

The Leverage of Administrative Regulation Practice on Public Freedoms in Algeria

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Abstract:

One of the pillars of the right and law state is that it grants freedom to individuals to do what they want - as a general principle. It is the right of individuals to enjoy their freedoms, especially the freedoms that cannot be dispensed with in their daily lives. But in the rule of law, too, their enjoyment of these freedoms is not attainable absolutely without restrictions or limitations. Therefore, it was necessary to control freedom so that it would not be misused according to the manner set by the law, and with the various guarantees established by the constitution to guarantee the rights of individuals on the one hand, and to ensure equality before the law and not to prejudice public order on the other hand, with what is called administrative regulation.

Keywords: (Administrative regulation – Public freedoms – Public order – Public security – Public health – Legitimacy– Ordinary circumstances – Exceptional circumstances)

Introduction:

The subject of this study deals with administrative regulation and its effects on public liberties to create a background for reflection and in-depth consideration of this topic. Administrative regulation means placing restrictions and controls on the activities and freedoms of individuals to regulate their daily practices.

The authority of the state or the administration has to put these restrictions in order to protect the public order with its three components: public security, public tranquility, and public health, which in itself is the most effective and best framework for preserving public liberties. Although the administrative regulation authorities have a set of powers and means, whether these authorities are at the central or local level, they differ in terms of their degree and danger, especially since public freedoms are not one type, but rather are individual and collective freedoms. Therefore, the administrative regulation authorities must deal with each type according to its importance differently from other cases.

The limits of the administrative regulation authorities on public freedoms in ordinary and exceptional circumstances, and the legal guarantees granted to these freedoms that protect them from the abuse of these authorities, is the focus of this study. The administrative regulation adheres in ordinary circumstances to the principle of legitimacy and expands in exceptional circumstances in order to aim at preserving public order, even at the expense of public freedoms, and the goal is to establish public security.

On the other hand, however, public liberties were not left to be robbed without the legislator protecting them with a set of guarantees. Rather, he singled out several guarantees whose application would protect them from every abuse affecting them. The administrative regulation exercised by the administration must lead to the consolidation of the citizen's confidence in its administration, without forgetting the judicial oversight, which is a pillar in protecting public liberties through imposing penalties for violating the principle of legitimacy, Judicial oversight ensures the extent to which the decisions taken by the administration are respected, with the possibility of invalidating its illegal decisions.

Therefore, the issue of “The leverage of administrative regulation practice on Public freedoms in Algeria” is detailed according to the following:

1) -The Limits of the administrative regulation authority in Algeria.

A - The Limits of the administrative regulation authority in ordinary circumstances.

B - The Limits of administrative regulation authority in exceptional circumstances.

2) - Constitutional and legal guarantees to protect public freedoms in Algeria.

A - Constitutional guarantees of public freedoms.

B - Legal and Judicial Guarantees of public freedoms.

➤ **1- The Limits of the administrative regulation authority in Algeria.**

One of the competences of the administrative regulation authorities is to restrict the activity and freedoms of individuals by imposing the maintenance of public order in its various elements. However, this restriction must be within a specific framework because the basis for it, is the enjoyment of freedom. It is recognized that the public freedoms regulated by the public authorities are absolute, but the exception is restrictions and controls on these freedoms.

The constitutions, as well as the laws, are considered an impregnable barrier and stands as a safeguard for freedoms when exercising the authority of administrative regulation.¹

The regulation authority in normal circumstances aims to maintain public order. these authorities impose many restrictions and controls while the administration exercises its powers to maintain public order on a permanent basis. in order to achieve this order, administration uses a set of measures that limit the exercise of people's freedoms. So it requires determining the extent and scope of The competence of the administrative regulation authorities to restrict the activities and freedoms of individuals. this is done in the basic principle of preserving the basic rights and freedoms of individuals and not affecting them.

Hence, it is necessary to know the limits of the administrative regulation powers under normal circumstances, and to be exposed to the restriction of the administrative regulation powers in exceptional circumstances.²

A - The Limits of the administrative regulation authority in ordinary circumstances.

