - requires that the plaintiff's plaintiff be in a special legal situation in relation to the contested decision would have an impact on a personal interest).**

**Accordingly, the Supreme Administrative Court decision No. 180 of 2015 stipulates that (the Court recognized that the requirement of interest - as a condition of admission of administrative action - requires that the plaintiff be in a special legal situation with respect to the contested decision that would affect a personal interest).<sup>2</sup>**

**Direct interest is a condition for accepting a case where there is no action without interest, but the administrative judiciary depends on the leniency of the requirement of personal follow-up of the interest by filing a lawsuit to facilitate individuals in filing the administrative case because the appellant does not seek to protect a personal right as much as it seeks to protect the law and achieve the public interest. <sup>3</sup>**

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<sup>1</sup> Mohamed Abdel Salam Mokhles, Theory of Interest in the Abolition Law, PhD Thesis, Ain Shams University, 1981, p. 122.

<sup>2</sup> High Administrative Court Decision No. 180 of 2015.

<sup>3</sup> Amina Joubran, Public Interest Clause in Abolition, Protection of Administrative Affairs, Morocco, 1986, No. 6, p. 780

### **3. Existing Interest:**

The interest must be in place to accept the case and not merely a possibility. The individual must have the right before the assault takes place, and the occurrence of an assault on this right or legal status has caused harm to him immediately and this means the established interest is not probable and not future. The interest of the appellant is achieved by removing the assault and restoring his legal status.

The provisions of the Code of Civil Procedure did not differentiate between the potential interest in a civil or administrative case, but rather it addressed absolute right. The administrative judiciary is lenient in the notion of interest because an administrative action can be based on a right called an appellant in particular.

**Section (3): Third requirement: Special formal conditions in the administrative decision subject of appeal**

The issue of appeal before the administrative judiciary is the administrative decision issued. The judiciary defines the administrative decision as "disclosure of the administration of its binding will by its authority under laws and regulations with a view to having a legal effect that is possible and permissible and which was for public interest."<sup>1</sup>

The administrative decision requires four conditions in order to be subject to appeal before the Administrative Court:

**1. The decision concerns an administrative activity.**

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<sup>1</sup> Suleiman Tamawi, The General Theory of Administrative Decisions, 5th edition, p. 170, Ain Shams Press.

**2. The decision shall be issued by a competent national administrative authority.**

**3. The decision shall have legal effect and achieve legal status for a person.**

**4. The decision shall be final.**

**First: The decision concerns an administrative activity.**

**The administrative decision is a legal act, and therefore the material works do not fall within the decision as this activity does not create, modify or abolish legal centers.**

**The decision of the High Court of Justice No. 177/96 (to remove the student from the school and ask him to join the commercial branch is a material and correction work and is not an administrative decision in the sense intended and does not accept the appeal on the grounds of cancellation. Status of the student and the statement of the instructions in force Administrative decisions in the legal sense intended <sup>1</sup>. Expression of will may be explicit in writing or by word and can be implicit expression through the silence of the administration.**

**One of the applications of tacit silence is to accept the resignation that has been submitted for more than thirty days without an explicit decision to accept, reject or postpone the decision. It also refused to accept the appeal of the decision, which has been submitted sixty days without a response from the competent authority. The administrative decision shall be issued by an individual will and this distinguishes the administrative decision from the administrative contract.**

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<sup>1</sup> Supreme Court Decision No. 177/96 dated 8/4/1997 Journal of the Bar Association of 1997, p. 4337.

