THE IMPACT OF USING INFORMATION TECHNOLOGY IN ISSUING ADMINISTRATIVE DECISIONS TO REDUCE THE DEFECTS OF ITS ILLEGALITY

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Abstract - The administrative power in a state of law is keen to ensure that all its actions are consistent with the provisions of the law, in order to establish the principle of legitimacy. So When it keeps pace with the tremendous development brought about by the information technology revolution and uses computer technologies in issuing its administrative decisions, this use is not considered a goal in itself, but rather a means to benefit from the accuracy and impartiality by these technologies. Therefore, the main question that this study came to answer is: Does the use of information technology have an effect in reducing the defects of the illegality of the administrative decision? In other words, can the use of computer technology be considered self-control and a guarantee for the issuance of the administrative decision free from any defect that may affect it? The study concluded that using of information technology has a significant impact on reducing the defects of the illegality of the administrative decision, especially the defect of form and procedures, and the defect of lack of jurisdiction

Keywords - The Electronic Administrative Decisions, Jordanian Law,The Illegality Of The Administrative Decision.

INTRODUCTION

The public administration is considered one of the primary beneficiaries of the information technology revolution in carrying out its legal and material tasks, and it benefits even more than ordinary individuals from this revolution. Since the principle of legality is the cornerstone that must characterize the actions of the administration, and considering that a violation of this principle cannot be conceived as intentional in a state governed by law, public administration, in its efforts to affirm its respect for the principle of legality, resorts to using computers as a means that minimizes human intervention in order to complete its tasks in a manner free from personal whims and inclinations.

The administrative decision is considered one of the most important legal tools through which the administration manages its activities to achieve the public interest. It is a privilege of public authority that allows the administration to affect the legal status of individuals without the need for the consent of those addressed by its provisions. For an administrative decision to be deemed lawful, it must be issued by an authority competent to do so, in accordance with the form and procedures stipulated by law. Additionally, the effects of the decision must align with legal texts, it must have a valid and lawful reason, and its objective must be to achieve the public interest. These requirements are known as the elements of the legality of the administrative decision.
study Problem:

In a state governed by the rule of law, the administrative authority is keen to ensure that all its actions are consistent with the provisions of the law, thereby upholding the principle of legality. When it keeps pace with the significant advancements brought about by the information technology revolution and utilizes computing technologies in issuing its administrative decisions, this use is not an end in itselfbut rather a means to benefit from the accuracy and objectivity that these technologies provide.

Thus, the primary question that this study seeks to answer is: Does the use of information technology have an impact on reducing the defects of illegality in administrative decisions? In other words, can the use of computing technologies be considered a form of self-regulation and a safeguard that ensures administrative decisions are free from any defects that may afflict them?

Study Questions:
The main problem of the study branches out into a set of sub-questions, which are as follows

- What is the concept of the electronic administrative decision, and is there a need to develop the concept of the traditional administrative decision to align with the nature of the electronic administrative decision?
- What is the legal basis for the administration's right to issue its decisions electronically?
- What is the technology involved in preparing electronic administrative decisions, and what electronic procedures must the administration take to create the administrative decision as a legal act?
- Does the administration's ability to automate the characteristics of the administrative decision accurately necessarily mean that it will be issued

free from any defects that could affect its validity and soundness?

- Could issuing decisions electronically reduce the burden on administrative courts by decreasing the number of cases submitted to challenge their legality?

1.The Legal Framework for Electronic Administrative Decisions

The electronic administrative decision is a recent concept in the legal environment, one which legal scholars hesitated to accept initially before acknowledging the right of administrative authorities to use computer technologies in its issuance. There is no legal barrier preventing the administration from expressing its intent electronically, as long as the electronic model prepared for issuing the administrative decision includes all its characteristics as a legal act.

In fact, accepting the administration's right to issue administrative decisions using computer technologies requires any legal researcher, for the benefit of the research, to address the legal framework governing electronic administrative decisions. This involves explaining the unique concept of the electronic administrative decision, the legal basis for the administration's right to issue its decisions electronically, and finally, the techniques for creating these decisions, which we will elaborate on in the following sections.