Administrative regulation authority in ordinary circumstances is important and essential in achieving the three purposes of administrative regulation - public security, public health and public tranquility. Traffic regulations and special health regulations often impose penalties for their offenders.³

The work of administrative regulation authorities, in normal circumstances, has a relationship with two important elements represented in; the principle of legality as a guarantee of freedoms in the one hand, and judicial control as a guarantee of public freedoms on the other hand.

1- The principle of legality as a guarantee of public freedoms:

Legality, in its general meaning, means the rule of law or the characteristic of everything that is identical to the law. Law in this broad sense means all the legal rules that can be applied in life. The principle of legality in the light of this concept means that in all manifestations of the administration's activity, it does not act completely without restrictions, but it is subject in all its decisions and orders to the rule of law.

The principle of legitimacy obliges the administration to respect the objective gradation of legal rules and decisions. Individual decisions issued are subject to general organizational decisions. This is on the one hand. On the other hand, it respects the formal or organic gradation of the public body in the state. At the top of the pyramid, we find the constituent body, followed by the legislative body, and at the last Pyramid we find the executive body.⁴

Accordingly, the general restriction that governs administrative control is that every procedure that entails prejudice to the freedoms of individuals must be justified, otherwise the administration is in a position to override authority, just as these controls imposed by the administration on individuals should be the same for all, and that every departure from the principle of equality before The law exposes management to responsibility.

2- Judicial review as a guarantee of public freedoms:

The actions and procedures of administrative control as administrative acts are subject to the oversight of the competent judiciary. Judicial control over administrative work has proven to be very effective in comparative legal systems. There are forms and types of judicial oversight that the legislator has over the work and activities of the administration, where he devises and decides a set of general legal rules and principles that have achieved guarantees to protect the rights and freedoms of individuals in the face of administrative control authorities.

Judicial review is considered an effective guarantee in the event that the administration abuses its power against individuals. The general principle is that all the work and activities of the administration are subject to judicial oversight, in the event of a violation of laws or regulations. Accordingly, every disciplinary decision is illegal and unjustified for reasons of maintaining public order, and it is permissible to appeal. In it before the administrative courts by the person concerned.⁵

This review is exercised either before the administrative judge, or before the ordinary judge. Since the actions and procedures of administrative control are considered administrative acts, they are subject to the review of the administrative judiciary.

B - The Limits of administrative regulation authority in exceptional circumstances:

In this element, we will discuss the determinants of declaring exceptional cases and the limits of these exceptional cases, and we will also study the impact of exceptional circumstances on public freedoms.

1- The determinants of declaring exceptional circumstances:

The power of administrative regulation is not confined to normal circumstances only, but also expands its power in extraordinary circumstances. These circumstances are represented in war, natural disasters, or the spread of an epidemic, so the administration is given broader powers to face these exceptional circumstances. Therefore, the French Council of State developed the theory of exceptional circumstances and gave it a wide range of legal texts, so that the provisions of the exceptional state can only be applied after announcing it. Accordingly, some administrative decisions that are illegal in normal circumstances can be considered legitimate in exceptional circumstances, if their aim is to maintain public order and the continuity of the functioning of public utilities.

2- The impact of exceptional circumstances on public freedoms:

The continuity of the various issues at the same pace without a change in circumstances and facts is completely out of the question in the process of public facilities.

Therefore, changing lifestyles and changing methods of facing these changes is inevitable. Thus, the legal texts established to organize society remain powerless in the face of developments that must be confronted in order to maintain the stability of public order. This leads to not denying the state's right to defend itself, and to take whatever measures it deems appropriate to ensure the protection of its independence, the integrity of its territory, the security of its citizens and the functioning of its institutions.⁶

This is what necessity imposes under the urgency of extraordinary circumstances, which pushes the state and its public authorities to deviate from the rules of legality established for normal circumstances,⁷ with the aim of being able to address what would threaten the state's entity and disturb its public order.⁸ It is possible to talk about those exceptional cases, which are respectively:

- ❖ **The state of siege application:** The state of siege is defined as a measure of public security whereby laws are suspended and replaced by the military regime. Thus, powers are transferred from civil bodies to military bodies, but adherence to the limits of the constitution remains according to existing circumstances.⁹

Since the issue of maintaining security and maintaining public order is transferred to the military authority, in light of the state of siege as soon as it is declared, or by authorization by the original authority represented in the government, the issue of public rights and freedoms is inevitably subject to two different regulations. First, the issue of regulating public rights and freedoms should not escape the intervention of the military authority, which is completely different from the facts of civilian life. Thus, the language of strict orders is evident, under which the slightest concern for individual freedoms is absent, which only requires obedience.