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**Second: The decision shall be issued by a competent national administrative authority.**

**The administrative decision shall be issued by a national administrative body, and this shall be determined by the body that issued the decision. The administration shall make the decision, and it shall be national of legal persons to whom the administrative status applies. The decision of the Supreme Court of Justice No. 87/68 (the decision issued by the company is not considered an administrative decision in the legal sense because it requires the administrative decision that may be challenged on the grounds of cancellation to be issued by legal persons)<sup>1</sup>. The competent authority shall be in accordance with the laws to issue this decision. The Supreme Court of Justice decision No. 6 of 1978 stipulates that (an administrative appealable decision must be issued by an administrative authority with its public authority under the law and not under the contract).<sup>2</sup>**

**The decision must be made by a national authority where the Supreme Court of Justice decision No. 119 of 1973 states (the cancellation case against a decision of a foreign embassy shall not be considered as the embassy is part of a foreign country).<sup>3</sup>**

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<sup>1</sup> Supreme Court Decision No. 87 of 1968, Journal of the Bar Association, 1969, p. 1487.

<sup>2</sup> Supreme Court Decision No. 17 of 1965, Journal of the Bar Association, 1967, p. 63.

<sup>3</sup> Supreme Court Decision No. 119 of 1973, Journal of the Bar Association, 1974, p. 390.

Therefore, a decision that does not produce an effect, as is the case in the preliminary proceedings or inquiries, notices and notices, more precisely, the decision issued must be the title of the truth in what it was issued for.<sup>1</sup>

In the view of the jurisprudence<sup>2</sup>: the impact of the administrative decision may not be the establishment of the right or the abolition of legal status, but merely it has an attitude and justifies the decision to refuse a particular license, it reflects the will of the administration to keep the legal status unchanged.

**4. The decision shall be final:**

The final decision is a decision that does not accept an appeal before a higher body of appeal, which would have an immediate effect.<sup>3</sup> It must be made by a body with full jurisdiction for all elements of its existence. The Supreme Court of Justice states (the administrative decision that may be appealed is the final executive decision)<sup>4</sup>. Article (5) of the Jordanian Administrative Judiciary Law No. 27 of 2014 explicitly states: (The Administrative Court shall have exclusive jurisdiction to hear all appeals relating to final administrative decisions).

Topic (2): the special data in the statement of claim of administrative lawsuit.

The Law of Administrative judiciary contains special conditions in terms of the data of the lawsuit before the Administrative Court. These

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<sup>1</sup> Supreme Court of Justice Decision No. 346 of 2004, Journal of the Bar Association, 2005, p.

<sup>2</sup> Hamdi Al-Qablat, Administrative Judiciary, p. 223.

<sup>3</sup> Omar Shweiki, Administrative Judiciary, Dar Al-Thaqafa, Amman, 2011, p. 199.

<sup>4</sup> Decree No. 45 of 1985. Journal of the Bar Association of 1986.



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data are those of the person who signs the lawsuit and begins to appear before the court. The other aspects are in the form of the case list and its annexes. The third aspect is in terms of the list of responses and the facts created after the lawsuit is filed. This is what will be discussed in these sections:

### **Section (1): the formal conditions for those who sign the lawsuit:**

The law stipulates important formal aspects of those who initiate administrative proceedings before the Administrative Court.

**Conditions for who signs the statement of claim :**

The claim must be signed before the Administrative Court by a practicing lawyer.

This requirement is contained in Article 9 of the Jordanian Judicial Law<sup>1</sup> (a) subject to the provisions of the Chief Administrative Prosecutor and his assistants: 1. The summons must be signed by a lawyer .....

A lawyer is a person who has acquired the status of a legal profession after joining the Bar Association, completing the training requirements and a decision from the Bar Association was issued as a practicing lawyer.

2. A lawyer shall be a practicing lawyer for a period of not less than five years:

This requirement is evident through Article 9 (a) (The summons must be signed by a lawyer who has practiced law for at least five years.

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<sup>1</sup> Jordanian Administrative Judiciary Law No. 27 of 2014

The exception to these conditions is that those who have signed the summons must be included in the same article” “9 (or he has worked in a judicial position for a similar period before practicing law). This includes those who have served in the judiciary for five years before filing the lawsuit and retired from the service because the judge is already exempted from training in legal works.

