

# **Null Administrative Decisions in the Light of Palestinian and Jordanian High Courts of Justice: A Comparative and Analytical Study**

## **Abstract**

This research investigates the nature of the null administrative decision vis-à-vis the void administrative decision. It seeks to illuminate the differences (if any exists) in the treatment of null administrative decisions by the Jordanian and the Palestinian High Courts of Justice. Furthermore, it examines the differences in the ways the High Court in both the Gaza Strip (Gaza Chamber) and the West Bank (Ramallah Chamber) deal with the null administrative decision.

The research adopts an analytical approach and analyzes the legal texts, jurisprudence and judicial precedence relevant to the null administrative decision. It also draws on comparative jurisprudence, legal provisions and Palestinian and Jordanian judicial decision. The research is divided into two chapters. The first chapter examines the nature of the null administrative decision. The second chapter examines the ways in which the Null Administrative Decision is dealt with in the Palestinian and Jordanian High Courts of Justice.

The main proposition advanced in this research is that the Jordanian and Palestinian courts consider the null administrative decision as a decision that is so fundamentally flawed as to make it void and therefore incapable of, conferring no legal effects. Despite this lack of legal effect, the courts accept to

review it in order to verify its nullity. Accordingly, it is correct to say that reviewing null administrative decisions is subject to “statement of nullity” and not an “annulment”. Moreover, as an invalid administrative decision, it has no statute of limitation, which doesn't apply to adhesion (submission) and may not be followed by approval. This is the legal nullity, which this research focuses on; whereas the nullity is of two types: Legal, in which all the elements of the administrative decision are available but suffers fundamental legal flaw, and material, where the administrative decision elements are missing.

This study also finds that the Palestinian and Jordanian High Courts of Justice, whether in Ramallah or Gaza, have tried to set a criterion for distinguishing the null from the void administrative decision. Such a distinction has been based on the seriousness of the flaw and on enumerating the cases of invalidity but not nullity. However, both of them did not settle on the case, which makes the decision null. It generally appears (according the Palestinian and Jordanian High Courts of Justice) that any flaw in the legality elements of the administrative decision makes the administrative decision void and may render it susceptible to annulment. An administrative decision becomes void in the following cases: formalities and due process, purpose, aim and jurisdiction and when the flaw is minor, while the nullity cases are on the object and jurisdiction, when the flaw is fundamental. In addition, the minor ultra vires, occurs due to the violation from within the same authority and between two bodies linked to the same presidential relation, while fundamental ultra vires, occurs due to the violation among the three authorities, with one exception, and that is when there are no relation between the violating and the violated authority on its jurisdiction.