The state of siege does not depend on the intervention of the military authority only, but rather goes beyond it, as a second point, to the fact that the original civil authority retains some powers, which is considered a restriction of public rights and freedoms, such as stopping the activity of associations or submitting a request for their judicial dissolution.

It is therefore a matter for the government, not the military authority. Accordingly, it can be said through this that the impact of the state of siege on public rights and freedoms is inevitable, given this double interference.

❖ **The state of emergency application:** The state of emergency is an exception to administrative regulation justified by the idea of protecting the nation from danger. If the security situation in the state worsens, priority is given to preserving the entity of the state and preserving order and the continuity of institutions at the expense of freedoms and rights. The criterion of balance is taken into account in terms of the need to pay attention to common public interests to maintain order and limit the deterioration of the situation, as well as a dangerous slide that may result in an escalation of violence, which means the situation is more dangerous than it is.¹⁰

One of the effects of declaring a state of emergency is to restrict the exercise of public freedoms that are not allowed to be violated in normal circumstances. The effects of the state of emergency are as follows:

- The civil authorities, represented by the Minister of Interior at the national level and the competent governor at the regional level, take all necessary measures to maintain and restore public order through administrative decisions that must be in line with government directives.
- Suspension or closure of the activity of every company, institution or organization, regardless of its nature or specialization, when such activities constitute a threat to public order and endanger the supreme interest of the country, such as restricting freedom of trade. These measures are taken through a ministerial decision for a maximum period of 06 months, as these measures can be the subject of appeal in accordance with what is stipulated in the legislation.
- The Minister of Interior can place any adult whose activity is found to be dangerous to public order and the normal functioning of public interests, where he is placed in a specific security center. Security centers are established according to decisions taken by the Minister of Interior and local authorities, which means restricting freedom of movement and the freedom to choose a place of residence that is guaranteed by the constitution.
- Restricting freedom of movement by limiting or preventing the passage of people or vehicles at certain places and times, and organizing the transportation and distribution of foodstuffs and commodities of primary necessity.
- Establishing regulated residence areas for non-residents, which means restricting a person's freedom to choose a place of residence.
- Preventing from residency or placing under house arrest every person whose activity is found to be harmful to public order or the functioning of public interests, which means restricting a person's freedom to choose a place of residence and restricting freedom of movement.

❖ **The state of exception application:** The President of the Republic decides the state of exception if the country is threatened by an imminent danger that is about to affect its constitutional institutions, its independence, or the integrity of its unity for sixty (60) days maximum. Such action shall be taken after consulting the President of the People's National Assembly, the President of the Council of the Nation, the President of the Constitutional Court, and hearing the Supreme Security Council and the Council of Ministers.

The exceptional situation authorizes the President of the Republic to take the exceptional measures required to preserve the independence of the nation and the constitutional institutions in the Republic, and accordingly, the Parliament convenes obligatorily.

The state of exception ends, according to the forms and procedures that necessitated its declaration. We note that the exceptional situation is more complex and dangerous than the state of siege and emergency. Despite the conditions imposed by the constitutional founder in order to restrict the powers of the President of the Republic in order to avoid what might be reflexively due to the vast powers he enjoys in light of these rare cases that enable him to take exceptional measures, there are still some effects can affect public liberties.

What can be stated here, about the difference between these extraordinary exceptional cases, especially between each of the states of emergency and siege on the one hand, and the exceptional case on the other hand, is that the powers of the President of the Republic in this last case are restricted. So that it includes only the strictly defined procedures related to preserving the independence of the nation, or preserving the constitutional institutions, contrary to the competence of the president in the first two cases, given that it includes any measure necessary to stabilize the situation, and even more than that, the difficulty of determining what is considered an urgent necessity that calls for

imposing a state Emergency or siege, which seems broader, compared to the reasons for declaring a state of exception, although the report is up to the President of the Republic in all the different case.