**Section (2): the formal conditions of the administrative lawsuit and its attachments:**

The formalities of the statement of claim will be discussed in addition to its attachments.

**Part (I): Conditions of the Administrative Lawsuit**

Jordanian law stipulated several formal requirements administrative lawsuit, which must be adhered to, and if omitted, this will lead to the non-acceptance of the case in form<sup>1</sup>. These conditions are:

**First: The name of the court to which the appeal is submitted:**

The name of the court of the court to which the appeal is submitted must be mentioned because it relates to the specific jurisdiction of the court. After the determination of the competent court, the summons shall be printed. Article 9 of the Jordanian Administrative Judiciary Law stipulates that: (the summons of a lawsuit filed before the court must be clearly printed, be printed on one side of each paper.

It seems that the legislator stresses on this condition where the concept of printing means the use of a tool for printing rather than handwriting and that it must be printed on one side of the paper only.

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<sup>1</sup> Jordanian Administrative Judiciary Law

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the researcher 's point of view is that this restriction is a kind of arbitrariness of the legislator as the legislator had to require writing only and make an option for those who want to print more clearly.

**Second: The full name of the summoner, his status, place of work and place of residence:**

This requirement is in line with the requirements for filing a claim in general. The case is a personal legal proceeding and the plaintiff is the stakeholder, who is legally competent. The summons must be filed in his name, even if he has appointed a lawyer on his behalf or has authorized a person to appoint a lawyer to act on his behalf. There is no difference if the plaintiff is a natural or legal person and there is no difference if the lawsuit is filed by one or several persons. Article "9" of the Jordanian Administrative Judiciary Law stipulates this requirement (9 / B / 2) to include the full name of the summoner, his description and the place of his residence .

Place of his residence and place of work are necessary for the purposes of judicial notifications when needed.<sup>1</sup>

**Third: The name of the defendant and his status clearly described**

Usually, the name of the defendant is the name of the issuer of the decision. Failure to identify the party that issued the decision leads to the dismissal of the case in form.

The decision of the High Court of Justice confirms this requirement in decision No. 536/2004 (since the appeal of this case is directed against the decision of the Security Affairs Committee, and since the defendants were the Legal Committee and the Commission for the Settlement of

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<sup>1</sup> Abdel Fattah Hassan, Administrative Judiciary, Dar Al-Nahda, Egypt, 1979, p. 450.

**Rights; they did not make the decision and did not participate in its issuance, so the Committees are not considered adversaries to the plaintiff, which makes the case rejected in the form due to non-existence of litigation.<sup>1</sup>**

**Fourth: The subject of the lawsuit:**

**Regarding the subject of the lawsuit, the formal requirements came with three elements:**

**First: Summary of facts. Second: the content of the resolution. Third: the requests that the plaintiff wants. Summary of the facts of the case are the set of facts on which the plaintiff rely and which are derived from the source of the right. Source means the reasons that establish and decide a right.**

**When the plaintiff appeals the administrative decision, he has legal facts that give him the right to reinstate the situation because there would be violation of the law and powers<sup>2</sup>. When the claimant claims compensation, it is based on the damage caused by the unjust decision against him.**

**Article 9 (b) (3) stipulates that the right shall be included in the proceedings. Since the administrative decision is an expression of the sole will of an administrative authority with a view to having a certain legal effect, the substance of the decision is the effect of this decision, which has led to appeal to the competent court.**

**As for requests, Article (9 / B / 3) stipulates (and the reasons for the appeal and the specific requests of the claimant from his case). This**

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<sup>1</sup> Supreme Court Decision No. 536/2004, Journal of the Bar Association, 2005, p. 801.

<sup>2</sup> Mohamed Hafez, Administrative Judiciary, Dar Al-Nahda Al-Arabiya, Cairo, 1979, p 350

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requirement is of the utmost importance because the most important is the final judgment, which is what the court decides upon requests, because the judge cannot judge more than what the litigants request, since they determine the fate of the dispute.

