

# Conflict of Jurisdiction Between the Federal Supreme Court and The Court of Administrative Justice in Challenging Administrative Decisions in Iraq

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**Abstract:** A conflict occurs between two or more courts, such as the conflict that occurs between the ordinary judiciary and the administrative judiciary in countries that adopt a dual judicial system. All or some of the courts refuse to consider the case, claiming that it is not within their jurisdiction, so they refer it to another court, or each court maintains its jurisdiction to consider the case. In this case, the competent authority must be determined from among the judicial authorities or bodies with judicial jurisdiction. The Iraqi legislator adopted this principle by Law No. (106) of 1989, the second amendment to the Council of State Law No. (65) of 1979, and the federal system adopted it by virtue of the Law of Administration of the State for the Transitional Period in 2004 and the Permanent Constitution of 2005, due to the possibility of a conflict of jurisdiction occurring between the ordinary judiciary and the administrative judiciary. This article aims to define this conflict and its application in the event that a conflict of jurisdiction occurs between the Federal Supreme Court and the Administrative Judiciary Court in appealing administrative decisions in Iraq.

**Keywords:** Conflict of jurisdiction, Federal Supreme Court, Administrative Court, appeal against administrative decisions.

**Introduction:** The issue of conflict of jurisdiction emerged in Iraq after the issuance of the Second Amendment Law to the State Shura Council Law No. (106) of 1989, which established the Administrative Judiciary Court and subsequently created the judicial function in the Council. If a conflict of jurisdiction arises between it and any civil court, a panel of seven persons is appointed to resolve the dispute. The President of the Court of Cassation selects three of them from among the members of the court, and the President of the State Shura Council selects three others from among the members of the Council. The panel meets under the chairmanship of the President of the Court of Cassation, and its decisions, issued by agreement or majority, are binding and final. However, the increasing tasks of the State Council's judicial institutions related to the Administrative Judiciary Courts and the Disciplinary Council, and what is entrusted to it in terms of adjudicating employee service rights claims and considering appeals related to decisions to impose

disciplinary penalties and others, especially after the number of bodies specialized in administrative judiciary increased as a result of the doubling of the number of employees, after the significant expansion witnessed by the government apparatus after the year (2003), led to the inability of this amendment related to the General Disciplinary Council and the Administrative Judiciary Court to carry out its duties in an optimal manner, which made the Iraqi legislator issue the Fifth Amendment Law No. (17) of (2013), which created the Supreme Administrative Court, and replaced the General Disciplinary Council with the Employee Judiciary Court; so that the name would be more indicative of the powers of the formation and more comprehensive, and stipulated the formation of courts for administrative judiciary and others for employee judiciary divided geographically in Iraq into the northern, central, middle and southern Euphrates regions, and authorized the Minister of Justice to issue a statement based on the proposal of the Presidency to

form other courts for administrative judiciary and employee judiciary. In this regard, this article will examine the research objectives, problem, scope, and methodology, as follows:

#### First: Objectives of the Article

The primary objective of this article is to highlight the problem arising from a conflict of jurisdiction between the Federal Supreme Court and the Administrative Judiciary Court regarding appeals against administrative decisions in the Republic of Iraq, as stipulated in the applicable amendment law, and to propose a solution.

#### Second: The Problem of the Article

The research problem lies in the possibility of a conflict of jurisdiction between the Federal Supreme Court and the Administrative Judiciary Court regarding appeals against administrative decisions, as per Iraqi judicial bodies.

#### Third: Scope of the Article

The scope of the research is limited to examining the conflict of jurisdiction between the Federal Supreme Court and the Administrative Judiciary Court regarding appeals against administrative decisions, as per Iraqi judicial bodies.

#### Fourth: Methodology of the Article

The article employs a descriptive and analytical approach, extracting information from its sources, indexing and presenting it, and then describing and analyzing it to achieve the desired objective.

#### Fifth: Article Plan

This article is divided into two parts:

The first part clarifies the concepts that must be defined in a manner that avoids any doubt or confusion with others, as they are more general than those used in other scientific fields. This section covers five topics. The first topic defines conflict of jurisdiction, the second defines the Federal Supreme Court, the third defines the Administrative Judiciary Court, the fourth defines appeal, and the fifth defines administrative decisions.

The second part deals with the methods of appeal before the Federal Supreme Court and the Administrative Judiciary Court.

#### Unit One: Concepts

Defining the concepts underlying studies in general, and legal studies in particular, is an important requirement (1). Defining them facilitates the expression of the researcher's intended ideas (3) and prevents the researcher from provoking controversy with others (2). These terms, in any given research, are

merely effective tools or mechanisms for investigation (4) and an important link between the researcher and the reader and the intended explanation (5). Therefore, dispensing with a clear definition of them is considered a methodological shortcoming (6). Therefore, this section is devoted to explaining the following concepts: (conflict of jurisdiction, Federal Supreme Court, Administrative Judiciary Court, appeal, administrative decisions).

Because most of these concepts appear in legal thought as a combination of two words, each with an independent meaning and another within the concept formulated in the form of addition (7), inclusion (8), or a revealing and specific characteristic (9); Because most scientific concepts consist of two or more words (10) in an additional, mixed, or hybrid construction (11), scholars and thinkers sometimes use the term to mean the general, absolute term, and other times to refer to the specific meaning used in that field exclusively. Therefore, it is necessary to address them as follows:

#### First Topic: Defining Conflict of Jurisdiction

##### First Section: Defining the Two Terms in Linguistics

First: Conflict: A noun derived from the root (n z ' a), meaning disagreement and dispute (12). Originally, it denotes uprooting (13), which implies violence, difficulty, and resistance. This is because something easy cannot be removed, but rather is removed (14).

Second: Specialization: Originally, it is derived from the root (ikhtisas) (15), which denotes singling out a person for something or singling out a thing to the exclusion of others absolutely (16). Therefore, it denotes exclusivity in grammar (17).

##### Second Section: Defining Conflict of Jurisdiction in Terminology

The compound concept, according to legal scholars, has not deviated greatly from the linguistic meanings of the two words. Therefore, they defined it as: "A dispute between two judicial bodies regarding the consideration of a specific subject, such as the dispute that occurs between the regular judiciary and the administrative judiciary in countries that adopt the dual judiciary system" (18), which the Iraqi legislator adopted in the Second Amendment Law to the State Council Law - No. (65) of (1979) (19) - No. (106) of (1989) (20), and it was adopted by the federal system after the year (2004) pursuant to the State Administration Law for the Transitional Period of the year (2004) (21) and the Permanent Constitution of the year (2005) (22); Due to the possibility of a conflict of jurisdiction occurring between the ordinary judiciary and the administrative judiciary (23). This conflict between two or more courts is sometimes negative,

meaning that all or some of the courts refuse to hear the case, claiming that it is not within their jurisdiction, and so on. At other times, it is positive, meaning that each court maintains its jurisdiction to hear the case (24). In this case, it is necessary to "designate the competent authority from among the judicial authorities or bodies with judicial jurisdiction" (25).

**Second Requirement: Definition of the Federal Supreme Court**

**First Section: Formation of the Federal Supreme Court**

The Federal Supreme Court was formed in accordance with Article (44/A) of the Iraqi State Administration Law for the Transitional Period of 2004 (26); In order to fill the two vacuums (the judicial one, which constitutes a source of numerous disputes) and the (legislative) vacuum (27), which emerged after the invasion of Iraq in 2003, its work was legislated by Federal Supreme Court Law No. (30) of 2005 (28).

Then, after the permanent Constitution of the Republic of Iraq of 2005, which is still in force, codified its formation, Article 92/Second thereof also stipulated that: "The Federal Supreme Court shall consist of: a number of judges, (29) experts in Islamic jurisprudence, and legal scholars; their number shall be determined, and the method of their selection, and the work of the court shall be regulated by a law enacted by a two-thirds majority of the members of the Council of Representatives" (30).

It thus became completely administratively and financially independent (31) from the regular judiciary, and any connection between them was severed (32). Its headquarters was made in Baghdad, the federal capital (33), and its decisions became final and binding on all authorities (34), and its rulings and decisions are final (35).

**Section Two: Functions of the Federal Supreme Court**

The Federal Supreme Court is considered the highest authority in the Iraqi judiciary, as it is the highest judicial authority therein. It has become the focus of attention and the sole authority during the administrative, political, and economic circumstances Iraq has experienced, such as the election of the country's president, the expiration of the constitutional and legal deadlines for forming governments, and the paralysis and inability of the Council of Representatives to function due to sit-ins inside or outside the Council.

Article 93 of the Constitution stipulates: "The Federal Supreme Court shall have the following jurisdiction:

First: Overseeing the constitutionality of applicable laws and regulations.

Second: Interpreting the provisions of the Constitution.

Third: Adjudicating cases arising from the application of federal laws, decisions, regulations, instructions, and procedures issued by the federal authority. The law guarantees the right of the Council of Ministers and interested parties, whether individuals or others, to directly appeal to the court.

Fourth: Adjudicating disputes that arise between the federal government and the governments of regions, governorates, municipalities, and local administrations.

Fifth: Adjudicating disputes that arise between regional or provincial governments.

Sixth: Adjudicating accusations against the President of the Republic, the Prime Minister, and ministers, and this shall be regulated by law.

Seventh: Ratifying the final results of the general elections for membership in the House of Representatives.

Eighth: A - Adjudicating conflicts of jurisdiction between the federal judiciary and the judicial bodies of regions and governorates not organized within a region.

B - Adjudicating conflicts of jurisdiction between the judicial bodies of regions or governorates not organized within a region (36).

The Federal Supreme Court Law stipulates its duties. Article (4) stipulates that "the Federal Supreme Court shall undertake the following duties:

First: Adjudicating disputes that arise between the federal government and the governments of regions, governorates, municipalities, and local administrations.

Second: Resolving disputes related to the legitimacy of laws, decisions, regulations, instructions, and orders issued by any entity empowered to issue them, and annulling those that conflict with the provisions of the Law of Administration for the State of Iraq for the Transitional Period. This shall be based on a request from a court, official body, or an interested plaintiff.

Third: Considering appeals filed against rulings and decisions issued by the Administrative Court.

Fourth: Considering lawsuits filed before it on an appellate basis, and its jurisdiction shall be regulated by federal law (37).

The Federal Court exercises two types of functions:

First: Judicial or mission jurisdiction, which is the review of lawsuits and disputes.

Second: Referendum jurisdiction, which is the response to requests submitted by federal authorities to interpret any unclear constitutional text or one that may be interpreted in a different way. It then delves deeper into its interpretation, taking into account the

public interest of the country, and then issues its opinion (38).

Therefore, it issued its decision No. (24/Federal/2023) on (2/27/2023) in a case whose facts are summarized in the fact that the head of the Iraqi Central Federation for Bodybuilding and Fitness submitted a request to the Federal Supreme Court to interpret the paragraph on granting licenses to practice a specific game or sport in clubs, centers and academies and supervising them, contained in Article (30/first) of the National Sports Federations Law No. (24) of (2021) (39), and the Federation disputed with other parties claiming such a right in their legislative laws, including (the Iraqi Athletes Syndicate), and the court decided to reject the inquiry request in form; for lack of jurisdiction (40).