Therefore, the issue of respecting public rights and freedoms, as constitutional values, basically requires the existence of conditions for an exceptional case on the one hand, and the non-expansion of the exceptional measures taken by the President of the Republic in this regard on the other hand.

❖ **The state of war and general mobilization application:** The state of war is considered the most decisive and most dangerous state of exception. Its cause here is not merely the imminent danger to the country, but that the actual aggression against the country takes place or is about to occur. The President of the Republic does not declare a state of war except after a meeting of the Council of Ministers, listening to the Supreme Security Council, and consulting the presidents of both chambers of Parliament where Parliament meets. Then a letter is sent to the nation informing it that the aggression has actually taken place or is about to happen.¹¹

The effects of the state of war are that the President of the Republic assumes all powers and suspends the constitution for the duration of the state of war. In addition, the mandate of the President of the Republic is de jure extended if it expires during the war period, until the end of the latter, and in the event of resignation, death, or the occurrence of any impediment to the President of the Republic, the Speaker of the National Assembly is empowered with all the powers granted to the President of the Republic under this situation, as he is the head of the state.

It is worth noting that the cases of extraordinary circumstances that we mentioned earlier were mentioned in the constitution in a sequential manner, so that the state of emergency and the state of siege come before the state of exception and the state of war in terms of order.

Whenever the situation becomes aggravated by the occurrence of an external aggression against the country or is about to occur, according to what is stipulated in the appropriate arrangements for the Charter of the United Nations, the President of the Republic declares a state of war, which is considered one of the most dangerous cases of extraordinary circumstances that often necessitate before taking a state of general mobilization included in such circumstance.¹²

Hence, we find that with regard to the state of general mobilization that mediates between the state of exception and the state of war, it is a preparatory state after declaring the state of exception to enter into a state of war upon the occurrence of actual aggression, as stipulated in the appropriate arrangements of the Charter of the United Nations.

➤ **2- Constitutional and legal guarantees to protect public freedoms in Algeria:**

The public authorities have broad powers in the field of exercising administrative regulation, which may result in prejudice to the rights and freedoms of individuals. To balance the powers of the public authorities and the liberties of individuals, the Algerian legislator has stipulated a set of constitutional and legal guarantees that guarantee the rights and liberties of individuals. Therefore, we will address first: constitutional guarantees, and secondly Legal guarantees.¹³

A - Constitutional guarantees of public freedoms:

The constitution is the most important legal document that guarantees the rights and freedoms of individuals. Therefore, we will discuss in the first section: the constitutional principles for the protection of public freedoms, and in the second section: the means of constitutional control for the protection of public freedoms.

1- Constitutional principles to protect public freedoms:

There are several constitutional principles mentioned in the Algerian constitution, and these principles are mainly as follows:

❖ **Separation of authorities principle;** Montesquieu sees the principle of separation of authorities as a necessary condition for the protection of individual rights and freedoms. By distributing and fragmenting power we can prevent its centralization in the hands of one authority. On this basis we can say that centralization system inevitably leads to tyranny of authority and abuse of the rights and freedoms of individuals.¹⁴

In ancient times, the functions and goals of the state were very limited, so it was conceivable that those functions and goals would be confined to one party that would collect the whole matter in its hands. With the development of

political life, the state became saturated and its goals were multiple, and then the combination of all these functions and goals in the hands of one party became difficult, and for this reason the idea of separation of powers emerged to prevent the tyranny of authority by distributing it.¹⁵

Adoption of the principle of separation of authorities guarantees respect for individual rights and freedoms, provided that these authorities are distributed among three bodies:

- Legislative authority: It is in the hands of the people or their representatives.
- Executive authority: It is in the hands of the king or the president of the republic.
- The judicial authority: is assigned to an independent body.