1.1 The Distinct Concept of the Electronic Administrative Decision.

It is acknowledged that the Jordanian legislator has not provided a specific definition of the administrative decision, leaving this task to the interpretations of legal scholars and administrative judiciary. When examining the definitions offered by scholars and courts to clarify the concept of the administrative decision, particularly those that narrow its scope to expression, one finds that most of these definitions aim to outline the distinguishing elements of the administrative decision as a legal act. This effort is intended to differentiate it from other legal actions undertaken by the administrative authority or by the legislative and judicial branches, without focusing on the medium or method through which the administration expresses its intent.

This approach can be justified, as, in principle, the legislator does not require the administrative authority to use a specific medium to express its intent, except in certain cases. This gives the administration flexibility in selecting the most suitable means of issuing its decisions, allowing adaptation to modern technologies, such as electronic means, as long as the essential legal requirements of an administrative decision are met.For instance, the legislator may require the administration to express its intent explicitly in written form[1], which implies that these definitions are broad enough to encompass any legal act undertaken unilaterally by the administrative authority in accordance with the provisions of laws and regulations with the aim of producing a legal effect, regardless of the medium or method by which the administration issues or expresses its intent.

This inclusive approach allows the definition of administrative decisions to cover not only traditional forms but also decisions issued through various methods, including electronic means. As long as the decision fulfills the criteria for being a valid administrative act, it is recognized, regardless of whether it is issued in written, electronic, or other forms.

As public administration keeps pace with the information technology revolution and incorporates computer-based technologies in issuing administrative decisions, the term "electronic administrative decision" has emerged as a new legal concept in the field of law. Administrative law scholars found it essential to clarify its nature and assess whether there is a need to reconsider the traditional concept of the administrative decision, which has remained unchanged for a long time.Some have defined the electronic administrative decision as follows: "The public administration receives an electronic request through its website and expresses its binding intent by issuing and electronically signing the decision, then notifying the concerned party via email, under its authority as granted by laws and regulations, with the aim of producing a specific legal effect that is lawful and feasible, and in pursuit of the public interest."[2].

It is noticeable that, although this definition highlights the elements of an administrative decision agreed upon by most legal scholars and the judiciary that distinguish it from other legal actions, it limits the concept of an electronic administrative decision to one issued in response to a request from the concerned party. However, the administrative authority may also issue an administrative decision on its own initiative without receiving any request. Therefore, it is not entirely accurate to accept the view that an electronic request, as per this definition, is a necessary element of an electronic administrative decision[3], because These types of decisions indeed require a request from the concerned party as a prerequisite for issuance. However, this does not

[1]Al-Ajarmah, Nofan, Al-Salamat, Nasser, Enforcement of the Electronic Administrative Decision, Journal of Sharia and Law Studies, Volume 40, Issue 1, 2013, p. 1026

[2]Al-Anbi, Radwan, Electronic Administrative Decision, Al-Manara Journal for Legal and Administrative Studies, Issue (23), 2018, p. 219.

[3]Shabir, Muhammad Suleiman, The Impact of Electronic Development on the Legal Actions of the Administration in the State of Palestine, Al-Azhar University Journal - Gaza, Humanities Series, Volume (17), Issue (2), 2015, p. 347

mean that all electronic administrative decisions must involve a prior request. Many administrative decisions can be initiated independently by the authority without any application, and these too can be issued electronically. Thus, while the definition acknowledges the request-based decisions, it should be broad enough to encompass all forms of electronic administrative decisions, whether initiated upon request or autonomously by the administrative authority[4].

Another perspective defines the electronic administrative decision as "the electronic document expressing the unilateral intent of the administration with the aim of producing a legal effect[5].

Meanwhile, another view, which we support, defines the electronic administrative decision as "the expression of a binding unilateral intent issued by a public administrative authority through electronic means, producing legal effects."[6].This perspective reinforces the idea that the fundamental characteristics of an administrative decision—such as legality, binding nature, and intent—remain unchanged regardless of the medium. The defining factor becomes the use of electronic methods to facilitate the decision-making process and communicate the decision to the concerned parties. This not only modernizes the administrative framework but also enhances efficiency, transparency, and accessibility in public administration. Consequently, it emphasizes the necessity for legal systems to adapt to technological advancements while maintaining the integrity and effectiveness of administrative decisions.

Thus, the distinct nature of the electronic administrative decision highlights that it can only be issued explicitly. In a scenario where the administration prepares an electronic model for a resignation decision, and the concerned party submits an electronic request for approval of their resignation, the decision must be issued explicitly as either approval or rejection. This occurs when the authorized individual clicks on the button for approval or rejection, thereby informing the concerned party of the decision made electronically, either through email notification or publication on the administration's website. At that point, it can be stated that the electronic administrative decision has been issued explicitly.