Here are some observations made by a group of jurists (41):

1 - The court decided that it is not competent to consider requests for interpretation of laws as a matter of principle, but rather as a subsidiary matter, when considering the constitutionality of a law; given that the conformity or conformity of the contested law with the Constitution inevitably requires its interpretation by the court, and this is an indisputable matter. It decided that it is not competent to answer inquiries submitted to it by an official body, a state authority, unions, or federations; given that the court is not a body that issues fatwas and expresses opinions, which is a sound approach that is consistent with the status of the Supreme Court in terms of both subject matter and jurisdiction. Thus, the grounds for its decision stated that the Federal Supreme Court finds that the request must be rejected on the basis of formal lack of jurisdiction. The powers and jurisdiction of this court are exclusively stipulated in Articles (52) and (93) of the Constitution of the Republic of Iraq of 2005, Article (4) of the Federal Supreme Court Law No. (30) of 2005, as amended by Law No. (25) of 2021, and some other special laws. None of these powers and jurisdictions grant the court jurisdiction to interpret the provisions of laws, except in the event of a challenge to their unconstitutionality. It also does not have jurisdiction or authority to answer inquiries submitted to it by official bodies, any state authority, unions, or federations...; this is because the Federal Supreme Court is not a body that issues fatwas and expresses opinions. The operative part of the decision indicated that it will not accept a request to interpret legislation from any party, including state authorities, whether federal or local. This is a sound approach that is consistent with the Constitution and the Court's law. 2 - The Federal Supreme Court defined the controls for legislative interpretation in its Decision No. (48/Federal/2021) dated 6/6/2021. It stated that it has the authority to

interpret legislation if it is in force, that its interpretation be in connection with a dispute before this court to decide on the constitutionality of the law subject to interpretation, and that the interpretation be in connection with an inquiry submitted exclusively to it by one of the federal authorities. It considered its jurisdiction to interpret legislation in this case an exception stemming from its original jurisdiction to interpret the constitution.

In accordance with this decision, it permitted the acceptance of requests for legislative interpretation as a matter of principle if they came from one of the federal authorities. However, it partially amended this rule of the decision in accordance with the principle contained in Decision No. (24/Federal/2023) dated 2/27/2023, the subject of the comment. It stated that requests for interpretation from official bodies or any other authority are not acceptable.

Federal authorities are not entitled to request the original interpretation of legislation. Because it falls outside the court's jurisdiction, and because its internal regulations lack any reference to the conditions, controls, and information required for submitting the original request for legislative interpretation, this is outside the court's jurisdiction stipulated in Article (93) of the Constitution.

3 - The summary of Resolution No. (24/Federal/2023) dated February 27, 2023, states that it does not have jurisdiction to consider requests for legislative interpretation as a matter of principle, as it is not a body that issues fatwas or expresses opinions. Its jurisdiction remains in place to interpret legislation, when considering the constitutionality of laws, or when resolving disputes that arise between the federal government and regional, governorate, and local municipal governments, as well as when resolving disputes that arise between regional and governorate governments, as stated in the court's jurisdiction mentioned in the Constitution and the law. This approach prevents the court from being distracted by requests for interpretation from its primary mission of protecting the Constitution. The Third Requirement: Defining the Administrative Court

The Iraqi State Council is at the forefront of the legal hierarchy of state institutions, and a towering edifice toward which the hearts of those who believe in the values of freedom, truth, and justice turn, because it plays a pivotal role in public life in the country (42).

Its establishment has gone through several stages, which we summarize as follows:

First: The issuance of the Legal Codification Bureau No. (49) of 1933 (43), whose mandate included: providing opinions, fatwas, legal advice, and administrative

adjudication regarding employees, in accordance with the General Disciplinary Council for Employee Adjudication (44), which was established pursuant to the State Employees Discipline Law No. (41) of 1929 (45).

Second: The issuance of the State Shura Council Law No. (65) of 1979 (46), which assigned it the task of: providing opinions and administrative adjudication, drafting and reviewing legal legislation, and providing legal advice. It was linked to the Ministry of Justice. Like the judiciary, following the French principle of separating the working administration from the judicial administration, most of its powers were closer to the executive branch, as it was established to assist the executive branch in resolving problems related to it. Administrative courts subsequently worked to create a balance between the interests of individuals and the state, and to limit the arbitrariness of administrative authority (47). Then, the Second Amendment Law to the State Shura Council Law – No. (65) of 1979 – No. (106) of 1989 – determined how it was formed in Iraq (48). However, its connection to the Ministry of Justice remained, even after the issuance of the Fifth Amendment Law to the State Council Law – No. (65) of 1979 – No. (17) of 2013 (49), which, in accordance with Article (7/Seventh), ordered the formation of the Administrative Judiciary Court (50). This Court later became the body competent to consider and resolve administrative orders and decisions issued by bodies in government departments, the public sector, and employees. At that time, the Citizens' Judiciary was completed (51).

Third: The Iraqi legislator, for technical, judicial and other reasons after the year (2003), limited the types of administrative courts to include: (the Supreme Administrative Court, the Administrative Judiciary Court, and the Civil Service Judiciary Court), which were examining thousands of lawsuits, supported by the jurisdiction of the administrative judiciary, fatwas and drafting in the Council of State; in accordance with Article (101) of the Permanent Constitution (52), so the (State Shura Council) was transformed into the (State Council) and received the assistance of the executive and legislative authorities in issuing the State Council Law No. (71) of (2017) (53), thereby abolishing its connection to the Ministry of Justice, and becoming independent, enjoying a legal personality represented by the President of the Council, and finding for it an independent entity that guarantees its neutrality and independence in exercising its powers, which include its jurisdiction over the administrative judiciary, while being linked to the executive authority (54), in accordance with what was stipulated in the State Council Law No. (71) of (2017). The administration

conceals the judiciary's legal issues for the sake of good, which leads to administrative judiciary on the administration and its components, in addition to depriving the administration of all its rights from the rights of unlawful lawsuits through cancellation and compensation for those affected through compensation or administrative contract. This contributes to increasing the effectiveness of the administration's performance, and this requires an actual judiciary. After a long wait, State Council Law No. (71) of 2017 established an independent body called the State Council. However, this law, despite its importance, may be incomplete if it all issues a fatwa with State Council Law No. (65) of 1979 and its amendments to the new State Council, which inherited the State Council. Therefore, every explicit State Council Law and the various and multiple electronics on the State Council, and even the important issue in the State Council Law for the reason (2017), which is the establishment of the State Council, which represents the administrative judiciary as a body independent of the executive authority, except that the legislator's formulation in this aspect only is ambiguous, while it stipulated that the State Council is (an independent body) without clarifying why, and this matter opened the door to controversy about the nature of the Iraqi State Council, and from there to the search for the nature of the Council The state. This study has identified the constraints that limit the effectiveness of the Council of State in improving administrative work. The study followed an analytical theory to achieve its objectives. Therefore, the study analyzed legal constitutional texts, rulings, and decisions, and drew on previous studies to achieve its objectives. The study concluded that the Iraqi Council of State has not received the same attention from the public and executive authorities as it did in France and Egypt. Despite the passage of three decades since the establishment of the administrative judiciary in Iraq, the experience of the Council of State in some of its functions, which dates back to the establishment of the now defunct Office of Documentation in 1933, has only been limited by the Iraqi legislator to the full effectiveness of the Iraqi Council of State. In the short term, the executive authority shares this responsibility, as it does not provide sufficient financial resources to support the effectiveness of the Council of State. Therefore, to increase the effectiveness of the Council of State, pressure must be applied to the public and executive authorities to secure all available legal means to hold these two authorities accountable (55). Article (1) of State Council Law No. (71) of 2017 authorized the establishment of the State Council as an independent body tasked with administrative judiciary duties, issuing fatwas, and drafting legal opinions. The

Council's chairman was granted the powers of the competent minister, thereby gaining complete independence from the executive authority (56). The legislator thus departed from the unified judiciary system and adopted the dual judiciary system, creating an administrative judiciary system alongside the regular judiciary system (57).

#### Fourth Requirement: Definition of Appeal

Linguistically: The root word for "to be challenged" is "to be challenged." It is said: "to challenge" or "to challenge", meaning to slander someone with the intent of killing them, insulting them, verbally abusing them, defaming them, or tarnishing their reputation among people, their judgment, their lineage, or their slander, betraying them, or deceiving them. "To challenge a matter" means to object to it, raise suspicions about it, or cast doubt on it (58).

Technically, it is an objection to a court ruling, whether in person or in absentia (59), and a review of it (60). Appeal is only permissible by the convicted party. Appeal is not permissible against rulings issued during the course of a lawsuit, nor does it conclude the dispute. There are several methods for appeal, including: the normal methods, which are opposition to the ruling, appeal, cassation, or a request for review (61).

#### The fifth requirement: Defining administrative decisions

Several attempts have emerged to define an administrative decision (62); because jurisprudence has not agreed on a clear definition of its concept (63). Iraqi jurisprudence has limited itself to mentioning its elements without providing a comprehensive and exhaustive definition (64). Others have defined it as: "The administration's declaration of its binding will, based on its authority pursuant to laws and regulations, with the intent of establishing or amending a legal position whenever it is possible and legally permissible, and the goal is to achieve the public interest. It is the same whether the administration's declaration of its will is explicit or implicit" (65). Unit Two: Appeals before the Federal Supreme Court and the Administrative Judiciary

#### First Requirement: Appeals before the Federal Supreme Court

Article 13/First of the Constitution stipulates that: "This Constitution shall be the supreme and highest law in Iraq, and shall be binding in all its parts without exception." (66), linking the principle of constitutional supremacy to the principle of legality (67), which means the supremacy of the rule of law, meaning that the public authorities of the state (legislative,

executive, and judicial) are subject in all their actions and activities to the provisions of the law (68).

To ensure this supremacy, the various authorities and bodies may not deviate from the constitutional rules and violate the principles contained therein (69). The legislative authority may not issue a law that contradicts its principles. It becomes effective once the necessary formalities for its issuance are met, and it applies to all, and ordinary courts are not empowered to contravene it. Because its mission is limited to implementing the law, the constitution should have included the protection of its sovereignty and established the necessary mechanisms for this. Jurisprudence almost unanimously agrees that oversight of the constitutionality of laws is the best means of protecting the rights contained therein. This oversight results in an inevitable outcome of its supremacy. Judicial oversight is almost the dominant method of constitutions in most countries, and this is currently the case in Iraq, where the Federal Supreme Court undertakes judicial oversight of the constitutionality of laws (70), as stated in Article 93/First (71).

Challenging the unconstitutionality of a law is done through a lawsuit filed before the Federal Supreme Court, in which the constitutionality of the law under challenge is challenged. This lawsuit is the means by which a ruling is reached on the unconstitutionality or constitutionality of the challenged legal text (72). Despite the hundreds of lawsuits heard by the Federal Supreme Court and the rulings it issued, which are available for everyone to view on its website and the studies and research related to them, some people still inquire about how to challenge laws that they believe are unconstitutional or contain a paragraph or article that conflicts with constitutional principles. From time to time, inquiries are received from citizens and sometimes from legal specialists about this method, and some people claim that the legal text of the Federal Supreme Court is not clear enough to explain this, even though the law has detailed this in detail to the specialist, and then detailed it in greater detail in the internal regulations of the Federal Supreme Court No. (1) of (2005) (73). Therefore, this requirement takes it upon itself to explain the methods of challenging the unconstitutionality of laws and regulations before the Federal Supreme Court in Iraq, in sections, as follows (74):

#### The first section: The concept of challenging unconstitutionality

The Constitution mentioned the jurisdiction of the Federal Supreme Court to monitor the constitutionality of laws and regulations in force (75), but it did not

clarify the organization of the mechanism for that monitoring, but rather left it to the details of the Federal Court Law in force or that will be enacted later. This is a good approach, because most state constitutions left those details to the legal texts. The Federal Supreme Court Law in force No. (30) of 2005 (76) referred to that mechanism through the request submitted by one of the legal or natural persons referred to in Article (4/Second), which are (a court, an official body, or an interested plaintiff). The phrase "request" is understood to mean filing a legal action before the Federal Supreme Court; Because the Code of Civil Procedure is the primary law, it is referred to in the absence of texts in a law relating to procedural rules. Article (2) of the Civil Procedure Law No. (83) of 1969, as amended, defined a lawsuit, stating that: "A lawsuit is a person's request for his right from another before the judiciary." Federal Supreme Court Law No. (1) of 2005 detailed the nature of the lawsuit and how to file it, in accordance with the details contained in Article (1) of that law. Article (4) of the Federal Supreme Court Law granted the right to appeal to three parties: the court, the official body, and the interested plaintiff. Article (1) of the law clarified the manner in which the interested plaintiff may file an appeal. Article (1) of the law clarifies the manner in which the interested plaintiff may file an appeal. This is:

First: He must be a natural person.

