

Digital Administrative Competence and Its Role in Enhancing the Performance of Public Institutions: An Analytical Study

Professor Ali Khattar Shatnawi, Professor of Public Law, Faculty of Law, Yarmouk University,
Khattar96@yahoo.com.

Abstract:

This study examines electronic administrative competence, whereby certain computerized devices issue administrative decisions, some of which involve administrative sanctions. These decisions are subject to challenge by an action for annulment before the administrative courts, and damage arising from them may give rise to compensation. This raises several questions concerning the legal status and authority of such devices and the identification of the authority responsible for compensating damage resulting from unlawful decisions.

Keywords: Administrative competence; administrative decision; electronic decision; annulment; compensation

Introduction

Public administration has recently undergone significant developments. It has become an electronic administration par excellence, using technological means to organize its internal operations. New expressions, such as “paperless administration,” have entered common usage: all administrative transactions are conducted electronically, from the initial stage of submitting the application—the electronic application—through to the issuance and notification of the decision. Electronic applications may also be submitted irrespective of time, whether morning or evening, on an official working day or a holiday, and irrespective of place, from inside or outside the State. The progress of an administrative transaction can likewise be tracked electronically, enabling the person concerned to follow the transaction and ascertain the procedures taken in respect of it.

In addition, the administrative superior relies on electronic means to regulate internal administrative work, issuing orders, instructions, and internal circulars to staff explaining how administrative transactions are to proceed. These means provide an easy and accessible way for such orders and instructions to reach their addressees. Most administrative departments have adopted internal email for their employees, so that a single department has become an integrated and interconnected electronic unit. It has also become possible to link different departments through an information network, enabling employees in one department to access information held

by another for the purpose of taking decisions and processing certain transactions. There is no doubt that this mutual communication among different departments has accelerated decision-making and the processing of many matters. It has also simplified administrative procedures, reduced burdens on individuals, and lowered financial costs and expenses.

There is no doubt that electronic means have facilitated administrative life, simplified administrative procedures, reduced burdens on individuals, and lowered financial costs and expenses. Yet they have also had adverse effects on employment opportunities, by reducing the need to appoint new employees and thereby increasing unemployment. This is the negative side of modern electronic means.

It goes without saying that modern technological progress is no longer confined to procedures for the internal organization of public administration; it has extended to the issuance of administrative decisions. It has become possible to obtain administrative decisions electronically: the application is submitted electronically without the person concerned visiting the relevant administration, and even without knowing its location. Decisions issued electronically are numerous and are increasing day by day. Administrative licenses are renewed in this manner; exit and re-entry visas in some States are issued in this manner; and so too are vehicle licenses, passports, and other documents renewed. Accordingly, all the elements of an administrative decision must be present in such administrative decisions. An electronic decision does not differ from other administrative decisions in terms of the elements necessary for its existence. This highlights the importance of the element of administrative competence, understood as a legal obligation rather than a personal right.

There is also no doubt that the nature of the legal power plays a major role in determining the authority to which administrative competence is assigned, whether within central or decentralized administration. If the nature of the subject or matter requires, for its proper exercise, discussion and collective deliberation, so that the decision emerges as the outcome or product of that collective discussion, competence in such a case must be conferred on a council or collective committee, whatever its title may be (university council, deans' council, board of trustees, faculty council, or board of directors).

This also includes cases in which the exercise of administrative competence by a collective body constitutes a legal guarantee for the person concerned, as is evident in the field of civil-service discipline. It likewise includes cases in which the exercise of competence by a collective body serves as a means of preventing any form of financial corruption, as in government tenders and procurement (committees for opening bids, examining them, and awarding contracts).

Conversely, competence is conferred on an individual employee where the matter is executive in nature or requires swift resolution without opening the door to discussion. For this reason, executive decisions, or decisions requiring prompt determination, are entrusted to an individual employee, whatever office that person holds (minister, secretary-general of a ministry, university president, governor, chair of a municipal council, etc.).