❖ **Equality principle;** The principle of equality has become a basis for the exercise of rights and freedoms. In fact, it is considered the cornerstone of every democratic organization. Democracy is like the soul of the body, so that the meaning of democracy is negated and every meaning of freedom collapses without equality.¹⁶

With the declaration and international covenants for human rights, most countries have adopted in their legislation, especially in their various constitutions, many rules organizing and establishing human rights, including the principle of equality before the law. It was echoed by all Algerian constitutions, up to the last amendment, which considered the principle of equality as a fundamental pillar of rights and freedoms of all kinds, and as a basis for justice and social peace.

As for the formal concept of the principle of equality, which is intended to: compel all state authorities, judicial and executive, to implement the law equally among citizens.

The constitutional legislator also strongly affirmed the principle of equality, when he made the main goal is to ensure the equality of all citizens, male and female, in all rights, while removing obstacles that hinder human development and hinder his actual participation in the political, economic, social and cultural fields.¹⁷

❖ **The independence of the judiciary principle:** It is the most important mechanism for protecting and guaranteeing the exercise of public freedoms, as it is the protective bulwark for protecting the principle of legality, the rule of law in the state and the most important basic foundations of democracy. Montesquieu believes that freedom does not exist if the authority of the judge is not separate from the authority of legislation. If the judicial power is united with the executive power, the judge is sometimes arbitrary in using the law.

The effects of the dependency relationship between the judge and any other authority, no matter how high, may affect the rights of litigants, the principles of justice, and even the rule of law. Thus, the entire society enters into abuses that have very dire consequences for freedoms as a result of the judiciary losing its independence and subordination to another authority. In view of the importance of implementing the principle of the independence of the judiciary, where freedoms are subject to infringement, most of the modern constitutions in the world have approved the principle of the independence of the judiciary, despite the different policies pursued by those constitutional systems.¹⁸

In order to achieve the independence of the judiciary, the state must surround the judiciary with a set of basic guarantees that guarantee its work away from the control of the executive authority. The independence of the judiciary must also be real in terms of the method of appointing judges, as well as their inability to remove or transfer.

2- Constitutional guarantee to protect public freedoms:

The Algerian constitutional founder approved a set of constitutional means to guarantee the rights and fundamental freedoms of individuals. Among the most important guarantees approved by the constitutional founder, we find the guarantee of the constitutionality review of laws, as well as the review exercised by the parliament and the civil associations

❖ **The constitutionality review of laws to protect public freedoms:** Constitutional review of laws is defined as entrusting a specific party with the task of verifying the extent to which laws and decrees issued by public authorities in the state conform to the constitutional document. Laws and decrees that are not in conformity with the constitution are prohibited if they are not issued. But if these laws and decrees that are contrary to the constitution had already been issued, then they are not applied.¹⁹

In Algeria, constitutional oversight is entrusted to an independent body, the Constitutional Court, whose members include representatives of the judiciary, particularly the Supreme Court.

Constitutional review of laws can overturn laws deemed unconstitutional. The importance of constitutional oversight appears in ensuring respect for the constitution and the embodiment of its supremacy by protecting it from all abuses that come from law or regulation.

The extreme importance of this constitutional review appears in the protection of rights and freedoms. It was not enough to provide for constitutional review in the constitution, but rather to ensure that it would not be violated by the legislative and executive authorities.

The Constitutional Founder also raised the method of pleading the unconstitutionality of laws, as stated in Article 195 of the Constitution: "The Constitutional Court may be notified of the plea of unconstitutionality based on a referral from the Supreme Court or the Council of State, when one of the parties in the court claims before a judicial authority that the legislative or regulatory provision that The outcome of the conflict depends on him, violating his rights and freedoms guaranteed by the Constitution.

❖ **Parliamentary oversight as a guarantee of public freedoms:** The review series are the means of showing the high rank of the parliament in the political system. This oversight is known as parliamentary oversight, which is one of the guarantees of public freedoms for individuals. Specialized parliamentary oversight is carried out by specialized parliamentary bodies. These powers are regulated by valid organic laws in order to protect the supreme interests of society, and the rights and freedoms of individuals from all causes and manifestations of bureaucracy and administrative corruption.²⁰

❖ **Civil society oversight as a guarantee of public freedoms:** Civil society or public opinion plays a major role in the life of political systems. Civil society is among the important guarantees for the protection of rights and freedoms and has a fundamental role in guiding political life in the country. Public opinion pushes the political authority to change its policy for the better in a manner consistent with guaranteeing individual and collective rights and freedoms. Civil society is defined as a group of institutions and activities that represent a mediating position between the family as the basic unit on which the building of society and the state and its institutions of an official nature are based. Accordingly, civil society organizations have a prominent role in respecting the constitution by guaranteeing the protection of the rights and freedoms of individuals and are considered the effective method for creating national understanding in the individual and mobilizing individual and collective efforts to influence public policy.