This means any individual who believes that a law has infringed his constitutional rights. This mechanism is the lawsuit filed by a citizen only, and can be filed in two ways.

The Federal Supreme Court considers hundreds of lawsuits annually filed by individuals in their personal capacity. Second: The court and the official body

The law has granted the competent court to apply the law at any level of litigation, whether it is the Court of Cassation or any other court in the ordinary, administrative, military, or internal security forces judiciary. These have the right to request the Federal Supreme Court to consider the unconstitutionality of a law that has been invoked before this body (the court) and that it deems unconstitutional, despite the absence of a concerned party appealing. The competent court has granted this right to appeal by submitting a request directly to the Federal Supreme Court, at which point it will be considered. The Federal Court has issued dozens of decisions and rulings declaring provisions in laws unconstitutional at the request of a court. This mechanism is regulated by Article (3) of the Federal Supreme Court's Internal Regulations No. (1) of 2005, which states the following: "If a court, on its own initiative, requests, during the

consideration of a case, a ruling on the legality of a provision in a law, legislative decision, regulation, or instruction related to that case, it shall send the reasoned request to the Federal Supreme Court for adjudication. This request is not subject to fees." Third: The Official Body

Where some ministries and entities not affiliated with a ministry encounter laws that they believe conflict with the Constitution, and no legal action has been filed against them, the law grants the head of that official body the right to request a review of the unconstitutionality of the law or of an article or paragraph of its applicable articles. This mechanism is regulated by Article (5) of the Internal Regulations, which states the following: "If an official body, in the context of an existing dispute between it and another body, requests a ruling on the legality of a provision in a law, legislative decision, regulation, instruction, or order, it shall send the request as a lawsuit to the Federal Supreme Court, with reasons and its grounds, in writing signed by the competent minister or the head of the entity not affiliated with a ministry." (77).

Second Section: The Constitutional Suit as a Means of Appeal

One of the common forms of challenging unconstitutionality is through a constitutional suit. Therefore, most of the constitutional judiciary laws, and sometimes the Constitution itself, referred to it, and in the Federal Supreme Court Law No. (30) of (2005), it referred to the constitutional lawsuit, but left its details to the internal regulations that were issued later based on the provisions of Article (9) of the law, and the method of filing that lawsuit was mentioned in two forms:

First: That the lawsuit be filed directly before the Federal Supreme Court

The internal regulations permitted, based on the provisions of Article (4) of the Federal Supreme Court Law No. (30) of (2005) in force, any citizen or any person to file a lawsuit to challenge the unconstitutionality of a law; Provided that he has been harmed by the application of this law, which is what is called the interest in filing that lawsuit, and according to the mechanism set out in Article (1) of the internal regulations, which states the following: "The subject of the dispute shall be submitted by a lawsuit in accordance with the following procedures: First: When submitting his petition, the plaintiff shall attach to it copies equal to the number of defendants and a list of documents, and he or his representative must sign each of the submitted papers, acknowledging that they are identical to the original. Second: The petition shall not be accepted if the documents stipulated in the first

paragraph of this article are not attached to it. Third: The petition shall be signed by the president of the court or his authorized representative, and the fee shall be collected for it and it shall be registered in the special register according to the priority of its submission, and the court seal and the date of registration shall be placed on it, and the plaintiff shall be given a receipt signed by the employee responsible for receiving it, stating the number of the lawsuit and the date of its registration" (78).

Second: In connection with a lawsuit being heard by the competent court in the ordinary judiciary.

A law is challenged in connection with a lawsuit being heard by a court of the ordinary judiciary, for example: courts of first instance, personal status, investigation, criminal courts, and other courts, including the Federal Court of Cassation. This order is made by a plea submitted by one of the parties to the lawsuit to the court hearing the ordinary lawsuit. That court then orders him to submit the appeal by petition or request, and then orders him to pay the fee. After that, it decides to send the request, along with the documents, to the Federal Supreme Court to decide on the appeal of the unconstitutionality of the contested law. It then decides to postpone consideration of the lawsuit until the outcome of the appeal is received. However, if it refuses to send the request containing the plea of unconstitutionality; Its decision to reject the appeal is subject to appeal before the Federal Supreme Court, in accordance with the provisions of Article (4) of the Federal Supreme Court's Internal Regulations, which states: "If a court requests a ruling on the legality of a provision in a law, legislative decision, regulation, instruction, or order based on a plea of illegality from one of the parties, the party shall be required to submit this plea in a lawsuit. After collecting the fee, the court shall decide on the admissibility of the lawsuit. If it accepts it, it shall send it, along with the documents, to the Federal Supreme Court to decide on the plea of illegality, and shall decide to retain the original lawsuit for the outcome. However, if it rejects the plea, its decision to reject shall be subject to appeal before the Federal Supreme Court." (79).

Filing a constitutional lawsuit, in either of the two forms above, applies to both individuals in their personal capacity and legal entities. The lawsuit must include the name of the plaintiff (the appellant) and the name of the defendant, who is usually the head of the body that enacted the law (the House of Representatives) and authorized its issuance (the President of the Republic). This is what Article (6) of the Internal Regulations indicates. Other conditions that must be met in the petition of claim are mentioned in accordance with the following text: "If a plaintiff requests a ruling on the

legality of a provision in a law, legislative decision, regulation, instruction or order, the request shall be submitted in a lawsuit that meets the conditions stipulated in Articles 44, 45, 46 and 47 of the Civil Procedure Code. The lawsuit must be submitted through a lawyer with absolute authority, and the lawsuit must meet the following conditions: First: The plaintiff in the subject matter of the lawsuit must have a current, direct interest that has an impact on his legal, financial or social position. Second: The plaintiff must provide evidence that he has suffered actual harm as a result of the legislation requested to be repealed. Third: The harm must be direct and independent in its elements and can be removed if a ruling is issued declaring the legislation to be repealed illegal. Fourth: The harm must not be theoretical, future or unknown. Fifth: The plaintiff must not have benefited from any aspect of the text requested to be repealed. Sixth: The text requested to be repealed must have been applied to the plaintiff in fact or is intended to be applied to him."

#### Section Three: Requests from Courts and Official Bodies

The appeal process is not limited to constitutional claims. Rather, the Federal Supreme Court's internal regulations allow both (the court and the official body) to submit a request to consider the unconstitutionality of a particular law. This request may be made without a petition. An official body is any department, ministry, or institution affiliated with the state.

The text refers to (another court) under the title (the court).

It does not refer to the judge or members of a court composed of more than one judge, such as the Court of Appeal, the Criminal Court, or any other court.

Perhaps this approach implies a wisdom, namely that the work and composition of courts is regulated by Judicial Organization Law No. (160) of 1979, as amended (79). The meaning of the word "court" in this law is that which hears cases and is composed of judges whose presence is required in the case. If the court is composed of a retired judge, then it is not a court, and its decisions are of no effect. If it hears a matter outside its jurisdiction, then it is not considered a properly constituted court, and all its decisions are null and void. Therefore, the court intended by the Federal Supreme Court's Internal Regulations No. (1) of 2005 is the court that is properly constituted, and in accordance with the law. This leads us to who has the authority to present the request to the Federal Supreme Court when requesting an appeal of unconstitutionality. In courts formed by several judges, for example: the Criminal Court, the decision to present the request is by majority, because it is a judicial decision. If the court is

formed of only two members, and it is originally composed of three judges, then this decision is incorrect and has no effect. Since the criminal courts are composed of a judge in the misdemeanor and investigation courts and a judicial body in the criminal courts, they are not correct and their rulings are not valid if the public prosecutor's representative does not attend the trial, because the law prohibits the convening of those courts except in the presence of the public prosecutor's representative, and in accordance with what is stated in the text of Article (8) of the Public Prosecution Law No. (49) of 2017, which states the following: "The sessions of the criminal courts and juvenile courts are considered not to be held when a member of the public prosecutor is not present" (80); Thus, the court that has the right to request unconstitutionality includes members of the judiciary in criminal cases or the judge of the court in misdemeanor courts, and the representative of the public prosecutor; Because it is the second party to the trial, and it does not take place except with the meeting of both parties, therefore, the one who has the right to request the presentation of the challenge of unconstitutionality is the Criminal Court and the judge of the Misdemeanor Court. Likewise, the representative of the Public Prosecution before this court has the right to request, on his own, that the Federal Supreme Court consider the unconstitutionality of a law he encounters when considering one of the cases being heard by the court in which he works as a representative of the Public Prosecution. In addition, the explicit text of Article (5/11) of the Public Prosecution Law No. (49) of (2017), which states: "Challenge of the unconstitutionality of laws and regulations before the Federal Supreme Court" (81). In this sense, what is meant by the Public Prosecution is the Presidency of the Public Prosecution, as well as the representative of the Public Prosecution before the competent courts. These, individually or through the Presidency of the Public Prosecution, have the right to appeal, just like their fellow judges who hear civil or criminal cases, noting that all members of the Public Prosecution, from the Chief Public Prosecutor to the Deputy Public Prosecutor, at the present time, are exclusively judges assigned to work in the Public Prosecution in their various judicial ranks. As for official bodies, their supreme head is the only one who has the exclusive right to request a challenge to the constitutionality of a law, in accordance with Article (5) of the internal regulations referred to above. Therefore, the mechanism for challenging the unconstitutionality of a law is very simple, and the legal texts facilitate the process for all those seeking to preserve their constitutional rights, as stipulated in the current Iraqi Constitution. The Federal Supreme Court

has played a significant role in protecting these rights and ruling on the unconstitutionality of laws that represent a violation of these constitutional principles. This has had a significant impact in encouraging citizens to adhere to the supremacy of the constitution and the law. Anyone who examines the volume of lawsuits and requests heard by the Federal Supreme Court will see the extent of citizens' confidence in our constitutional judiciary, which has been commended by friends and brothers who specialize in the judiciary and constitutional jurisprudence.

The Second Requirement: Appeals before the Administrative Court

Article (100) of the Permanent Iraqi Constitution of 2005, in force, stipulates that: "It is prohibited to provide in laws that immunize any administrative action or decision from appeal." (82).