Accordingly, if a particular competence is entrusted to a council or an individual employee, that competence must be exercised. Administrative competence is not a personal right; it is a legal obligation. The competent authority must exercise its competences personally and within the prescribed periods and deadlines, if any. This illustrates the importance of determining the legal liability that may be incurred by the holder of the power if that authority fails, delays, or neglects to exercise its administrative competences. Modern technological progress, however, has affected the manner in which administrative decisions are taken and issued. We have begun to see computerized devices, programmed with particular software, taking certain administrative decisions instead of human beings: the application is submitted electronically by the person concerned, and the decisions are likewise issued electronically without human intervention by employees. This method, however, is not suitable for all administrative decisions, but only for some. Examples are numerous: the renewal of administrative licenses, registration for university courses, and the imposition of fines for speeding violations. The device detects the violation, determines its seriousness (the extent by which the speed limit was exceeded), imposes the appropriate fine, notifies the violator of the offence and the amount payable, and the fine is paid electronically.

Research Problem

The research problem consists in determining the legal basis on which these computerized devices are empowered to issue administrative decisions: who granted them the power to issue such decisions? The question therefore concerns the lawfulness of their decisions and the authority responsible for compensating damage resulting from unlawful decisions.

Research Objectives

This study seeks to resolve the legal difficulties raised by the lawfulness of computerized devices issuing administrative decisions. Does their legal authority derive from the mere installation of the software on the device, or from a delegation by the holder of competence through approval of the preparation of that software? It is therefore necessary to identify the legal basis for issuing these decisions and for requiring individuals to respect and implement them. A further question,

no less important, is which authority is liable to compensate damage resulting from unlawful decisions issued by those devices.

Methodology

In preparing this study, we shall adopt the descriptive-analytical method, based on an attempt to collect and analyze the legislative provisions relevant to this mode of issuing administrative decisions, as well as judicial decisions, in order to identify the features of this modern mechanism for issuing administrative decisions in accordance with generally recognized principles and general rules.

Structure of the Study

The study is divided into two parts:

Part One: The Nature of Administrative Competence

Section One: Definition of Administrative Competence

Section Two: The Legal Characterization of Administrative Competence

Part Two: The Effects of Issuing Administrative Decisions Electronically

Section One: The Unlawfulness of the Administrative Decisions Issued

Section Two: The Financial Liability of the Administration to Compensate Damage Resulting from These Decisions

Part One

The Nature of Administrative Competence

Public administration exercises its competences and responsibilities, and performs the tasks entrusted to it, through natural persons who carry out those tasks in its name and on its behalf; the administration therefore bears responsibility for their acts. Legislation, however, identifies the competent person or persons, or the authorities competent to carry out legal acts. No decision may be issued, and no contract may be concluded, except by the person legally competent to do so. It is therefore necessary to examine the nature of administrative competence in three sections: the first is devoted to defining administrative competence; the second examines the sources of administrative competence; and the third addresses the legal characterization of administrative competence.

Section One: Definition of Administrative Competence

Legal scholarship has addressed the definition of administrative competence. It has been defined as “the legal capacity of an authority to take an administrative measure” (*La compétence, c’est l’aptitude d’une autorité à prendre une mesure.*) (Delvolvé, 1983, § 280).

By contrast, some French scholarship has proceeded by defining lack of competence, describing it as an official’s lack of legal capacity to issue a particular decision, because another employee was competent to issue it (Vedel & Delvolvé, 1984, p. 780). The defect of lack of competence exists where the power to take the decision in question does not fall within the competences of the authority that issued it, but rather within the powers of another authority; in other words, where the rules governing the distribution of competence have been breached (de Laubadère, 1984, § 1171). The defect of lack of competence is the defect affecting a decision when its issuer lacked the power to issue it (Rivero, 1985, § 255). Some writers state that the defect of lack of competence arises when an administrative authority takes a decision or signs a contract without having the capacity to do so; in other words, when it lacked legal capacity to do what it did (Chapus, 1985, § 1042).