B- Legal and judicial guarantees of public freedoms :

Under this heading, we will discuss the lawsuits that a person resorts to when he is subjected to arbitrariness, and this is in order to restore his rights that were taken away from him behind the administrative regulation procedures.

We will deal with the case of annulment of administrative regulation decisions as a first branch, while the second branch: includes a case for examining the legality of administrative control decisions.

1- The annulment lawsuit of administrative regulation decisions:

The annulment lawsuit is one of the most important and effective administrative lawsuits due to the role it plays in protecting the legal idea of the state, the principle of legality, and affirming the protection of human rights and freedoms in the state.²¹ This lawsuit is considered the effective legal and judicial tool or means to apply the control process to the work of the public administration so that this lawsuit leads absolutely to the elimination of illegal actions.²²

The annulment lawsuit can be defined as the substantive and in-kind administrative lawsuit that is initiated and filed by those with legal capacity and interest before the competent judicial authorities in the country in order to demand the annulment of illegal administrative decisions.²³ Administrative decisions are canceled according to cases that are marred by one of the internal or external legal defects. These cases are:

❖ **The lack of jurisdiction defect:** It is one of the aspects of annulment related to public order, where the decision is issued by those who do not have the authority to issue it, or the inability of the administrative authority to issue an administrative decision due to the lack of legal authority, and among its cases is the lack of personal, objective, temporal and spatial jurisdiction.

❖ **The form and procedures defect:** It means that the administration violates the rules, and the defect is achieved when the decision is issued by the administration and it does not comply with the formalities and procedures stipulated in the legal rules. The form is the external appearance of the administrative decision, so the lack of respect for the

procedural and formal rules makes the administrative decision defective in its form, and then it is subject to cancellation.

- ❖ **The legal basis defect:** The defect of the legal basis means that the administrative decision is defective in its content. In other words, the legal effect resulting from the administrative decision is not permissible or contrary to the law, regardless of its source, whether it is written, such as constitutional, legislative, statutory, or unwritten, such as custom and general principles of law.

This defect is considered one of the most important defects in the administrative decision at all, because the legal basis is the motive that changes the legal status of people. When the administration issues the administrative decision, it inevitably and without the slightest doubt does not issue it arbitrarily. Rather, it intends behind it to create a legal effect, and this effect is undoubtedly a decision that affects the interests of individuals and affects the conditions established for them in society.

In application of the principle of legality, which must prevail in all legal actions of the State, the administrative decision as a legal action must be in accordance with all legal rules, and therefore the legal basis must also be in agreement with these rules, and otherwise, the legal basis is characterized by illegality and becomes a reality by nullity and invalidity. The legitimacy of the legal basis is not only in the form of direct violation of the legal rule, but also in the form of error in its interpretation or application.

- ❖ **The Reason defect:** It is the motive and justification for decision-making. It is thus considered the starting element in the existence of the decision, so legal jurisprudence has tended to define it as the factual or legal situation prior to the decision, which prompts the administration to intervene and make the decision.
- ❖ **The purpose Defect:** The administrative decision is not sufficient to be issued by a higher authority and conform to the formal conditions, and that its legal basis be in conformity with the applicable legal rules. Rather, the administrative decision must seek to achieve a goal behind issuing the decision, which is the public interest, and if it departs from the ruling goal, this is defective, as is the deviation in the use of power.²⁴

2- Legality examination lawsuit of administrative regulation decisions:

It is a lawsuit in which someone asks the competent judge to examine the legality of the decision. That is, whether the decision is in accordance with the law or not. The role of the judge in this case is limited to announcing the legality of the decision or its illegality, and in the second case it does not extend to canceling or amending it.