This principle was emphasized through the issuance of Law No. (17) of 2005, effective and amended by Law No. (3) of 2015 (83), repealing legal texts that prohibit appeals against administrative decisions, actions, and orders before the judiciary. Many decisions of the dissolved Revolutionary Command Council, under the former dictatorial regime, stipulated that the judiciary be barred from considering appeals filed against administrative orders and decisions. Furthermore, there were some laws that prohibited this in some of their provisions, such as the Ministry of Higher Education Law No. (40) of 1988, as amended (83), and the Ministry of Education Law No. (22) of 2011 (84). However, after the fall of the regime and the advent of the new democratic system, and under the existing constitution and new legal system, these prohibitive decisions and laws were repealed, as they restricted and prevented individuals from seeking legal redress for their rights, which they might feel wronged by. They also serve the public interest and achieve judicial oversight by identifying any errors the administration may have committed. Recourse to the judiciary is considered a sound and correct path for rectification and correction, provided that these appeals and objections are appropriate and productive, not merely unnecessary and unnecessary objections.

Administrative law is a branch of internal public law that includes the set of legal rules applicable to the administration, whether by this I mean their organic or substantive meaning. It governs the administration with regard to its composition, organization, and the activities it issues (85).

As for the judicial jurisdictions mentioned above, they are as follows:

1 - The Administrative Judiciary Court: It adjudicates the validity of administrative orders and decisions,

whether individual or regulatory, whenever the legislator has not specified a reference for appeal; Based on a request from a known, actual, and possible interested party. However, a potential interest is sufficient if there is reason to fear harm to the interested parties (86). The law has specified the reasons for appeal, including that the decision includes a breach or violation of the law at all levels, or that it was issued contrary to the rules of jurisdiction, or is defective in its form, procedures, or the element of work, or reason, in addition to the defect that affects the administrative decision whenever it includes an error in the application of the law, or its interpretation, or contains abuse, or abuse of power, or deviation from it (87). After the court accepts the case in form by fulfilling certain conditions, such as a grievance and adherence to the deadlines, it has the right to annul the decision under appeal or uphold it and dismiss the case, or amend it, and it has the right to rule on compensation if there is a reason for it based on the plaintiff's request (88). The jurisdiction of the Administrative Judiciary Court, based on the text of Article 7 of the State Council Law, is to adjudicate the validity of individual and organizational orders and decisions issued by employees and bodies in ministries, entities not affiliated with a ministry, and the public sector, for which the law has not designated a reference for appeal. This is based on a request from a known, actual, and potential interested party. A potential interest is sufficient if there is reason to fear harm to the concerned parties. The Administrative Judiciary Court is formed under the chairmanship of the Vice President for Administrative Judiciary Affairs or an advisor, and two members from among the advisors or assistant advisors. The Iraqi Administrative Judiciary Court forms part of the judicial bodies of the Iraqi Council of State. Based on State Shura Council Law No. (65) of 1979, as amended, which stipulates in Article 7/Fourth thereof that: "The Administrative Court shall have jurisdiction to adjudicate the validity of individual and organizational orders and decisions issued by employees and bodies in ministries, entities not affiliated with a ministry, and the public sector, for which no authority has been designated for appeal, based on state departments and the socialist sector, after the entry into force of this law, which did not designate an authority for appeal based on a request from a known interested party and a possible case. However, a potential interest is sufficient if there is reason to fear harm to the interested parties." (89). From this text, it is noted that the legislator has tended to define the jurisdiction of the Administrative Court exclusively. Thus, we find that there are disputes that have fallen outside the jurisdiction of the Administrative Judiciary, even if the administration is a

party to them. Some believe that the jurisdiction of the Administrative Judiciary Court, as defined in Article Seven, is limited and modest. The legislator has specified exceptions stipulated in Article (7/Fifth), stating: "The Administrative Court shall not have jurisdiction to consider appeals related to the following:

A - Acts of sovereignty, including decrees and decisions issued by the President of the Republic.

B - Administrative decisions taken pursuant to the directives of the President of the Republic, in accordance with his constitutional powers.

C - Administrative decisions, for which the law has established a process for grievance, objection, or appeal.

The legislator established a general rule for determining the jurisdiction of the Administrative Court by requiring that an administrative decision be issued by an administrative body. Disputes brought before the Administrative Court are of a special nature, and this nature requires that they be addressed with substantive and procedural solutions that differ from those addressed by private law. Preparatory work and requests fall outside the jurisdiction of the Administrative Court, as they are preparatory work and procedures that precede the final decision. The Administrative Court's applications in this regard include its decision dated: (9/29/1990), as the facts of the case are summarized in that the Ministry of Agriculture and Irrigation had submitted a request in its letter numbered (4731) on: (2/21/1990) to cancel the rights of disposal in the plots numbered (10/1, 10/4, 10/8, 10/10, 10/12) in the (12) Al-Dughaila Al-Dakhiliya district in the Al-Shamiya district in the Al-Qadisiyah Governorate, and in accordance with the provisions of the Law on the Unification of State Land Classifications No. (52) of (1976) (90), two persons filed a lawsuit before the Administrative Court requesting that the Minister of Agriculture and Irrigation be obligated, in addition to his position, in which he requested the right to dispose of the alternative plots. As a result of the pleading, the Administrative Court decided, with the number (File 57/Administrative Judiciary/1990), to dismiss the lawsuit; Since the contested order is not an administrative order or decision, but rather a request subject to the discretion of the Committee for the Granting and Amending of Disposal Rights in Al-Qadisiyah Governorate, the decision was ratified by the General Assembly of the State Shura Council (91).

2 - Civil Service Court: which has jurisdiction over: disputes arising between employees and the administration regarding rights arising from the civil service, in accordance with the laws regulating it, as

well as the disciplinary penalties stipulated in (Article 7/Ninth A-B) of the State and Public Sector Employees Discipline Law No. (14) of (1991) (92).

The Civil Service Court, based on Article 7, Clause 9, is competent to consider lawsuits filed by employees against government departments and the public sector regarding rights arising from the Civil Service Law and the laws and regulations governing the relationship between the employee and the entity for which he works. This court is also competent to consider lawsuits filed by employees to challenge disciplinary penalties stipulated in the State and Public Sector Employees Discipline Law No. (14) of 1991, the types of which were determined by the aforementioned law, specifically Article 8 thereof, namely: "The penalty of warning, the penalty of salary severance, the penalty of reprimand, the penalty of salary reduction, the penalty of demotion, the penalty of dismissal, and the penalty of dismissal." These penalties are not imposed arbitrarily. Rather, there are guarantees for the employee that ensure limiting the control of the administrative authority in imposing the penalty, including: "the legitimacy of the penalty, its personality, its non-retroactivity, and the principle of unity of punishment." If the imposed penalty does not meet these conditions and legal guarantees, it is flawed and destined to be invalid. There are other details related to this that do not. There is enough space to mention them, and there are lawsuits related to employment rights resulting from the laws regulating them, such as the Civil Service Law No. (24) of 1960, as amended (93), the University Service Law No. (23) of 2008, as amended (94), the State and Public Sector Employees' Salaries Law No. (22) of 2008 (95), and other laws and regulations governing the employee's relationship with the department in which he works. Examples of these lawsuits include: (salaries, allowances, promotions, granting bonuses, calculating service, appointment decisions, resignation, dismissal, transfer), and other lawsuits for which the law has designated the Civil Service Court as a reference in the event of an appeal. The Civil Service Court was previously called the General Disciplinary Council, and its name was changed based on Article (9) of the amended State Council Law.

3 - The Supreme Administrative Court: This court is responsible for examining appeals filed against decisions and rulings issued by the Administrative Judiciary Court and the Civil Service Court. In addition to resolving the dispute arising regarding the appointment of jurisdiction in the event of a dispute between the two aforementioned courts, and resolving the dispute arising regarding the implementation of two contradictory rulings that have acquired the status of finality, issued by those two courts (96), in

accordance with what is stipulated in (Article 2/Fourth/C) of the Fifth Amendment Law No. (17) of (2013) to the State Shura Council Law No. (65) of (1979) ( ).

The Supreme Administrative Court, based on Article Two of the State Council Law, is competent to hear appeals against decisions and rulings issued by the Administrative Judiciary Court and the Civil Service Judiciary Court, as the Supreme Court. Its decisions are considered final, binding, and not subject to appeal, as it exercises the powers exercised by the Federal Court of Cassation in the ordinary judiciary. This court is composed of the President of the State Council or whoever he authorizes from the advisors, and a membership of (6) advisors and (4) assistant advisors (97). As for the Administrative Judiciary and Civil Service Courts, Article 7/First stipulates that they be formed in four regions: the northern region, represented by the city of Mosul and including the governorates of Nineveh, Kirkuk, and Salah al-Din; the southern region, defined by Basra Governorate, including the governorates of Dhi Qar, Maysan, Muthanna, and Basra; the middle Euphrates region, represented by Babil Governorate, including Karbala, Najaf, Diwaniyah, and Babil; and the central region, represented by the capital, Baghdad, including Anbar, Diyala, Wasit, and Baghdad. However, this division has not yet been implemented, as the Administrative Judiciary Court and the Civil Service Court are located only in Baghdad, meaning that the text is still not implemented (98). There are specific formal methods for appealing before the Administrative Judiciary, and it is necessary to observe the legally stipulated appeal deadlines. When appealing to the Administrative Judiciary Court, the grievance must be filed with the competent administrative authority within 30 days from the date of notification of the administrative decision or order or its consideration as notified. This authority must decide on the grievance. Upon expiration of the period and the court's non-decision, the complainant has the right to appeal to the court within 60 days from the date of the grievance's rejection, whether *de facto* or *de jure*. The court's decision may be appealed before the Supreme Administrative Court within 30 days from the date of notification of the court's decision or its consideration as notified. The Supreme Administrative Court's decision shall be final, binding, and not subject to appeal.

As for the Civil Service Judiciary Court, based on the text of Article (7/Ninth/B), it states: "Claims shall not be heard after the lapse of (30) days from the date of notification of the administrative decision if the decision is within Iraq and (60) days if the decision is

outside it." It does not require filing a grievance before the administrative authority unless other relevant laws stipulate otherwise, as in Article (15/Second) of the State Employees Discipline Law No. (14) of 1991, which stipulates that a grievance must be filed with the administrative authority issuing the disciplinary penalty within (30) days from the date of notification of the administrative decision. In the event of a rejection, whether de facto or de jure, an appeal may be filed before this court within 30 days. The court's decision may also be appealed before the Supreme Administrative Court within 30 days from the date of notification of the court's decision. Failure to comply with the legal formalities stipulated by law and failure to observe the appeal period will result in the case being formally dismissed and not being heard by the judiciary, as this would undermine the stability of legal positions and prevent them from being destabilized. Consequently, unappealed administrative decisions, decisions for which the appeal period has passed, and decisions issued by the Supreme Administrative Court are all considered final and binding and may not be appealed again. Regarding the laws followed by the administrative judiciary in its procedures in matters not explicitly provided for in the State Council Law, the provisions of the Civil Procedure Law No. (83) of 1969, the Evidence Law No. (107) of 1979, the Criminal Procedure Law No. (23) of 1971, and the Judicial Fees Law No. (114) of 1981 apply.

A conflict of jurisdiction, both positive and negative, between the administrative and civil judiciaries (99), shall be resolved by the Authority Appointment Board, which consists of the President of the Court of Cassation and (6) members (3) selected by the President of the Court of Cassation and (3) selected by the President of the Council of State. The Board shall meet under the chairmanship of the President of the Court of Cassation, and its decision, by agreement or majority, shall be final and binding (100). The same conflict of jurisdiction, if it occurs between administrative judiciary courts, shall be resolved by the Supreme Administrative Court, given its jurisdiction to consider it (101). The competent authority appoints a seven-member panel: three members selected by the President of the Court of Cassation from among the members of the court, and three other members selected by the President of the State Shura Council from among the members of the council. The panel meets under the chairmanship of the President of the Court of Cassation, and its decision, issued by consensus or majority, is final and binding.