### **Part (II): Requirements for Attachments to a lawsuit**

The law requires several conditions to be met in the attachments of a lawsuit that vary according to the type of such attachments in terms of written evidence, personal evidence, or written evidence held by the opponent or others as follows:

#### **First: written evidence**

The plaintiff shall submit the written evidence on which the claim is based upon the filing of the case. Article 10 / A of the Jordanian Judicial Law stipulates that the plaintiff should enclose the following:

1. The written evidence on which he /she relies in his claim certified as authentic and attached to the list of elements of such evidence. The original written evidence must be presented. If he is unable to do so, the attorney must certify that it is identical to the original (true copy). Written evidence is any written proof issued either as an official or ordinary document signed or a certified copy by the adversary or written correspondence and in a manner that is readable, specific and relevant to the subject dispute.<sup>1</sup>

#### **Second: Personal Evidence**

Personal evidence is testimony through witnesses before the court to testify material facts that may be substantiated by them. The text of Article 10/2 of the Jordanian Administrative Judiciary Law stipulates

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<sup>1</sup> Mahmoud al-Kilani, evidence and implementation, Dar Al-Thaqafah, 2010, p 100.

(a list of the names of witnesses whose testimonies are desired to be heard by him (plaintiff) to prove his claim and their full addresses). The testimony is: information of a person other than the parties to the litigation before the courts of an incident that has occurred from another person(s) and entails a right of others.

The testimony depends on what the witness sees and hears. Jordanian law allowed only indirect testimony based on hearing except in special cases (Article 39) of the Jordanian Evidence Law. These cases include proof of death, descent and endowment to a charity. This was confirmed by the Court of Cassation in its decision No. 452/76 (that the certificate based on the hearing is inadmissible to prove the fact that the leased company has abandoned the pay to another company).

The value of the certificate depends on the conviction of the court, where the decisions of the Court of Cassation No. 748/87, 430/83 and 96/64

(The estimation of the value of the testimony in terms of the fairness of witnesses and the weighting of evidence over another are matters of court conviction pursuant to the provisions of the Evidence Act and are therefore not subject to the control of the Court of Cassation)<sup>1</sup>. The cases in which the testimony of witnesses may be proved are: (1) If the principle of proof is found in writing; (2) If the creditor loses his written document for a reason beyond his control;(3) If the contract is challenged as prohibited by law or contrary to public order or morals, and (4) If there is a material or literary impediment to obtaining written evidence, and in all matters relating to the testimony, it must be

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<sup>1</sup> Journal of the Bar Association for the years 1986, 1987 and 1997.

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in accordance with the Evidence Law in terms of those who are prohibited from performing the testimony and the testimony procedures before the courts.<sup>1</sup>

**Third: The written evidence found in the possession of the opponent or a third party**

The law did not stand idly by in the face of intransigence on the part of the adversary or a third party regarding its refusal to submit documents and instruments under in his/her possession for the sake of justice in order to obtain proof of the right before the judiciary. Adversary means a person who is a litigant in the case, a third party means a person who is not an adversary in the case. Article 10/4 of the Jordanian Judicial Law stipulates (a list of the written evidence in the possession of the opponent or third party to be specified in a specific manner and the entity it has to be directly related to the case and productive in its proof ...)

Through the text it is clear that there are formal conditions to accept the written evidence held by the opponent or a third party, namely:

1. Evidence must be in a written list independent of the other evidence portfolio.
2. This evidence should be directly related to the administrative case.
3. Such evidence shall be effective in establishing the case.
4. The entity that possesses the evidence has refrained from submitting , providing a copy of it, describing it or providing it after the claimant has filled his claim, and the legal period has elapsed upon providing it.
5. It must be mentioned and as far as he knows in detail about it.

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<sup>1</sup> Al-Kilani, op.cit., P. 110.