A case for examining legality is defined as a case in which the administrative judge is required to decide on the legality or illegality of the contested decision. That is, the extent to which the pillars of the administrative decision are valid in terms of reason, jurisdiction, legal basis, form, procedures, the purpose of issuing the administrative decision, and the extent to which administrative regulation decisions are free from defects.²⁵

The legality examination lawsuit is filed before the judicial authorities in two ways: the direct way, and the indirect way.

The direct method of a lawsuit examining the legality of administrative regulation decisions is filed in the administrative judicial chambers represented in the administrative courts and the State Council. This is considered the competent judicial authority in order to examine the legality of administrative regulation decisions issued by the decentralized administrative authorities. Initial and final decisions are within the competence of the State Council in decisions issued by the central authorities. As for the appeal, it concerns the provisions of the lawsuit examining the legality of administrative regulation decisions issued by the regional and local administrative judicial chambers.

The indirect method of a lawsuit examining the legality of administrative regulation decisions is filed in the ordinary courts of first instance by judicial referral. Adjudication of the case shall be through an ordinary court case in which one of the litigants pleads the illegality of the administrative control decision.

The ordinary judge refers the plea of illegality to the administrative courts, so the case for examining the legality of the administrative regulation decision is moved through judicial referral, This referral is made through a petition filed before the administrative courts to assess the legality of the decision or not.

The administrative judge issues the judicial ruling and communicates with the original case court to settle the dispute and issue a judgment in the ordinary dispute.

❖ **Conclusion:**

To sum up, so far in this article we have been considering the subject of administrative regulation and its impact on public freedoms. Within the framework of this study, we are exposed to the conceptual framework of administrative control and public freedoms in order to create a background for reflection and deepening into the heart of the matter. The essence of this study requires that it be addressed from several main aspects. In order to complete the picture of this topic, we touched on the restrictions imposed on the activity and freedoms of individuals in using their activities.

The administration places these restrictions in order to protect public order, which in itself is the most effective and appropriate framework for preserving public freedoms, although the administrative regulation authorities have a set of powers and means, whether these authorities are at the central or local level. The impact of these procedures differs in terms of their degree on public freedoms. Therefore, the administrative control authorities must deal with each type according to its importance and in a different way from the other case.

We dealt with the limits of administrative regulation powers on public freedoms in normal and exceptional circumstances and the legal guarantees granted to individuals to protect them from the administrative abuse. In normal cases, the administration adheres to the principle of legality, and its powers expand in exceptional cases to aim at preserving public order, even at the expense of public freedoms, if its goal is to establish security.

However, public freedoms were not left to be robbed without being protected by the legislator with a set of guarantees that lead to their protection. Rather, he singled them out with several guarantees whose application protects them from all abuse affecting public freedoms, as well as the administrative regulation exercised by the administration over its actions, which leads to the consolidation of the citizen's confidence in his administration. Without forgetting the judicial oversight, which is a pillar in the protection of public freedoms through the imposition of sanctions and penalties for violating the principle of legality and the possibility of invalidating administrative decisions.

Through our study, we concluded a number of results:

- Administrative regulation is a set of restrictions imposed by the administration on individuals with the aim of regulating their activities and restricting their freedoms within the limits of the law to maintain public order in society. The function of administrative regulation is considered one of the oldest functions carried out by the state. So, the importance and necessity of this function is due to its aim to maintain public order.
- In order to achieve its goal and protect public order, the administrative regulation bodies establish a set of means represented in organizational decisions, individual decisions, and compulsory implementation. The administrative regulation body is not entitled to use its powers to achieve other goals, even if they are related to the public interest.
- The state's exercise of its administrative function undoubtedly transcends the law or legitimacy, and therefore it must resort to the law when it transcends that legitimacy, just like ordinary individuals.
- There are limits related to the administrative regulation process, so the means used in administrative regulation must be necessary and appropriate to the nature and gravity of the imbalance and disorder in society.
- The administrative regulation bodies have wide powers to confront everything that threatens public order, but under exceptional circumstances, these powers are broader and more comprehensive than the administrative regulation authorities under normal circumstances.
- For the sake of broader guarantees for individuals, the power of Parliament must be expanded to legislate through proposal only in matters regulating public rights and freedoms. It cannot be the subject of a governmental initiative, since the field of public rights and freedoms is a gain for the individual in the face of administrative authority.
- Exempting individuals from some licenses related to the freedom of popular gatherings, and contenting themselves with prior notification to the administration only. Especially if these gatherings are taking place within legal frameworks similar to electoral campaigns.