## CONCLUSION

The Article reaches several conclusions and proposals:

### First: Conclusions

1 - Conflict of jurisdiction: A complex concept. The first is a root word derived from the root (n z '), meaning disagreement and dispute. Originally, it denotes uprooting, which entails violence, difficulty, and resistance. This is because something easy cannot be removed; instead, it is removed. The second is originally a root word meaning to single out a person for something, or to monopolize something. Therefore, it denotes exclusivity in grammar. It was defined in light of the linguistic meanings of the two terms as a dispute between two judicial bodies regarding the consideration of a specific subject, such as the dispute that occurs between the regular judiciary and the administrative judiciary in countries that adopt the dual judiciary system, which the Iraqi legislator adopted in the Second Amendment Law to the State Council Law - No. (65) of (1979) - No. (106) of (1989) and was adopted by the federal system after the year (2004) under the State Administration Law for the Transitional Period of the year (2004) and the Permanent Constitution of the year (2005); due to the possibility of a conflict of jurisdiction occurring between the regular judiciary and the administrative judiciary.

2 - Conflict of Jurisdiction: This occurs between two or more courts. Sometimes it is negative, meaning that all or some of the courts refuse to hear the case, claiming that it is not within their jurisdiction, and they refer it to another court, and so on. At other times, it is positive, meaning that each Court maintains its jurisdiction to hear the case. In this case, the competent authority must be determined from among the judicial authorities or bodies with judicial jurisdiction.

3 - The Federal Supreme Court was formed under Article (44/A) of the Iraqi Administrative Law for the Transitional Period of 2004, in order to fill the two gaps: the judicial one, which constitutes a source of numerous disputes, and the legislative one, which emerged after the invasion of Iraq in 2003. Federal Supreme Court Law legislated its work No. (30) of 2005. Then, after the permanent Constitution of the Republic of Iraq of 2005 was codified, Article 92/Second also stipulated its formation, stating that: The Federal Supreme Court shall consist of several judges, experts in Islamic jurisprudence, and legal scholars. Their number, the method of their selection, and the work of the Court shall be determined by a law enacted by a two-thirds majority of the members of the Council of Representatives. The Federal Court exercises two types of functions: the first is judicial jurisdiction, which involves considering lawsuits and disputes, and the second is referential jurisdiction, which involves responding to requests submitted by federal

authorities to interpret any unclear constitutional text or one that may be interpreted differently. It delves into its interpretation, taking into account the public interest of the country, and then issues its opinion. It has thus become completely administratively and financially independent from the regular judiciary, and any connection between them has been severed. Its headquarters have been made in Baghdad, the federal capital, and its decisions have become final and binding on all authorities, and its rulings and decisions are final.

4 - The Court decided that it is not competent to consider requests for interpretation of laws as a matter of principle, but rather as a matter of subsidiary, when considering the constitutionality of a law; considering that the agreement or conformity of the law under challenge with the Constitution inevitably requires its interpretation by the Court, and this is an indisputable matter. It decided that it is not a body competent to answer an inquiry submitted to it by an official body or one of the authorities in the state or unions or federations; since the Court is not a body that issues fatwas and expresses opinions, which is a sound direction that is consistent with the status of the Supreme Court in terms of subject matter and jurisdiction. The grounds for its decision stated that the Federal Supreme Court found that the request must be rejected in form due to a lack of jurisdiction. The powers and jurisdiction of this Court are exclusively stipulated in Articles (52) and (93) of the Constitution of the Republic of Iraq of 2005, Article (4) of the Federal Supreme Court Law No. (30) of 2005, as amended by Law No. (25) of 2021, and some other special laws. None of these powers and jurisdictions grant the court jurisdiction to interpret the provisions of laws, except in the event of a challenge to their unconstitutionality. It also lacks jurisdiction or authority to answer inquiries submitted to it by official bodies, state authorities, unions, or federations; this is because the Federal Supreme Court is not a body that issues fatwas or expresses opinions. The operative part of the decision stated that it would not accept requests to interpret legislation from any party, including state authorities, whether federal or local. This is a sound approach that is consistent with the Constitution and the Court's law.

5 - The Federal Supreme Court set the controls for legislative interpretation in its decision No. (48/Federal/2021) dated (6/6/2021), and stated that it has the authority to interpret legislation if it is in force, and that its interpretation should be in connection with a dispute before this Court to decide on the constitutionality of the law subject to interpretation, and that the interpretation should be in connection with an inquiry submitted to it exclusively from one of the federal authorities. It considered its jurisdiction to interpret legislation in this case an exception branching

from its original jurisdiction to interpret the Constitution. This decision allowed for the acceptance of requests for legislative interpretation as a matter of principle provided they were submitted by one of the federal authorities. However, it partially amended this rule of the decision by the principle contained in decision No. (24/Federal/2023) dated (2/27/2023), the subject of the comment, states that a request for interpretation from official bodies or one of the authorities is not accepted. The federal authorities do not have the right to request the original interpretation of legislation; Because it falls outside the jurisdiction of the Court, and because its internal regulations lack any reference to the conditions, controls, and data for submitting the original request, in interpreting legislation; this is because it falls outside the jurisdiction of the Court stipulated in Article (93) of the Constitution.

6 - For technical, judicial, and other reasons, the Iraqi legislator, after the year (2003), limited the types of administrative courts to include: (the Supreme Administrative Court, the Administrative Judiciary Court, and the Civil Service Judiciary Court), which were considering thousands of lawsuits, supported by the jurisdiction of the Administrative Judiciary, Fatwa, and Drafting in the Council of State; By Article (101) of the Permanent Constitution, the (State Shura Council) was transformed into the (State Council) and received the assistance of the executive and legislative authorities in issuing State Council Law No. (71) of 2017, thereby abolishing its connection to the Ministry of Justice and becoming independent, enjoying a legal personality represented by the President of the Council, and finding for itself an independent entity that guarantees its neutrality and independence in exercising its powers, including its jurisdiction over administrative judiciary, while being linked to the executive authority, by what was stipulated in State Council Law No. (71) of 2017. Article (1) of State Council Law No. (71) of 2017 authorized the establishment and creation of the State Council as an independent body that undertakes the tasks of administrative judiciary, fatwa, and legal drafting, and granted the President of the body (the Council) the powers of the competent minister. Thus, the Council gained complete independence from the executive authority. The legislator thus departed from the (unified judiciary) system and adopted the (dual judiciary) system by creating an administrative judiciary system alongside the regular judiciary system.

7 - The root of the word "appeal" is the verbal noun "to be stabbed" (ṭa'inā) and "to be stabbed." It is said, "to be stabbed" (ṭa'na 'ala) and "to be stabbed" (ṭa'na fi), meaning to prick someone with the intent to kill them, insult them, verbally abuse them, defame them, or

tarnish their reputation among people, or their judgment, lineage, slander them, betray them, or deceive them. "To be stabbed" (ṭa'na fil) means to object to it, raise suspicions about it, or cast doubt on it. Technically, it is an objection to a court ruling, whether in person or absentia, and seeks reconsideration. Appeal is only permissible from the convicted person. Appeals are not allowable against rulings issued during a lawsuit, as they do not end the dispute. There are several methods for appeal, including: ordinary methods, which are opposition to the ruling, appeal, cassation, or a request for reconsideration. 8 - Several attempts have been made to define an administrative decision; Because jurisprudence has not agreed on a clear definition of its concept, Iraqi jurisprudence has limited itself to mentioning its elements without providing a comprehensive, exhaustive, or consistent definition. It has been defined as: "The administration's declaration of its binding will, based on its authority under laws and regulations, with the intent of establishing or amending a legal position whenever it is legally possible and permissible, and the goal is to achieve the public interest. It is equally valid whether the administration's declaration of its will is explicit or implicit."

#### Second: Proposals

1 - The article finds it necessary for all legal professionals, employees, and those interested in legal and functional matters to be informed and interested in them, so that they are familiar with the relevant laws, instructions, and administrative controls.

2 - It deems it necessary for employees and workers in government departments to attend development and knowledge courses in functional legal and administrative affairs to enhance and develop their legal culture and knowledge related to their work, ensuring their rights and fairness, and preventing the loss of their legally stipulated entitlements.

3 - It seeks to activate the legal text related to the presence of administrative courts in four regions of Iraq, rather than limiting their presence to the capital, Baghdad. This leads to an increase in lawsuits and a delay in their resolution, thus weakening the objective and purpose of appealing administrative orders and decisions. It also facilitates the aggrieved party's recourse to the judiciary, given the proximity of these administrative and judicial formations and the speed with which their cases are resolved.

4 - It is preferable to create a website for the Council of State that periodically publishes the principles and decisions issued by the administrative courts, making them available to the interested recipients. It is also possible to issue a legal journal that publishes all

matters related to administrative laws and relevant judicial decisions. 5 - Giving the administrative judiciary curriculum in law schools the necessary attention and expanding students' awareness of the judicial structure and duties related to the administrative judiciary and its differences from the ordinary civil judiciary. This is especially important given that lawyers have the right to represent clients in cases brought before administrative courts. Consequently, they must be familiar with the relevant procedures and details, as well as the self-development of lawyers, legal professionals working in government departments, and even employees in general, by reviewing laws, instructions, administrative regulations, and the principles of rulings issued by administrative judiciary courts. All of this contributes significantly to spreading judicial and legal awareness and culture, as the desired goal of the judiciary is to achieve justice and guarantee the right to litigation for all, as stipulated in Article 19/Third of the Permanent Iraqi Constitution of 2005.

And Allah is the Grantor of success.

#### REFERENCES

##### First: Theses

Kamal Rahim Aziz Al-Askari: The Extension of Jurisdiction in the Civil Judiciary: A Comparative Study (University of Karbala: Master's Thesis 2021).

Wafaa Dahel Al-Kaabi: The State's Function in Compensating for Unconstitutional Laws (University of Maysan: Master's Thesis, 2021).

##### Second: Books

Abu Faris Al-Dahdah: Explanation of Ibn Malik's Alfiyyah, 3rd ed. (Riyadh: Al-Ubaikan, 2012).

Ahmed Farid Al-Muzaidi: Explanation of Al-Ajrumiyyah Text in the Rules of Arabic by Al-Ashmawi (Beirut: Scientific Books, 2012).

S. Dahshti Siddiq Muhammad: Administrative Judiciary and Conflicts of Jurisdiction with the Regular Judiciary: A Comparative Study (Cairo: National Center for Legal Publications, 2016).

S. Dahshti Siddiq Muhammad: Administrative Judiciary and Conflicts of Jurisdiction with the Regular Judiciary: A Comparative Study (Cairo: National Center, 2016).

S. Sakar Hussein Kaka Mahd: The Responsibility of Public Employees Who Refrain from Implementing Judicial Rulings (Cairo: Arab Center for Scientific Studies and Research, 2018).

S. Nissar Abdul Qader Al-Jabari: The Defect of Lack of Jurisdiction in Administrative Decisions and Judicial Oversight Thereof (Cairo: Arab Center for Scientific Studies and Research, 2018).

Patricia L. Smith and Tilman J. Ragen: Instructional

Design, translated by Mujab Muhammad Al-Imam, (Riyadh: Al-Obeikan, 2012).

Dr. Ajjad Thamer Nayef Al-Dulaimi: Rulings on Interrupting the Proceedings of a Civil Suit and Its Legal Implications (Cairo: Arab Center for Scientific Studies and Research, 2018).