**6. The Court shall issue a decision accepting this evidence.**

The penalties for non-submission of the document and non-compliance with the court were not provided for in the Jordanian Administrative Law. Therefore, the provisions of Article 24 of the Jordanian Evidence Law apply which stipulates that “If the litigant fails to submit the document on the date specified by the court or fails to do so, the document presented by his opponent shall be deemed to be true in conformity with its origin. If the opponent has not provided a copy of the document, his says may be approved in form and substance.”<sup>1</sup>

**The third requirement: the formal conditions related to the submission of the answer list and the updated facts**

This aspect of the formal requirements of the administrative case includes the conditions for submitting the answer list, the special rules for the notification of the answer list, the submission of a reply to it, the conditions for the new facts after filing the case, and the obligation of the parties to provide an explanatory list.

**Section (3): The formal requirements for counter –plea**

This aspect of the formal requirements of the administrative lawsuit includes the conditions for submitting the counter –plea, the special rules for the notification of the counter –plea, the submission of a reply to it, the conditions for the new facts after filing the case, and the obligation of the parties to provide an explanatory list.

**First: The conditions for submitting counter –plea**

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<sup>1</sup> Al-Kilani, op.cit., P. 113.



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The counter –plea is the response that the defendant shows on statement of claim, either by denial or by giving legal arguments to respond to the lawsuit.

The Jordanian law gave the defendant the right to submit the counter –plea in the administrative lawsuit. Article (11) of the Jordanian Administrative Judiciary Law states: (a) The defendant may submit a counter –plea on the summons within fifteen days from the day following the date of notification of the summons. The Head of the Administrative Court may extend this period for a period not exceeding ten days at the request of the defendant, provided that the application is submitted with explanation within the original period for submitting the counter –plea. The other formal requirement in the counter –plea is that it must be signed by a lawyer who meets the same conditions as those who submit the summons.<sup>1</sup>

The third formal requirement in the counter –plea is that stipulated in Article 11, paragraph (c) (The provisions of the same Law of Procedure stipulated in this Law shall apply to the Answer List and the submission of attachments).

**Second: Requirements for notifying and responding to the plaintiff's counter –plea.**

Jordanian law established a formal control to enable the plaintiff to see what the defendant presented and to provide a response. Article 12 of the Jordanian Judiciary Law stipulates: (a) The counter –plea and its annexes shall be communicated to the summoner within ten days from

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<sup>1</sup> Suleiman Al-Tamawi, Administrative Judiciary, Dar Al-Fikr Al-Arabi, 1971, p. 514.

the day following the date of the notification, in addition to its attachments and to provide a response).

We find that the formal requirement concerns: First: the summoner must be informed of counter –plea provided by the defendant. Second: The summoner has the right to submit a reply to the counter –plea and its attachments within ten days from the date of notification. Otherwise, he has no right to give any response to the counter –plea, but he has the right to register the objection and present the arguments.<sup>1</sup>

Third: The formal requirements related to the new facts after filing the lawsuit.

Due to the specificity of the case, Article 12 of the Administrative Judicial Law provides for an exception that gave the court the power to invite the plaintiff to explain his claim. (B) The Administrative Court may, on its own initiative, invite the plaintiff, not the defendant, to explain his claim. The court may reject the case if it considers it unnecessary.)

This right of the administrative court is not granted to the judge in civil disputes, so this was enacted in order to reduce the burden on the court. The researcher believes that this exception is not justified because the judicial facility is available to all and everyone is entitled to a judicial decision.

Article (13) of the Jordanian Administrative Judiciary Law stipulates that (a) Neither the plaintiff nor the defendant may submit or report during the hearing of the case before the Administrative Court any facts , reasons or evidence that have not been included in the summons

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<sup>1</sup> Suad al-Sharqawi, Dar Al-Nahda Al-Arabiya, Cairo, 1976, p. 115.