Arab legal scholarship, for its part, defines competence as “the power of an administrative official to perform what has been entrusted to him within the substantive, spatial, and temporal limits set out by law” (Al-Tamawi, 1979, p. 603). Others define competence as “a lawful power that permits an employee to act in a specified matter pursuant to constitutional, statutory, or regulatory texts, and the ensuing effects that may relate to third parties, whether negative or positive” (Abd al-Hadi, 1982, p. 33).

Conversely, some writers define competence indirectly, by defining the defect of lack of competence. That defect has been defined as “the legal inability to undertake a particular administrative act” (Al-Attar, 1968, p. 566). Others regard competence as a capacity: “the competence of any public authority consists of the totality of the capacities possessed by that authority; lack of competence is therefore the defect that attaches to an act of a public authority because that authority acted in a manner outside the scope of the capacities legally conferred upon it” (Kamil, 1954, p. 258).

Characteristics of Administrative Competence

Administrative competences are distributed among employees and administrative authorities with the utmost precision and according to exact legal and administrative bases. Where a power is assigned to an employee or administrative authority, it is assigned on the basis of particular foundations and premises and for the achievement of particular purposes. Clarity in the distribution of administrative competence has a positive effect on the speed of decision-making, the exercise of administrative powers, administrative effectiveness, and the quality of the services provided. Administrative competence is therefore marked by a number of characteristics, as follows:

First: The Oldest Element of the Administrative Decision

The element of competence is the first and oldest element of the administrative decision. It is the first matter examined by the employee or administrative authority, in order to determine whether the authority is legally competent to carry out the legal act before considering the procedures for doing so. Accordingly, the defect of lack of competence, which corresponds to the element of competence, was the first ground known to the action for annulment in France. For this reason, the action brought to challenge administrative decisions was called an action for annulment for excess of power, that expression being regarded as synonymous with lack of competence (Khalil, 1956, p. 349).

Second: Administrative Competence as a Matter of Public Policy

It is well established in legal scholarship and case law that administrative competence is a matter of public policy. The legal text defines administrative competences and distributes them with precision among administrative employees and administrative authorities, so that each may address specified matters within prescribed temporal and spatial limits and take decisions of a particular kind in relation to them. This distribution of administrative competences is prescribed for the public interest and for the interests of individuals alike. The public interest requires it in order to achieve order and a division of labor, so that the employee may devote himself to the task,

be trained in it, and master it over time, thereby ensuring the rapid completion of administrative work. The interests of individuals also require it so that their responsibilities may be defined and they may be readily directed within the various departments of the administration (Khalil, 1956, p. 351).

Accordingly, the administrative judiciary may raise of its own motion any unlawfulness affecting the element of competence and may rule on it even if the parties do not raise it, and even if a party waives reliance upon it. The Jordanian administrative judiciary has held:

“which renders the decision vitiated by the defect of lack of competence, which is a matter of public policy that our Court may raise of its own motion without a plea from any party to the case. This makes that decision one issued by an authority not competent to issue it and therefore subject to annulment.” (Jordanian Administrative Court, Decision No. 19 in Case No. 79/2017, April 16, 2017; Jordanian Supreme Administrative Court, Decision No. 62/2016, March 15, 2016)

Third: The Impermissibility of Correcting Decisions Vitiating by the Defect of Lack of Competence

Decisions vitiated by the defect of lack of competence may not be corrected. The administrative superior may not correct decisions issued by a subordinate by approving them and treating them as if they had been issued by the superior. Nor may the competent authority issue a subsequent decision ratifying the decision or decisions issued by an authority lacking competence (Khalil, 1956, p. 351; Kamil, 1954, p. 265).

Although the competent authority is not legally entitled to correct decisions vitiated by the lack-of-competence defect, it is legally entitled to issue a new and valid decision on the same subject and with the same content. That decision, however, takes effect only from the date of its issuance, and not retroactively from the date of the first decision. Issuing the second, valid decision with retroactive effect would make it contrary to the principle of the non-retroactivity of administrative decisions and expose it to judicial annulment if challenged by an action for annulment before the administrative courts. Such judicial annulment would be partial, annulling only the retroactive effect.