Dr. Ahmed Mukhtar Omar: Dictionary of Contemporary Arabic (Beirut: Alam Al-Kutub, 2008).

Dr. Azhar Hashim Al-Zuhairi: Oversight of the Constitutionality of Administrative Regulations and Decisions under the Constitution of the Republic of Iraq of 2005 (Cairo: Arab Center for Scientific Studies and Research, 2017).

Dr. Jawad Mutlaq Muhammad Al-Ati: Negative Administrative Decisions and the Provisions for Appealing Them (Cairo: Al-Fikr wal-Qanun, 2015).

Dr. Hassan Al-Sayyid Basyouni: The Role of the Judiciary in Administrative Disputes (Riyadh: Alam Al-Kutub, 1981).

Dr. Hamidi bin Youssef: Terminological Definition (Amman: Academic Book, 2019).

Dr. Raja Wahid Duwaidri: Scientific Terminology in the Arabic Language (Damascus: Al-Fikr, 2010).

Dr. Rasha Abdul Razzaq Jassim Al-Shammari: The Finality of Administrative Decisions (Cairo: National Center for Legal Publications, 2016).

Dr. Raad Mahdi Razouki and Dr. Nabil Rafiq Muhammad: Thinking and Its Patterns Series (3), (Beirut: Scientific Books, 2018).

Dr. Sarah Lagd: Scientific School Terminology (Amman: Academic Book, 2021).

Dr. Saeed Al-Sayed Ali: Foundations and Rules of Administrative Law (Cairo: Al-Nahda Al-Arabiya, 2008).

Dr. Samir Khairy Tawfiq: The Principle of the Rule of Law: A Study in Legal Philosophy (Baghdad: Ministry of Culture and Arts, 1978).

Dr. Adnan Ahmed Abu Dayyeh: Contemporary Methods in Teaching Social Studies (Amman: Osama, 2011).

Dr. Ismat Abdul Majeed Bakr: Problems of Legislation: A Comparative Theoretical and Applied Study (Beirut: Scientific Books, 2014).

Dr. Ali Ahmed Khader Al-Maamari: Reshaping the World (Amman: Academics, 2021).

Dr. Ali Kahlon: Commentary on the Journal of Civil and Commercial Procedures (Tunis: Al-Atrash, 2016).

Dr. Fouad Muhammad al-Nadi: The Principle of Legitimacy and Controls of the State's Subordination to the Law in Islamic Jurisprudence (Alexandria: University Book, 1980).

Dr. Karwan Izzat Muhammad Doski: The Role of the Judiciary in Protecting the Federal Constitution: A Comparative Study (Erbil: Spires, 2006).

Dr. Muhammad Ali Suwailem: Constitutional Judiciary (Cairo: Egyptian, 2019).

Dr. Muhammad Ali Suwailem: Constitutional Judiciary (Cairo: Egyptian, 2020).

Dr. Muhammad Yusuf Allam: The Principle of Two-Stage Litigation between Positive Laws and Sharia (Cairo: National Center for Legal Publications, 2012).

Dr. Mahmoud Abd Ali al-Zubaidi: The Legal System for the Expiration of Administrative Suits Without a Ruling on the Substantive Matter (Cairo: Arab Center for Scientific Studies and Research, 2018).

Dr. Maysoun Ali Abdul Hadi Al-Hasnawi: The Legal Organization of the Supreme Administrative Court in Iraq: A Comparative Study (Baghdad: Legal Library, 2021).

Shuaib Ahmed Suleiman: Arbitration in Disputes Over the Implementation of the General Economic Plan (Baghdad: Ministry of Culture and Information, 1981).

Sa'b Naji Al-Dulaimi: Formal Defenses Before the Administrative Judiciary in Iraq (Beirut: Modern Book Foundation, 2010).

Taha Jaber Al-Alwani: From the Literature of Disagreement to the Rejection of Disagreement (USA: International Institute for Thought, 2017).

Issam Nour Al-Din: The Intermediate Dictionary of Nour Al-Din (Beirut: Scientific Books, 2005).

Ali bin Muhammad Al-Jurjani: The Commentary on Al-Mutwal (Beirut: Scientific Books, 2008).

Ali bin Muhammad Al-Juma: Dictionary of Economic and Islamic Terms (Riyadh: Al-Obeikan, 2000).

Liwaa Abdul Hassan Attia: The Lexical Companionship (Beirut: Scientific Books, 2018).

Muhammad ibn Abdul Ghani al-Ardabili: Explanation of the Model in Grammar by al-Zamakhshari (Beirut: Scientific Books, 2016).

Muhammad ibn Ali al-Sabban: The Commentary on al-Ashmouni (Beirut: Scientific Books, 2014).

Muhammad ibn Ali ibn Tulun al-Salihi, Explanation of Ibn Malik's Alfiyya (Beirut: Scientific Books, 2002).

Muhammad ibn Manzur: Lisan al-Arab (Beirut: Al-Fikr, 2015).

Mr. Abbas Qasim Mahdi al-Daqqouqi: Judicial Reasoning (Cairo: National Center, 2015).

Al-Mu'allim Butrus al-Bustani: Muhit al-Muhit (Beirut: Scientific Books, 2009).

Yamama Muhammad Hasan Kashkoul: The Legal

System for the Establishment and Organization of Federal Units (Cairo: National Center, 2015).

Third: The System, the Law of Administration of the State for the Transitional Period, the Permanent Constitution, and Laws

### 1 - The System

The Internal Regulations for the Conduct of Business in the Federal Supreme Court No. (1) of 2005 (Iraqi Gazette: No. 3997, dated 5/2/2005).

2 - The Law of Administration of the State for the Transitional Period, the Constitution of the Republic of Iraq, and the Legality of the Federal Supreme Court

The Law of Administration of the State for the Transitional Period of 2004 (Iraqi Gazette: No. 3981, dated 12/31/2003).

The Federal Supreme Court Law No. (30) of 2005 (Iraqi Gazette: No. 3996, dated 3/17/2005).

The Permanent Constitution of the Republic of Iraq of 2005, in force (Iraqi Gazette: No. 4012, dated 12/28/2005).

The First Amendment to the Federal Supreme Court Law - No. (30) of 2005 - No. (25) of 2021 (Iraqi Gazette: No. 4635, dated 6/7/2021).

The Federal Supreme Court Decision: Published in PDF format on the following website: (<chrome-extension://efaidnbmninnibpcapjpcglclefindmkaj/https://964media.com/storage/2023/11>).

### 3 - State Shura Council Laws

State Shura Council Law No. (65) of 1979, published on the website: (<https://www.iraqilaws.com/2023/10/65-1979.html>).

Second Amendment Law to the State Shura Council Law - No. (65) of 1979 - No. (106) of 1989, (Iraqi Gazette: No. 3285, dated 12/11/1989).

Fifth Amendment Law to the State Shura Council Law - No. (65) of 1979 - No. (17) of 2013, (Iraqi Gazette: No. 4283, dated 7/29/2013).

Iraqi Council of State Law No. (71) of 2017 (Iraqi Gazette: No. 4456, dated 8/7/2017).

### 4 - General Laws

National Sports Federations Law No. (24) of 2021 (Iraqi Gazette: No. 4632, dated 5/31/2021).

Public Prosecution Law No. (49) of 2017 (Iraqi Gazette: No. 4437, dated 3/6/2017).

The First Amendment to the Law Repealing Legal Texts Preventing Courts from Hearing Lawsuits - No. (17) of 2005 - No. (3) of 2015 (Iraqi Gazette: No. 3454, dated 3/2/2015).

The Ninth Amendment to the Ministry of Higher

Education and Scientific Research Law - No. (40) of 1988 - No. (17) of 2024, (Iraqi Gazette: No. 4785, dated 7/22/2024).

University Service Law No. (23) of 2008, as amended, (Iraqi Gazette: No. 4074, dated 5/12/2008).

Civil Service Law No. (24) of 1960, as amended, (Iraqi Gazette: No. 4133, dated August 17, 2009).

Civil Procedure Law No. (83) of 1969, as amended, published on the website: (<https://www.iraqilaws.com/2023/10/83-1969.html>).

State Employees' Discipline Law No. (41) of 1929, (Baghdad: Government Press, 1929).

State and Public Sector Employees' Discipline Law No. (14) of 1991, as amended, (Iraqi Gazette: No. 3356, dated June 3, 1991).

Law Amending the Judicial Organization Law - No. (160) of 1979 - No. (8) of 2014, (Iraqi Gazette: No. 4822, dated: April 14, 2025).

Law Unifying the Classification of State Lands No. (52) of 1976, (Iraqi Gazette: No. 2537, dated: July 5, 1976).

Law on the Salaries of State and Public Sector Employees No. (22) of 2008, (Iraqi Gazette: No. 4074, dated: May 12, 2008).

Ministry of Education Law No. (22) of 2011, published at: (<https://www.dorar-aliraq.net/threads>).

Legal Codification Bureau No. (49) of 1933 (Iraqi Gazette: Issue No. 1280, August 3, 1933).

### Fourth: Areas and Conference

#### 1 - Journals

Jaber Hussein Al-Tamimi: Examining the Limits of the Jurisdiction of the Federal Supreme Court in Supervising the Constitutionality of Laws in Iraq: A Comparative Study (Wasit Journal of Humanities: Vol. 18, No. 1, 2022).

Jaber Hussein Al-Tamimi: Examining the Limits of the Jurisdiction of the Federal Supreme Court in Supervising the Constitutionality of Laws in Iraq: A Comparative Study (Wasit Journal of Humanities: Vol. 18, No. 1, 2022).

Dr. Hossam El-Din Mohamed Morsi: Controls of Administrative Decisions (Journal of the Faculty of Law for Legal and Economic Research at Alexandria University: Vol. 4, No. 1, 2018).

Dr. Hussein Yassin Al-Obaidi: Judicial Reasoning and Its Impact on Bridging the Legislative Gap (Al-Baheth Al-Arabi Journal, Vol. 4, No. 3, 2023).

Dr. Rasha Muhammad Jaafar and Marwa Muwaffaq Mahdi: The Authority Responsible for Resolving Conflicts of Jurisdiction Between the Administrative and Ordinary Judiciaries in Iraq (Journal of Legal

Sciences, Vol. 35, No. 3, Vol. 1, 2020).

Dr. Sanaa Taama Mahdi: The Authority Responsible for Resolving Conflicts of Jurisdiction Between the Administrative and Ordinary Judiciaries in the Council of State (Journal of the College of Law and Political Science, No. 8, 2021).

Dr. Fares Hatem: The Effectiveness of the Iraqi Council of State under State Council Law No. (71) of 2017: A Comparative Study (Journal of the Kufa Center for Studies, Vol. 1, No. 59, 2021).

Salem Rawdan Al-Mousawi: Methods of Challenging the Unconstitutionality of Laws Before the Federal Supreme Court (Al-Hewar Al-Mutamadin Magazine: Issue: 6344, dated: September 7, 2019), available at: (<https://www.ahewar.org/debat/show.art.asp?aid=648723>).

Qahtan Muhammad Salih Al-Hiti: Litigation Procedures Before the Administrative Judiciary Court and the Civil Service Judiciary Court (Al-Hewar Al-Mutamadin Magazine: Issue: 8148, 2024), published on the website: (<https://www.ahewar.org/debat/show.art.asp?aid=846868>).

## 2 - Conference

Dr. Othman Yassin Ali: The Legislative Development of the Administrative Judiciary in Iraq and its Continuity in the Kurdistan Region (The Fourth International Conference on Legal Issues - Faculty of Law, Tishk International University, 2019).