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or counter –plea). Therefore, we find that the litigants may not submit any facts, reasons or evidence that emerged after filing the lawsuit or was not mentioned in the summons.<sup>1</sup>

### **Fourth: Explanatory Regulations:**

**Article (14) of the Jordanian Judicial Law stipulates as follows: (a) The Administrative Court may instruct the parties or any of them in a case filed before it to submit one or more additional regulations to clarify or elaborate any of the facts and reasons mentioned in the summons and the response in counter –plea, either before considering the proceedings or at any stage).**

**This exception came in order for the court to reach the truth and not to abide by the formality stipulated in the law, but the legislation established a formal control for this procedure, as stated in paragraph (b) of the same Article, namely:**

- 1. If no additional regulations are submitted within the time limit specified by the administrative tribunal, those matters which it has requested shall be deemed to be outside the facts and the reasons for the case.**
- 2. The party from which it has requested and who has not submitted it shall not invoke it in its lawsuit or provide any evidence thereon.<sup>2</sup>**

**Topic (3): the formal requirements in the procedures of the registration of the administrative case**

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<sup>1</sup> Ali Khattar Shatnawi, Encyclopedia of Administrative Justice, Dar Al-Thaqafa,, 2012, p. 567.

<sup>2</sup> Hosni Darwish Abdel Hamid, Administrative Decision, PhD Thesis, Cairo University, 1978, p. 293.

**Section (1): the stages of the registration of the case at the Administrative Court:**

**These stages include the formal and procedural aspects of filing the case before the Administrative Court.**

**First: Refer to the Director of the Office of the President in order to specify the fees.**

**Second: Refer to the registration officer to issue a receipt and pay the legal fees.**

**Third: Prepare copies of the notification at the number of defendants.**

**Fourth: Add the evidences after approval and the list of evidence separated from the statement of claim.**

**Fifth: A copy of the power of attorney granted to the lawyer (the agent of the summoner) in order to be kept with copies of the notification.**

**Sixth: A request to suspend execution shall be submitted by an urgent request and in an independent file to the President of the Bureau.**

**Seventh: Bring pleading stamps (syndicate) worth (60) piasters (half dinars stamps will be placed on the power of attorney and 10 piasters on the case list (on court's copy only).**

**Eighth: After the registration of the lawsuit, if the summoner has evidence in the possession of a third party, a summons shall be submitted to the court to obtain such evidence upon the registration of the lawsuit directly.**

**Compliance to the regulatory instructions to receive the lawsuit, namely:**

**1. Lawyers shall observe the circumstances of the court and attempt to pay the fees according to the following times 9-9.30am and 10.30-2pm.**

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2. Submitting the counter –plea within fifteen days from the day following the date of notification of the lawsuit.

3. Submission of the reply to counter –plea within ten days from the day following the date of the counter –plea.

**Section (2): the stages of registration the appeal of the decision of the Administrative Court with the Supreme Administrative Court**

**First:** The amount of the fees to appeal the Administrative Court's decision with the Supreme Administrative Court is the same as the fees paid when registering the case with the Administrative Court.

**Second:** A presentation fee of JD (20) shall be collected for power of attorney.

**Third:** After paying the fee, the appeal shall be submitted to the competent employee.

**Fourth:** The Appellee shall submit the reply to the appeal within fifteen days from the next day of being notified of the appeal list, and a presentation fee of JD (20) shall be collected for power of attorney.

**Fifth:** The appellant shall submit a counter –plea within ten days from the day following the notification.

**Sixth:** The Administrative Court shall send the case file to the Supreme Administrative Court after the completion of the exchange of counter –plea from both parties.

**Section(3): Total requirements in Legal Periods before the Administrative Court:**

1. The period for submitting the list of lawsuit is within (60) days from the day following the notification of the administrative decision or being aware thereof (Article 8 of the Jordanian Administrative Judicial Law).