Accordingly, the date on which the second decision enters into force is the criterion for distinguishing between the earlier decision vitiated by the defect of lack of competence and the second decision issued by the competent authority. Likewise, approval by the competent superior of a decision issued by a subordinate lacking competence constitutes an unlawful correction if it has retroactive effect, but a new decision if it takes effect from the date of approval.

Section Two: The Legal Characterization of Administrative Competence

It is well established in legal scholarship and case law that administrative competence is a legal obligation which the competent authority must exercise personally. It cannot therefore be regarded as a personal right of the employee, to be exercised or not exercised at will, or exercised in any manner the employee chooses. Accordingly, the employee or administrative authority must exercise administrative competences personally and in accordance with the form and procedures specified by law. The High Court of Justice held long ago:

“Upon examining the constitutional provisions referred to (26, 31, 45/1), we find that executive authority is vested in His Majesty the King, but that he exercises it through his ministers. Hence the text of Article (31) of the Constitution, which indicates that His Majesty the King is the one who orders the promulgation of the regulations necessary for the implementation of statutes, because he is the head of the executive authority to which the Constitution entrusted the making of legislation issued in the form of an independent regulation or an implementing regulation, in addition to what the legislator required in Article (45/1) of the Constitution of the executive authority (the Council of Ministers), namely to assume responsibility for administering all internal and external affairs of the State, except for those matters entrusted by such legislation, pursuant to the Constitution or any other legislation, to any other person or authority. Our Court finds that the text of Article (45/1) of the Constitution is a mandatory text and that when the legislator assigns a particular responsibility to any authority, whether the executive authority (the Council of Ministers) or otherwise, by a mandatory text, that authority may not relinquish it, but must exercise it in accordance with what is provided for in that legislation” (Jordanian High Court of Justice, Decision No. 444/2003, November 13, 2003).

Accordingly, it is legally impermissible to agree to modify the rules governing the distribution of competence (Khalil, 1956). The competent authority is therefore not legally entitled to relinquish all or some of its competences to another. Such relinquishment is void, and decisions issued on its basis are void as well. Nor may the holder of competence delegate some of its powers unless there is an express text: there is no delegation without an express legal text. The Jordanian administrative judiciary has likewise explained the exceptional nature of delegation. The High Court of Justice states:

“Whereas the general rule is that the administrative official performs the duties of his office himself, and the exception is what the law provides in permitting the administrative official to delegate some of his powers to other employees in the public service, this exception must be confined to its proper scope, may not be extended by analogy, and may not be interpreted expansively” (Jordanian High Court of Justice, Decision No. 62 in Case No. 387/2004, October 31, 2004).

For decisions issued on the basis of delegation to be lawful, the power to issue them must also be expressly stated in the delegation decision; otherwise, they are unlawful. The Administrative Court held:

“We find that the limits of the delegation granted to the Secretary-General for Educational Affairs, as established by the letter of delegation (attachment 16 among the evidence of the Administrative Public Prosecution), extend to delegating to the fourth respondent the issuance of a warning to the applicant and the closure of the institution for the appropriate period determined by the Secretary-

General for Educational Affairs. That delegation contains no clause delegating to the fourth respondent, the issuer of the challenged decision, the power to revoke the applicant's license. This renders the challenged decision, in the part relating to the revocation of the applicant's license, issued outside the limits of the delegation and the competence delegated to him, which renders the decision vitiated by the defect of lack of competence" (Jordanian Administrative Court, Judgment No. 79/2017, April 16, 2017).