1.2The Legal Basis for the Administration's Right to Issue Decisions Electronically

Administrative decisions, as privileges of public authority, are among the most significant subjects of administrative law, which is characterized by continuous development and renewal. As a result of the tremendous technological advancements occurring globally and the harnessing of modern technology to accomplish tasks and transactions, public administration has found itself obliged to keep pace with this evolution in carrying out its legal and operational functions[7]whichElectronic administrative decisions are one of the applications of electronicgovernance.

Although administrative scholars were hesitant to accept the idea of administrative authorities issuing their decisions through the use of information technology. This skepticism arose from concerns that utilizing computers to issue administrative decisions could undermine fundamental principles of administrative law.beside that there is Another concern is related to the legal validity of administrative decisions issued through computer systems. An administrative decision, as a legal act, has essential elements that must be fulfilled to ensure its existence and validity. This raises doubts about whether computer technologies are capable of establishing these elements fully. Additionally, administrative decisions produce effects that impact legal statuses and relationships, raising questions about the legality of invoking the consequences of decisions made using modern technologies.

In fact, these concerns were quickly alleviated from both technical and legal perspectives. Technically, human ingenuity is more than capable of adapting modern technology to create the elements of an administrative decision within the electronic realm, Legally, issuing administrative decisions electronically and recognizing the legal effects they produce are supported by legal principles that affirm the administration's right to incorporate modern technology into its legal functions as we will explain below:

1.2.1 Principle of Legitimacy

The principle of legitimacy acts is a restriction on administrative authority[8],It has become evident from the foregoing that an electronic administrative decision is fundamentally the same as a traditional administrative decision, with the only difference being the medium used to express intent. This means we are not dealing with a new legal act, but rather with a modernized form of an existing legal act

[4]Khattar, Ali, Electronic Request for Issuing an Administrative Decision, International Journal of Jurisprudence and Law, Double Issue 101/102, March/April 2021, p. 63

[5]Al-Badawi, Muhammad, Electronic Administrative Decision, Al-Manara Journal of Legal and Administrative Studies, Issue (23), 2018, p. 216

[6]Al-Qubailat, Hamdi, Signature as a Formality in Electronic Administrative Decisions, Studies Journal, Sharia and Law Sciences, Volume (34), (Supplement), University of Jordan, 2007, p. 681.

[7]Al-Ajarmah, Nofan, Al-Salamat, Nasser, previous reference, p. 1025.

[8]Al-Khalayleh, Muhammad, Administrative Judiciary: A Comparative Analytical Study in Jordan, France, Britain and Jordan, Dar Al-Thaqafa for Publishing and Distribution, 2020, Jordan, p. 23

whose legality is determined by the same principles that govern the traditional administrative decision. Thus, when we consider the principle of legality as a basis for affirming the administration's right to issue its decisions electronically, we are not referring to the legality of the electronic administrative decision in itself. Rather, we are addressing the legality of the administration's recourse to electronic means for issuing its administrative decisions and the binding force of the effects such decisions entail. In fact, when the administrative authority issues its decisions electronically, it does so based on a legal foundation in two respects: First: when the legislature requires the administrative authority to issue its decisions in written form, the requirement of writing is fulfilled whether the document is on paper or in electronic format, as long as the writing clearly and explicitly expresses the intent of its issuer[9], Secondly: the Electronic Transactions act No. (15) of 2015 permits both central and decentralized administrative authorities to conduct their transactions using electronic means, provided that the requirements for electronic transactions outlined in the law, and the regulations and instructions issued pursuant thereto, are met[10].

However, it should be noted that the reliance of public administration on the Electronic Transactions Law to affirm its right to issue electronic administrative decisions will be limited to those administrative decisions issued upon the request of the concerned party, in line with the definition of 'transactions' provided in Article (2), which presumes an interaction between two or more parties. An electronic request is defined as 'the electronic exchange of data between the public administration and its clients[11], This leads to the conclusion that there is a need for specific legislation to regulate the legal actions of the public administration that are issued electronically, taking into account the unique nature of such actions, particularly administrative decisions that are not necessarily issued upon request.