## Fifth: Websites

Dr. Ghazi Faisal: The Legal Nature of the Council of State, available at: (<https://council-state.iq/?page=47>).

The Scientific Committee of Sky News Arabia in Baghdad: The Federal Supreme Court of Iraq: Its Powers and Responsibilities, (Article: 2022), available at: (<https://www.skynewsarabia.com/middle-east/1553270>).

Dr. Ahmed Talal Al-Badri: The Federal Supreme Court is not primarily competent to interpret legislation, (Article: B.T.), published at: (<https://iraqfsc.iq/news.4956>).

Dr. Abbas Majeed Al-Shammari: The Concept of the Supreme Interest of the State in the Decisions of the Federal Supreme Court: A Commentary on Federal Supreme Court Decision No. (24/Federal/2022) issued on February 13, 2022, (Article: 2023), published on the website: (<https://iraqfsc.iq/news.5102>).

Ali Saber Al-Ruwaimi: The Authority of the Administrative Judiciary in Iraq, (Article) published on the website: (<https://www.iraqfsc.iq/news.5063>).

Council of State: The Historical Foundations of the

Council of State and Its Functional Competencies in the Republic of Iraq, available at: (<https://council-state.iq/?page=7>).

## Arabic References

Dr. Hamidi bin Youssef: Terminological Definition, (Amman: Academic Book, 2019), p. 41.

Dr. Raja Wahid Duwaidri: Scientific Terminology in the Arabic Language, (Damascus: Al-Fikr, 2010), p. 145.

Taha Jaber Al-Alwani: From the Literature of Difference to the Rejection of Disagreement, (America: The World Institute for Thought, 2017), p. 266.

Dr. Adnan Ahmed Abu Dayyeh: Contemporary Methods in Teaching Social Studies, (Amman: Osama, 2011), p. 309.

Patricia L. Smith and Tilman J. Ragen: Instructional Design, translated by Mujab Muhammad Al-Imam, (Riyadh: Al-Obeikan, 2012), p. 334.

Dr. Ali Ahmad Khader Al-Maamari: Reshaping the World (Amman: Academics, 2021), p. 41.

Abu Faris Al-Dahdah: Commentary on Ibn Malik's Alfiyyah, 3rd ed. (Riyadh: Al-Ubaikan, 2012), p. 262.

Muhammad ibn Ali Al-Sabban: Commentary on Al-Ashmouni (Beirut: Scientific Books, 2014), vol. 2, p. 138.

Ali ibn Muhammad Al-Jurjani: Commentary on Al-Mutawwal (Beirut: Scientific Books, 2008), p. 118.

Dr. Raad Mahdi Razouqi and Dr. Nabil Rafiq Muhammad: The Series on Thinking and Its Patterns (3), (Beirut: Scientific Books, 2018), p. 172. Liwaa Abdul-Hassan Attia: The Lexical Companionship (Beirut: Scientific Books, 2018), p. 20.

Dr. Sarah Lagd: Scientific School Terminology (Amman: Academic Book, 2021), p. 100.

Issam Nour El-Din: Nour El-Din El-Wasit Dictionary (Beirut: Scientific Books, 2005), p. 449.

Al-Moallem Butrus Al-Bustani: Muhit Al-Muhit (Beirut: Scientific Books, 2009), vol. 9, p. 98.

Muhammad ibn Manzur: Lisan Al-Arab (Beirut: Al-Fikr, 2015), vol. 3, p. 834.

Muhammad ibn Ali ibn Tulun Al-Salihi, Commentary on Ibn Malik's Alfiyyah (Beirut: Scientific Books, 2002), vol. 2, p. 149.

Ali ibn Muhammad Al-Jumu'ah: Dictionary of Economic and Islamic Terms (Riyadh: Al-Ubaikan, 2000), p. 34.

Muhammad ibn Abd Al-Ghani Al-Ardabili: Commentary on Al-Anmodel in Grammar by Al-Zamakhshari (Beirut: Scientific Books, 2016), p. 188.

Dr. Rasha Muhammad Jaafar and Marwa Muwaffaq Mahdi: The Authority Responsible for Resolving Conflicts of Jurisdiction Between the Administrative

and Ordinary Judiciary in Iraq, (Journal of Legal Sciences: Vol. 35, No. 3, Part 1, 2020): p. 414.

State Shura Council Law No. (65) of 1979, published on the website: (<https://www.iraqilaws.com/2023/10/65-1979.html>).

Second Amendment Law to the State Shura Council Law - No. (65) of 1979 - No. (106) of 1989, (Iraqi Gazette: No. 3285, dated 12/11/1989).

The Law of Administration for the State of Iraq for the Transitional Period of 2004 (Iraqi Gazette: No. 3981, dated 12/31/2003), [repealed by the Permanent Constitution of the Republic of Iraq of 2005, effective, except Articles 53/A and 58, (Iraqi Gazette: No. 4012, dated 12/28/2005)].

The Permanent Constitution of the Republic of Iraq, adopted in 2005, is in effect.

Dr. Othman Yassin Ali: The Legislative Development of the Administrative Judiciary in Iraq and its Continuity in the Kurdistan Region, (Fourth International Conference on Legal Issues - Faculty of Law, Tishk International University, 2019), p. 242.

Shuaib Ahmed Suleiman: Arbitration in Disputes Over the Implementation of the General Economic Plan, (Baghdad: Ministry of Culture and Information, 1981), p. 298.

Dr. Muhammad Ali Suwailem: Constitutional Judiciary (Cairo: Egyptian, 2020), p. 472.

Article (44), Clause (a) of the law stipulates that: "A court shall be formed in Iraq by law and shall be called the Federal Supreme Court." Clause (e) stipulates that: "The Federal Supreme Court shall consist of nine members. The Supreme Judicial Council shall initially, in consultation with the judicial councils of the regions, nominate no less than eighteen to twenty-seven individuals to fill vacancies in the court above. It shall subsequently nominate three members in the same manner for each subsequent vacancy arising due to death, resignation, or removal. The Presidency Council shall appoint the members of this court and name one of them as its president. If any appointment is rejected, the Supreme Judicial Council shall nominate a new group of three candidates. A court shall be formed in Iraq by law and shall be called the Federal Supreme Court." The Law of Administration for the State for the Transitional Period of 2004 was repealed.

Dr. Hassan Al-Sayed Basyouni: The Role of the Judiciary in Administrative Disputes (Riyadh: Alam Al-Kutub, 1981), p. 163.

"A legislative vacuum emerges in practical reality when there is no legal text to govern a new event or when its ruling is ambiguous. This leads the ambiguous text to enter the legislative vacuum. Judges must then resort

to mechanisms to fill the legislative vacuum, namely: analogy, legal stratagems, and justice. These mechanisms aim to address the legislative vacuum and bridge the gap between the text's inability to accommodate the disputed event and the developments occurring in life, creating compatibility and harmony between the legal text and the new event. This can be achieved by adapting legal texts and granting them broad provisions, or by drawing on the legislative wisdom of the text or the purpose it seeks to achieve, leading to a just ruling." Dr. Hussein Yassin Al-Obaidi: Judicial Reasoning and Its Impact on Filling the Legislative Vacuum (Al-Baheth Al-Arabi Journal, Vol. 4, No. 3, 2023), p. 147.

Federal Supreme Court Law No. (30) of 2005 (Iraqi Gazette: No. 3996, dated 17/3/2005), as amended by First Amendment Law No. (25) of 2021 (Iraqi Gazette: No. 4635, dated 7/6/2021).

The letter "waw" indicates that the conjoined partakes of the conjoined part in the ruling. Ahmad Farid Al-Muzaidi: Explanation of the Text of Al-Ajrummyah in the Rules of Arabic by Al-Ashmawi, (Beirut: Scientific Books, 2012), p. 148.

The Permanent Constitution of the Republic of Iraq, adopted in 2005, is in force.

By Article (2) of the First Amendment Law of the Federal Supreme Court Law No. (25) of 2021.

Ms. Abbas Qasim Mahdi Al-Daouqi: Judicial Reasoning (Cairo: National Center, 2015), p. 95.

Ali Saber Al-Ruwaimi: The Authority of the Administrative Judiciary in Iraq, (Article) published on the website: (<https://www.iraqfsc.iq/news.5063>).

According to Article 94 of the Permanent Constitution of the Republic of Iraq of 2005, which is in force.

According to Article 5/Second of the Permanent Constitution of the Republic of Iraq of 2005, which is in force.

Yamama Muhammad Hasan Kashkoul: The Legal System for the Establishment and Organization of Federal Units (Cairo: National Center, 2015), p. 151.

The Permanent Constitution of the Republic of Iraq, adopted in 2005, is in force.

Federal Supreme Court Law No. (30) of 2005, as amended.

The Scientific Committee of Sky News Arabia in Baghdad: The Federal Supreme Court of Iraq: Its Powers and Responsibilities, (Article: 2022), available on the website: (<https://www.skynewsarabia.com/middle-east/1553270>).

National Sports Federations Law No. (24) of 2021, (Iraqi

Gazette: Issue: 4632, dated: May 31, 2021).

The decision is published in PDF format on the following website: (chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://964media.com/storage/2023/11). The principle states: "The jurisdiction of the Federal Supreme Court is specified in Articles 53 and 93 of the Constitution of the Republic of Iraq for the year 2005 and Article 4 of the Federal Supreme Court Law No. 30 of 2005, amended by Law No. 25 of 2021 and some other special laws. Among those jurisdictions and powers, there is nothing that grants the court jurisdiction to interpret laws except in the event of challenging their unconstitutionality. It also does not have jurisdiction or authority to answer inquiries submitted to it from official bodies or one of the authorities in the State or unions or federations, including the Iraqi Central Federation for Bodybuilding and Fitness, to clarify the limits of the duties of the federation above regarding granting licenses for practicing the game and opening bodybuilding halls, and whether another party has the right to practice this work based on its law, because the court It is not a body that issues fatwas or expresses opinions, and the subject in question may be subject to dispute before judicial authorities.

Dr. Ahmed Talal Al-Badri: The Supreme Federal Court is not primarily competent to interpret legislation (Article B T) published on the website: (<https://iraqfsc.iq/news.4956>). Dr. Abbas Majeed Al-Shammari: The concept of the supreme interest of the State in the decisions of the Federal Supreme Court: A comment on Federal Supreme Court Decision No. (24/Federal/2022) issued on: (February 13, 2022), (Article: 2023), published on the website: (<https://iraqfsc.iq/news.5102>).

Dr. Ismat Abdul Majeed Bakr: Legislative Problems: A Comparative Theoretical and Applied Study (Beirut: Scientific Books, 2014), p. 289.

The Legal Codification Bureau No. (49) of 1933 (Iraqi Gazette: No. 1280, August 3, 1933).