The High Court of Justice explained the rules governing delegation of competence, treating it as a reallocation of the rules of competence whereby the holder of competence is divested of the exercise of the delegated powers. It is also impermissible to delegate powers to more than one employee. It held:

"Upon referring to the delegation submitted by the Public Prosecution ... we find that the Minister of Health delegated his powers provided for in Article (5/b) of the same statute to both the Secretary-General and the Director of the Directorate for Licensing Professions, including laboratories. Since administrative legal scholarship considers delegation of competence to be a redistribution of its rules and to result in the complete transfer of competence from the delegator to the delegatee, and also results in depriving the holder of original competence of exercising the competence throughout the period of delegation, so that contradictory decisions are not issued by the original holder and the delegatee at the same time, our Court finds that, a fortiori and by analogy, delegation may not be issued to more than one person at the same time in relation to the same subject. Accordingly, the delegation issued by the Minister of Health to both the Secretary-General of the Ministry and the Director of the Directorate of Laboratories is void. Since the challenged decision was based on this void delegation, and since what is built on voidness is void, the challenged decision is therefore subject to annulment on this ground" (Jordanian Supreme Administrative Court, Decision No. 24/2014, April 23, 2014).

Administrative delegation may take the form of delegation of competence, meaning that the delegator delegates the power to issue the administrative decision or perform the material act in the delegator's stead, or it may be limited to delegation of signature, meaning that it is confined to conferring official form on the decision. The High Court of Justice held:

"The contested decision is a decision issued by the Minister of Labor and signed by the (Director of the Directorate of Employment and Recruitment/ ...) pursuant to his authorization to sign on behalf of the minister all correspondence issued by the Ministry of Labor concerning the Directorate of Employment and Recruitment, under delegation letter No. (A/2/11391) dated 29/10/2002, by virtue of the powers vested in the Minister of Labor under the statute and the regulation...." (Jordanian High Court of Justice, Decision No. 93/2004, June 21, 2004).

Part Two

The Effects of Issuing Administrative Decisions Electronically

Section One: The Unlawfulness of Electronic Administrative Decisions

There is no doubt that technological progress has facilitated public administration and its provision of the services entrusted to it. Individuals can now request administrative services and obtain administrative decisions electronically (Shatnawi, 2021). They no longer need to travel to the administration's headquarters or meet employees in order to obtain administrative decisions. Thus, considerations of time and place have been overcome: an individual may submit an application at any time, whether by night or by day, during or outside official working hours, and from any place within or outside the city, indeed even from outside the State.

There is no doubt that this development has produced positive results. It has simplified administrative procedures, generated financial savings for the administration and individuals, and shortened time remarkably: submitting an application electronically now takes only a few minutes and may even be done from a personal mobile phone. These positive results have encouraged public administrations to compete in adopting and introducing such modern technologies and in training their employees to use them, with a view to facilitating the issuance of administrative decisions and regulating internal administrative work. Employees can now follow the progress of the administrative process through an electronic tracking system that shows the stage reached by the administrative transaction and the action taken in relation to it. An individual can likewise follow the progress of an administrative transaction electronically and track its entire administrative path without needing to visit the public administration or deal with the competent employee.

In addition, technological progress has enabled superiors to supervise subordinates electronically. They can issue administrative orders and instructions and send them to subordinates through official email, review the decisions issued by them, and assess their competence and performance; this is known as electronic supervision. Vehicle-movement tracking systems have enabled the administration to monitor vehicle routes, achieving substantial financial savings for many central and decentralized administrations.

There is no doubt that the administration's use of the electronic fingerprint system has produced positive results in regulating employees' morning attendance and evening departure. It has eliminated many previous problems, such as one employee signing on behalf of another, favoritism by the employee responsible for the attendance register toward certain employees, and other practical difficulties. Regulating employees' working hours is therefore no longer a burden

for public administration. The electronic fingerprint has thus become an objective means of proof whose neutrality and objectivity employees do not dispute: it is a device that knows neither favoritism nor indulgence.