1.2.2The Legal Nature of the Administrative Decision

An administrative decision is considered a legal act, not a material one. A legal act is defined as the direction of intent toward creating a specific legal effect. However, intent, as a psychological phenomenon, does not transition from within the self to the external world until it is executed. Execution occurs through expression, which manifests intent in a manner that confirms the determination of its issuer to bring about a tangible change in the existing legal status. Since an administrative decision is the result of the unilateral exercise of intent by the public administration, the principle governing the public administration's expression of intent to form and create an administrative decision as a legal act is subject to the principle of the will's authority, as long as no legislative provision restricts it.

2. Effectiveness of Information Technology in Reducing Defects in the External Elements of an Administrative Decision

The validity or unlawfulness of an administrative decision is tied to its five elements of legality, which administrative jurisprudence divides into external elements, namely competence, form, and procedures, and internal elements, namely cause, subject, and purpose. These elements are embedded electronically in the administrative decision's software through the allocation of a specific electronic field for each element. Therefore, examining the effectiveness of using information technology to reduce defects in the external elements of an administrative decision requires addressing its role in minimizing defects related to lack of competence and errors in form and procedure, as explained below:

2.1 The Effectiveness of Using Information Technology in Issuing Administrative Decisions to Minimize the Defect of Lack of Competence.

It is well established that for an administrative decision to be valid and produce its intended effects, it must be issued by the administrative authority legally empowered to make it, with the purpose of creating a specific legal effect. Consequently, if an administrative decision is issued by an authority that is not legally authorized, and the legislator has vested that power in another administrative authority, then the decision is unlawful and flawed by the defect of lack of competence. This defect arises from the actual issuing authority's failure to adhere to one of the elements of competence: personal, substantive, temporal, or territorial. Such a defect may be minor, resulting in the decision's annulment, or severe, resulting in the decision's nullity.

If the competent administrative power wishes to keep pace with technological advancements in executing its legal functions and utilize computer technologies in issuing its administrative decisions, it is essential to program the electronic template specific to the subject of the administrative decision to include a dedicated field for the element of competence, as one of the key pillars of the decision's legality. This field must be populated with the information and data that reinforce the elements of competence, ensuring the issuance of a valid administrative decision free from the defect of lack of competence. Accordingly, examining the impact of using computer technology to reduce the defect of lack of competence requires a detailed explanation of this impact in preventing violations of the elements of competence (The

[9]Al-Qubailat, Hamdi, Electronic Public Administration Law, Dar Al-Thaqafa for Publishing and Distribution, 2020, Jordan, p. 144

[10] Look: article no (4) Jordanianelectronic. transaction act

[11]article no (19) Jordanian electronic transaction act.

Elements of Personal and Subject-Matter Competence, The Element of Temporal Competence, The Element of Territorial Competence)[12].

In conclusion, our research into the impact of using computers to reduce the defect of lack of competence has shown that utilizing computer technologies in issuing administrative decisions can effectively mitigate the illegality that may affect the element of competence, which could lead to the nullification of the decision or, in more serious cases, usurpation of authority—provided that the electronic system is programmed accurately[13].

2.2Effectiveness of Using Information Technology in Issuing Administrative Decisions to Minimize the Defect of Form and Procedure.

As a general principle, public administration is not obligated to formalize its administrative decisions in a specific form or to follow specific procedures unless required by the legislator. In such cases, the administration must adhere to the prescribed form or procedure, or else its decision will be deemed unlawful. When the administration uses information technology in issuing its decisions and automates the legally required procedures so that the system cannot move from one field to the next without fulfilling the required formality, this effectively minimizes the defect of form and procedure[14].

The importance of using information technology also becomes evident as the administration can, when programming the electronic system, distinguish between essential procedures, the violation of which leads to nullity, and non-essential procedures, the violation of which does not result in nullity[15].
In conclusion, the use of information technology has a significant impact in reducing the defect of form and procedure, and it is more effective in this regard than its role in minimizing the defect of lack of competence.

CONCLUSION

In this study, we discussed the impact of using information technology in issuing administrative decisions to reduce defects in legality. At the conclusion of the study, we reached the following results:

1. There is a need to establish a definition that distinguishes the electronic administrative decision from the traditional administrative decision, highlighting the uniqueness andspecificity of this type of decision.
2. The Jordanian Electronic Transactions Law is insufficient to serve as the legal framework for electronic administrative decisions.
3. The use of information technology will have a significant impact in reducing defects in the legality of the administrative decision, particularly the defects of lack of competence and form and procedures

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