The General Disciplinary Council is one of the essential judicial bodies within the State Shura Council. The historical origin of the General Disciplinary Council dates back to 1929, and its jurisdiction is to consider appeals filed against decisions issued by disciplinary committees. Following the issuance of Civil Service Law No. (103) of 1931, it was granted for the first time the authority to consider employee rights arising from this law. Following the issuance of the Legal Codification Bureau Law No. (49) of 1933, which replaced the State Employees' Discipline Law No. (41) of 1929, and subsequently the State Employees' Discipline Law No. (69) of 1936, which addressed the Council's powers in

detail. Then came the State Shura Council Law No. (65) of (1979), which replaced the Law of the Legal Codification Office, as Article Six stipulated the form of the General Disciplinary Council and its connection to it until the issuance of the Resolution of the Revolutionary Command Council (dissolved) No. (1717) on: (11/12/1981), which made the General Disciplinary Council an independent body, and after the issuance of the Second Amendment Law of the State Shura Council No. (106) of (1989), whose Article Seven stated that: "The Council shall exercise the functions of the Disciplinary Council in the field of administrative judiciary, and the President of the State Shura Council shall be its president and its members shall be its natural members, ..." Here, the General Disciplinary Council was re-connected to the State Shura Council with its new judicial body, which became alongside the Administrative Judiciary Court established by the Second Amendment Law of the State Shura Council. Saab Naji Al-Dulaimi: Formal Defenses Before the Administrative Judiciary in Iraq, (Beirut, Modern Book Foundation, 2010), p. 19.

State Employees' Discipline Law No. (41) of 1929 (Baghdad: Government Press, 1929), pp. 1-16.

State Shura Council Law No. (65) of 1979.

S. Dahshti Siddiq Muhammad: Administrative Judiciary and the Conflict of Jurisdiction between It and the Ordinary Judiciary: A Comparative Study (Cairo: National Center for Legal Publications, 2016), p. 8.

Currently replaced by the State Shura Council, the State Council.

Fifth Amendment Law to the State Shura Council Law - No. (65) of 1979 - No. (17) of 2013, (Iraqi Gazette: Issue: 4283, dated 7/29/2013), p. 28.

Second Amendment Law to the State Shura Council Law - No. (65) of 1979 - No. (106) of 1989.

Council of State: The Historical Foundation of the Council of State and its Functional Competencies in the Republic of Iraq, at: (<https://council-state.iq/?page=7>).

Article (101) of the Constitution stipulates that: "A law may establish a State Council, which shall be competent to perform the functions of: administrative judiciary, issuing fatwas, drafting, and representing all public bodies before judicial authorities, except those exempted by a special law." Permanent Constitution of the Republic of Iraq of 2005, in force.

Iraqi Council of State Law No. (71) of 2017, (Iraqi Gazette: Issue No. 4456, August 7, 2017).

Dr. Ghazi Faisal: The Legal Nature of the Council of State, at: (<https://council-state.iq/?page=47>).

Dr. Faris Hatem: The Effectiveness of the Iraqi Council

of State under State Council Law No. (71) of 2017: A Comparative Study, (Journal of the Kufa Studies Center: Vol. 1, No. 59, 2021), p. 191.

Fifth Amendment Law to the State Shura Council Law - No. (65) of 1979 - No. (17) of 2013, p. 28.

As. Nissar Abdul Qader Al-Jabari: The Defect of Lack of Jurisdiction in Administrative Decisions and Judicial Oversight Thereof, (Cairo: Arab Center for Scientific Studies and Research, 2018), p. 214.

Dr. Ahmed Mukhtar Omar: Dictionary of Contemporary Arabic, (Beirut: Alam Al-Kutub, 2008), vol. 2, p. 1401.

Dr. Ali Kahloun: Commentary on the Journal of Civil and Commercial Procedures, (Tunis: Al-Atrash, 2016), p. 325.

Dr. Muhammad Yusuf Allam: The Principle of Two-Stage Litigation between Positive Laws and Sharia, (Cairo: National Center for Legal Publications, 2012), p. 64.

Dr. Ajjad Thamer Nayef Al-Dulaimi: Provisions for Interrupting the Proceedings of a Civil Suit and Its Legal Effects, (Cairo: Arab Center for Scientific Studies and Research, 2018), p. 69.

S. Sakar Hussein Kaka Mahd: The Responsibility of Public Employees Refusing to Implement Judicial Rulings (Cairo: Arab Center for Scientific Studies and Research, 2018), p. 25.

Dr. Jawad Mutlaq Muhammad Al-Ati: Negative Administrative Decisions and the Provisions for Appealing Them (Cairo: Thought and Law, 2015), p. 23.

Dr. Rasha Abdul Razzaq Jassim Al-Shammari: The Finality of Administrative Decisions (Cairo: National Center for Legal Publications, 2016), p. 33.

Dr. Hossam El-Din Muhammad Morsi: Controls of Administrative Decisions (Journal of the Faculty of Law for Legal and Economic Research at Alexandria University: Vol. 4, No. 1, 2018), p. 129.

The Permanent Constitution of the Republic of Iraq of 2005 (currently in force).

Dr. Fouad Muhammad al-Nadi: The Principle of Legitimacy and Controls of the State's Subordination to the Law in Islamic Jurisprudence (Alexandria: University Book, 1980), p. 30.

Dr. Samir Khairy Tawfiq: The Principle of the Rule of Law: A Study in Legal Philosophy (Baghdad: Ministry of Culture and Arts, 1978), p. 11.

Dr. Muhammad Ali Suwailem: Constitutional Judiciary (Cairo: Egyptian University, 2019), p. 446.

Dr. Azhar Hashim al-Zuhairi: Oversight of the Constitutionality of Administrative Regulations and Decisions under the Constitution of the Republic of Iraq

of 2005 (Cairo: Arab Center for Scientific Studies and Research, 2017), p. 35.

The Permanent Constitution of the Republic of Iraq of 2005 (in force).

Dr. Karwan Izzat Muhammad Doski: The Role of the Judiciary in Protecting the Federal Constitution: A Comparative Study (Erbil: Spires, 2006), p. 88.

The Internal Regulations for the Conduct of Business in the Federal Supreme Court No. 1 of 2005 (Iraqi Gazette: Issue 3997, dated 5/2/2005). Jaber Hussein Al-Tamimi: Examining the Limits of the Jurisdiction of the Federal Supreme Court in Supervising the Constitutionality of Laws in Iraq: A Comparative Study (Wasit Journal of Humanities: Vol. 18, No. 1, 2022), p. 287.

Salem Rawdan Al-Mousawi: Methods of Challenging the Unconstitutionality of Laws Before the Federal Supreme Court (Al-Hewar Al-Mutamadin Journal: Issue 6344, dated 9/7/2019), available at: (<https://www.ahewar.org/debat/show.art.asp?aid=648723>).

Internal Regulations for the Conduct of Work in the Federal Supreme Court No. 1 of 2005. Jaber Hussein Al-Tamimi: Examining the Limits of the Jurisdiction of the Federal Supreme Court in Supervising the Constitutionality of Laws in Iraq, a Comparative Study, (Wasit Journal of Humanities: Vol. 18, No. 1, 2022), p. 287.

Federal Supreme Court Law No. (30) of 2005, as amended, in effect.

Civil Procedure Law No. (83) of 1969, as amended, published on the website: (<https://www.iraqilaws.com/2023/10/83-1969.html>).

The Internal Regulations for the Conduct of Business in the Federal Supreme Court No. (1) of 2005.

Wafaa Dahel Al-Kaabi: The State's Function in Compensating for Unconstitutional Laws, (University of Maysan: Master's Thesis, 2021), p. 32.

The Internal Regulations for the Conduct of Business in the Federal Supreme Court No. (1) of 2005.

The Internal Regulations for the Conduct of Business in the Federal Supreme Court No. (1) of 2005.

The Internal Regulations for the Conduct of Business in the Federal Supreme Court No. (1) of 2005.

The Internal Regulations for the Conduct of Business in the Federal Supreme Court No. (1) of 2005.

The Internal Regulations for the Conduct of Business in the Federal Supreme Court No. (1) of 2005.

The Internal Regulations for the Conduct of Business in the Federal Supreme Court No. (1) of 2005.

Law Amending the Judicial Organization Law - No. (160)

of 1979 - No. (8) of 2014, (Iraqi Gazette: No. 4822, dated: April 14, 2025).

The Public Prosecution Law No. (49) of 2017, (Iraqi Gazette: No. 4437, dated: March 6, 2017).

The Public Prosecution Law No. (49) of 2017.

The Permanent Constitution of the Republic of Iraq, adopted in 2005, is in force.

The First Amendment Law to the Law Abolishing Legal Texts Preventing Courts from Hearing Lawsuits - No. (17) of 2005 - No. (3) of 2015, (Iraqi Gazette: No. 3454, dated 2/3/2015).

The Ninth Amendment Law to the Ministry of Higher Education and Scientific Research Law - No. (40) of 1988 - No. (17) of 2024, (Iraqi Gazette: No. 4785, dated 22/7/2024).

The Ministry of Education Law No. (22) of 2011, published at: (<https://www.dorar-aliraq.net/threads>).

Dr. Saeed Al-Sayed Ali: Foundations and Rules of Administrative Law, (Cairo: Al-Nahda Al-Arabiya, 2008), p. 11.

(Article 7/Fourth).

(Article 7/Fifth).

(Article 7/Fifth).

(Article 7/Seventh/A) and (Article 7/Eighth/A).

The Second Amendment Law of the State Shura Council Law No. (106) of 1989.

Law Unifying the Classification of State Lands No. (52) of 1976, (Iraqi Gazette: No. 2537, dated 7/5/1976).

State and Public Sector Employees Discipline Law No. (14) of 1991, as amended, (Iraqi Gazette: No. 3356, dated 6/3/1991).

Civil Service Law No. (24) of 1960, as amended, (Iraqi Gazette: No. 4133, dated 8/17/2009).

University Service Law No. (23) of 2008, as amended, (Iraqi Gazette: No. 4074, dated 5/12/2008).

State and Public Sector Employees' Salaries Law No. (22) of 2008, (Iraqi Gazette: No. 4074, dated 5/12/2008).

Dr. Maysoun Ali Abdul Hadi Al-Hasnawi: The Legal Organization of the Supreme Administrative Court in Iraq: A Comparative Study, (Baghdad: Legal Library, 2021), p. 23.

Fifth Amendment Law No. (17) of 2013 to the State Shura Council Law No. (65) of 1979.

Dr. Mahmoud Abdul Ali Al-Zubaidi: The Legal System for the Expiration of Administrative Suits without a Ruling on the Substantive Matters, (Cairo: Arab Center for Scientific Studies and Research, 2018), p. 142.

Ali Saber Al-Ruwaimi: The Authority of the Administrative Judiciary in Iraq, (Article) published on the website: (<https://www.iraqfsc.iq/news.5063>).

Dr. Mahmoud Abdul Ali Al-Zubaidi: The Legal System for the Expiration of Administrative Suits without a Ruling on the Substantive Matters, previous source, p. 158.

Qahtan Muhammad Salih Al-Hiti: Litigation Procedures Before the Administrative Judiciary Court and the Civil Service Court, (Al-Hewar Al-Mutamadin Magazine: Issue: 8148, 2024), published on the website: (<https://www.ahewar.org/debat/show.art.asp?aid=846868>). S. Dah Shti Siddiq Muhammad: Administrative Judiciary and Conflicts of Jurisdiction with the Regular Judiciary: A Comparative Study (Cairo: National Center, 2016), p. 145. Jurisdiction in civil courts is defined as: "the authority legally granted to a civil court to adjudicate a specific type of lawsuit within its territorial jurisdiction." Kamal Rahim Aziz Al-Askari: Extension of Jurisdiction in Civil Judiciary: A Comparative Study (University of Karbala: Master's Thesis 2021), p. 1.

Article (7/Fourth) of the Second Amendment to the State Shura Council Law No. (106) of 1989.

Dr. Sanaa Taama Mahdi: The Authority Competent to Resolve Conflicts of Jurisdiction between the Administrative Judiciary and the Regular Judiciary in the State Council (Journal of the College of Law and Political Science: Issue 8, 2021), p. 258.