There is no doubt that the foregoing electronic procedures are not administrative decisions in the technical sense. They are electronic means for tracking the progress of administrative transactions and the movement of the administration's vehicles, and for reducing paper-based procedures; supply requests, for example, are now submitted electronically. These devices have also enabled superiors to monitor the performance of subordinates. Surveillance cameras installed in the corridors of administrative buildings allow superiors to determine the number of visitors and identify departments experiencing heavy visitor traffic, enabling them to address the matter and redistribute administrative work very quickly. Similarly, the electronic devices placed at the entrances of public administration buildings to organize individuals' turns allow a person to specify the nature of the transaction to be followed up and to see the number of visitors who arrived earlier. These devices have eliminated the favoritism and indulgence in queuing that was previously witnessed; matters have become precisely organized and convenient for both individuals and employees.

It is well known that the foregoing electronic procedures are desirable. They have achieved numerous benefits, and there is accordingly broad demand for expanding their application and devising other electronic means in fields where they have not yet been applied. The foregoing procedures also fall within the internal organization of public administration. They are not administrative decisions, because they have no legal effect: they do not create, amend, or extinguish a legal position. They therefore cannot be challenged by an action for annulment before the administrative courts.

Conversely, there are some areas in which these electronic devices issue administrative decisions in the technical sense, or issue official documents. One of the clearest examples is the renewal of licenses for commercial premises: the person concerned accesses a website affiliated with the administration, completes the form prepared for that purpose, attaches the required documents, pays the prescribed fees electronically, and sends the application to that authority. After a short time, an electronic message is received indicating acceptance or rejection of the application. If the application is accepted, the message is accompanied by the approval decision, which the person concerned may print if desired.

In universities, registration for courses is carried out electronically. The student accesses the registration site and chooses the courses to be registered, with the status of sections—available or closed—clearly displayed. The student selects the desired sections and pays the prescribed fees

without any human intervention by the registration department, except where the registration administration intervenes to open a closed section by increasing its enrollment. Exit and re-entry visas in some countries, such as Saudi Arabia, are also processed electronically: submission of the application and the response to it are both electronic, as is vehicle licensing. The issuance of certificates of no criminal conviction in Jordan is likewise carried out electronically.

There is no doubt that computerized devices, through the software stored in them, are the entities that issue decisions of acceptance or rejection in light of the information and documents submitted by the person concerned. The important question therefore arises: from what source did those devices derive the legal authority to issue such decisions or official documents? We therefore say that there is no legal text authorizing those devices to issue these decisions. The legislature has not conferred on them the authority to issue such decisions and documents. They are therefore decisions vitiated by the defect of lack of competence. This view rests on the following arguments and grounds:

First: there is no legal text, whether in a statute, regulation, or instructions, authorizing computerized devices, including their software, to issue administrative decisions or administrative papers and documents. What has occurred in this field has occurred by administrative decisions of various administrations to apply one computer program or another. Such decisions are of a lower legal rank than the legal texts that define administrative competences and powers and identify the competent employees, committees, and councils.

Second: the nature of administrative competence. As seen above, administrative competence is personal, so that the holder of competence must exercise it personally and in the legal form specified by the legislator. Accordingly, the holder may not relinquish it to another except pursuant to an express legal text. Legal scholarship and case law are settled that there is no delegation except by text.

Third: the nature of delegation. The adoption and application of these computer programs cannot be regarded as a form of administrative delegation. Delegation must, in the first place, be issued—where a text permits it—by the original holder of competence, and the delegatee must be one of that holder's subordinates, not a computerized device. What occurs in practice bears no relation to delegation: the administrative superior decides to adopt particular software for issuing decisions irrespective of those competent to issue them. This is done by way of facilitating and accelerating the issuance of decisions and reducing the burden on citizens and the administration—in other words, to realize the advantages of electronic administration.

It is worth noting that the case law of the Jordanian criminal courts has varied with respect to the forgery of electronic documents. The Court of Cassation held:

“If the appellant used modern means (computer and scanner) and color imaging to copy the information contained in a trailer possession license, altered that information in a manner contrary to the truth, then copied the seals and signatures and placed them on the colored copied image, making it appear as the original, this constitutes the fabrication of an instrument that may be relied upon as evidence and falls within the definition of forgery contained in Article (260) of the Penal Code and the method of fabrication set out in Article (262) of the same Code. The fabrication of this license is forgery of official documents within the meaning of Articles (260, 262, 265) of the Penal Code” (Jordanian Court of Cassation, Criminal Decision No. 354/2008, General Panel, June 23, 2008; Criminal Decision No. 2019/2016, December 19, 2016).