**2. The period for submitting the answer list on the counter –plea shall be within (15) days from the day following the notification (Article 11).**

**3. The Court may extend the period of submission of the counter –plea for a period not exceeding (10) days, provided that the application is submitted within the original period of submission of the counter –plea (Article 121).**

**4. The period of submission of the counter –plea is within (10) days from the day following the notification of the counter –plea (Article 11).**

**5. The period of appeal is within 60 days from the day following the notification or being aware thereof.**

**6. The period of appeal of result of the obligatory grievance is within (60) days from the day following the notification or being aware thereof.**

**7. The period of appeal against the decision of refusal or refraining from taking a decision is within (30) days starting from the day following the submission of a written request to the competent authority.**

**8. An appeal against non-existent decisions shall be accepted at any time without being bound by a deadline.**

**9. The appeal shall be suspended in the following cases:**

**1. Force Majeure.**

**2. Filing the lawsuit to a court that is not competent provided that it is filed during the specified period of time.**

**3. Submit a request to postpone payment of fees provided that the application is submitted within the specified period of time.**

**Section (4): Works that are not under the jurisdiction of the Administrative Court:**

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- 1. The acts of sovereignty.**
- 2. Judicial orders. Such as: Imprisonment order, release order, travel ban, etc. issued by the judge.**
- 3. Personal material works of employees. This means any work or material behavior of the employee and of course is subject to other laws.**

### **Part (I): Reasons for Appeal**

- 1. Defect in the Jurisdiction of issuing the decision. This means that the decision is issued by a person who is not competent or unauthorized or from a body not competent to issue such a decision.**
- 2. Defect of form. It is intended for formal matters such as the absence of the name of the issuer or his/her signature.**
- 3. Defect of the cause. It is intended to be invalid, unacceptable, or misplaced.**
- 4. Defect of breaching the law. This means the issuance of the decision contrary to law, regulation or instructions.**
- 5. Abuse of office. It is intended for personal benefit or harming a person.<sup>1</sup>**

### **Section (2): Reasons Unacceptable to Administrative lawsuit**

- 1. Non-competency.**
- 2. Non-existence of litigation.**
- 3. Lack of capacity.**
- 4. Non-existence of interest.**
- 5. End of period.**
- 6. The absence of an administrative decision is subject to appeal.**

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<sup>1</sup> Nawaf Kanaan, Administrative Judiciary, p. 259.

- 7. Power of attorney.**
- 8. Lack of specific facts.**
- 9. Lack of specific reasons.**
- 10. Lack of specific requests.**
- 11. Failure to submit counter –plea attached to the lawsuit.**
- 12. Non-payment of fees.**
- 13. Acts of sovereignty.**
- 14. Judicial acts.<sup>1</sup>**

#### **Conclusion**

**The Jordanian administrative judiciary has undergone many stages of development, as it was part of the regular judiciary and was independent by a special administrative judiciary under the 1952 constitution. The Jordanian administrative judiciary remained under the umbrella of the regular judiciary, and the Court of Cassation relied on it as an administrative court. The jurisdiction of High Court of Justice has been extended to include the cancellation and compensation judiciary. The administrative judiciary remained the same until the issuance of the Administrative Judiciary Law No. 27 of 2014, which decided to establish the Administrative Court as a first instance and the Supreme Administrative Court as a second instance administrative court. The Jordanian administrative judiciary is clearly independent of the regular judiciary and its competence has expanded. Due to this development, there are new formalities to register the case before the administrative judiciary.**

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<sup>1</sup> Majed Helou, Administrative Judiciary, p. 383.