Section Two: The Financial Liability of the Administration to Compensate Damage Resulting from These Decisions

Administrative legal scholarship and case law have settled on a distinction between personal fault and service fault in order to determine who bears the burden of financial compensation awarded to the injured person (Al-Sha’ir, 1980, p. 196). The administration bears that burden if the fault is a service fault; the employee bears it if the fault is personal; and it is apportioned between them if the fault is shared, according to each party’s contribution to causing the fault.

Conversely, that distinction cannot be applied in the case of compensation for damage resulting from electronic decisions. Electronic devices are the entities that issue the decisions, and there is no natural employee behind them, since the decision is issued automatically and mechanically. Thus, all faults are service faults for which the administration is liable to compensate all damage suffered by individuals; there is no point in considering the notion of personal fault. The injured person must therefore bring the action against the public administration to which the device that issued the decision belongs, and that administration may not rely on any excuse whatsoever.

There is no doubt that the distinction between formal and substantive aspects of unlawfulness is relevant in this context. Administrative case law has settled that annulment is not a prerequisite for compensation: the administrative courts do not award compensation for decisions vitiated by a formal defect, namely the defect of lack of competence, form, or procedure. The reason is that the damage would inevitably have occurred even if the rules governing the distribution of competence, form, and procedure had been respected. Moreover, annulment of the decision for any of the foregoing defects does not prevent the decision from being reissued after the formal defects affecting the first, annulled decision have been cured.

It is worth noting that we have found no judicial decisions on this point. We nevertheless believe that the administrative judiciary will adopt the traditional theory concerning the administration’s liability for its unlawful acts, whether legal acts or material acts. We also expect compensation

actions to expand, given the increasing reliance of public administration on electronic means in issuing administrative decisions; this field is undergoing continued expansion.

Conclusion

The preceding study shows the widespread use of modern technological means in organizing the conduct of internal administrative work. Internal administrative correspondence is now conducted through technological means; paper-based transactions are no longer encountered. A transaction is sent from one administration and received by another without an intermediary who sees it or knows its content. Correspondence and transactions are also exchanged by these means between ministerial branches in the regions and the central ministry in the capital. We have therefore come to call for the adoption of these means and for expanding their use, because their advantages outweigh their defects and disadvantages: they simplify procedures, facilitate matters for individuals, and save time and effort. Administrative transactions are accordingly carried out and completed very quickly.

The matter is not confined to internal organizational procedures; it has extended to the issuance of administrative decisions. This category has therefore come to be called electronic decisions. The prepared and programmed device issues the decision on the basis of the information and data entered by the person concerned in light of the documents attached. The holder of competence to issue the decision is a natural person (an individual employee), but its actual issuer is an automated device programmed with particular software. Among the clearest examples is student registration at universities: the student accesses the site and registers for the desired courses in light of the data available on the site. The same applies to licenses for commercial premises, the issuance of certificates of no criminal conviction, and other matters.

Recommendations

In light of the preceding findings, we propose the following recommendations:

First Recommendation: we hope that the legislator will issue a statute or regulation specifying the cases in which electronic decisions may be issued, and expressly providing for the possibility, in such cases, of the decision being issued by the device as the entity authorized to issue it.

Second Recommendation: we hope that the statute will include a complete regulation of the rules of liability for compensating damage resulting from faults of those devices, as well as the liability of the entities that program them where there are errors in programming or in follow-up operations.

Third Recommendation: we hope that the administrative judiciary will define the contours of electronic administrative competence, clarify the extent of its lawfulness, and determine its scope and limits.

Fourth Recommendation: we hope that public administration will restrict the issuance of electronic decisions and confine it to the narrowest cases. It must also provide safeguards ensuring that transactions and documents are reviewed before decisions are issued electronically.

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