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**This research came to discuss the formal conditions for accepting the administrative lawsuit and it was necessary to address the formal conditions for registering the lawsuit in general in accordance with the provisions of the Code of Civil Procedure, as it is the general law for litigation procedures and is referred to in what is not stipulated in the Law of Administrative Justice. The Code of Civil Procedure stipulated several statements in the statement of claim in general: the name of the court, the name of the plaintiff, his status, place of work and residence, the name of the defendant, his status, place of work and residence, the subject of the lawsuit, the facts of the case, its supporting documents, and the signature of the plaintiff or his agent.**

**With reference to the Administrative Judicial Law, the requirement of interest, which falls within the special conditions of the administrative lawsuit, was found. The applicant must have an interest and its features must be a personal, direct and existing, as a lawsuit must be signed by a lawyer who has practiced law for at least five years.**

**The administrative law stipulates the formal data in the administrative lawsuit as follows: First: The conditions related to the statement of administrative lawsuit and its attachments: Written evidence, personal evidence and independent request for evidence under the control of the opponent or third party. Second: The special formal conditions in the counter –plea and the updated facts are to be submitted within fifteen days from the day following the date of notification of the summons and the legislator gave the right to the summoner to respond to the counter –plea within ten days from the day following the date of the notification. As for the new facts, the plaintiff or the defendant may not present or**

report any facts, reasons or evidences during the hearing of the case unless they are mentioned in the lawsuit.

On the practical leve; of the application of the law there are formal procedures for recording the administrative case in terms of how to register the case after the approval of the Head of the Court , record it in the registry , put the necessary copies of the notification and payment of fees.

The most important formal aspects of the Administrative Judicial Law are the legal period. The law stipulates that the lawsuit must be submitted within sixty days from the day following the notification of the administrative decision and that the counter –plea should be submitted within fifteen days from the day following the notification of the lawsuit.

It is a formal requirement that the administrative court be competent to consider the dispute, so the case is refused if the subject of the appeal relates to acts of sovereignty, judicial orders or material acts of persons. The reasons for the appeal may be a defect in the competence of issuing the decision, a defect in form, a defect in the reason, or a breach of the law or abuse of office.

#### **Results**

1.The administrative judiciary has witnessed different phases and was within the jurisdiction of the Court of Cassation. Subsequently, the Supreme Court of Justice was established as a court of first instance until enacting Law No. 27 of 2014, which made the administrative judiciary independent and on within levels ; the Administrative Court and Administrative Supreme Court, and extended its jurisdiction to include cancellation and compensation.

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2. There are formal requirements for the registration of the case in general and administrative case in particular which are compatible with each other in terms of the name of the court , the name of the plaintiff , the name of the defendant , the subject of the dispute , the facts , requests and signature, but the Administrative Judicial Law stipulated that the list of administrative lawsuit must be signed by a lawyer who practiced law not less than five years.

3. There is a compatibility between the requirement of interest between the regular and administrative judiciary, but the administrative judiciary gave a broader concept of the interest so as to tolerate this requirement on the grounds that it would affect the future right of the appellant as a result of the appealed decision.

4. The Administrative Judicial Law requested that the statement of claim should be submitted before the Administrative Court within sixty days from the day following the notification of the administrative decision or certain being aware thereof.

5. The Administrative Judicial Law stipulated that the counter –plea must be submitted within fifteen days from the day following the notification.

6. The legal periods are the periods of the lapse of the right in relation to public order.

### **Recommendations**

1. The researcher recommends the law to explicitly stipulate that any deficiency in the Administrative Judicial Law should be referred to the procedures of the Code of Civil Procedure.

**2. The researcher recommends mitigating the requirement that” the administrative lawsuit should be signed before the administrative court by a lawyer only to enable lawyers to appeal before the court.**

**3.The researcher recommends the abolition of legal fees-like labor cases- exempted from paying fees to enable the employees to resort to the judiciary to complain against administrative decisions.**

**4. The researcher recommends that the law to explicitly stipulate the authority of the court to summon the appellant and question him/her personally to determine the nature of the grievance.**

**5 - The researcher recommends the researchers to become interested in carrying out further study on the Jordanian Administrative Justice Law.**

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