❖ **Margining :**

¹ - Article 34 of the Presidential Decree No. 20-442 states: "The constitutional provisions related to basic rights and public freedoms and their guarantees are binding on all public authorities. Rights, freedoms and guarantees can only be restricted by law, and for reasons linked to conservation public order and security, protection of national constants as well as those necessary to protect other rights and freedoms enshrined in the Constitution. In any case, these restrictions cannot affect the essence of rights and freedoms. In order to achieve legal security, the State shall ensure, when drafting legislation related to rights and freedoms, accessibility, clarity and stability". Presidential Decree No. 20-442 of December 30, 2020 containing the Algerian constitutional amendment. Official Gazette No. 82.

² - Articles 97-98-99-100-101 of the Constitutional Amendment 2020.

³ - Muhammad Al-Wakil: The state of emergency and the powers of administrative regulation, a comparative study, second edition, Dar Al-Nahda Al-Arabiya, April 2003, pg. 97.

⁴ - Muhammad al-Saghir Baali: "Administrative Decisions," Dar al-Uloom for Culture and Publishing, Algeria, 2005, p. 82.

⁵ - Muhammad Saad al-Din al-Sharif, The Philosophy of the Relationship between Administrative Control and Freedoms, Majlis al-Dawla Magazine, Egypt, Cairo, Dar al-Kitab al-Arabi for Printing and Publishing, 1969, p. 45.

⁶ - Article 98 of the Constitutional Amendment 2020.

⁷ - Ammar Boudiaf, Al-Wajeez in Administrative Law, Jusoor for Publishing and Distribution, Algeria, second edition, 2007, p. 380.

⁸ - Nasser Labbad, The Fundamental in Administrative Law, Dar Al-Mujaddid for Publishing and Distribution, Algeria, second edition, 2011, pg. 156.

⁹ - Article 97 of the Constitutional Amendment 2020.

¹⁰ - Article 97 of the Constitutional Amendment 2020.

¹¹ - Article 99 of the Constitutional Amendment 2020.

¹² - Article 100 of the Constitutional Amendment 2020.

¹³ - Jabbar Salah al-Din, Guarantees and Restrictions for the Exercise of Public Rights and Freedoms, Journal of Law and Political Science, Issue 05, University of Djelfa, December 2011, p. 35.

¹⁴ - Aswad Yassin, Guarantees for the Protection of Public Rights and Freedoms between Judicial and Constitutional Oversight, PhD thesis, University of Abu Bakr 1 Belkaid, Tlemcen, 2016/2017, p. 86.

¹⁵ - Awabedi Farid, Constitutional Guarantees for Human Rights of the Maghreb Countries, Algerian Journal of Legal and Political Sciences, Volume 52, Number 02, University of Youssef Ben Khadda, Algeria, June 2015, p. 22.

¹⁶ - Larbi Wardia, Constitutional Protection for the Principle of Equality in Accordance with the Algerian Constitutional Amendment of 2016, Journal of Legal Studies and Research, Issue 4, University of M'sila 11.

¹⁷ - Farid Allouas, Nabil Tarqur, The Principle of Separation of Powers in Algerian Constitutions, Journal of Judicial Jurisprudence, Volume 3, Number 4, University of Biskra, March 2008, p. 228.

¹⁸ - Abdul Basit Mahda, Mechanisms for Protecting Fundamental Freedoms between Algerian Legislation and International Covenants, Journal of Legal and Political Sciences, No. 11, Al-Wadi University, June 2015, p. 106.

¹⁹ - Arousi Ali, Al-Sadiq Abdel-Rahman, Oversight of the Constitutionality of Laws in Algerian Legislation as a Guarantee for the Protection of Rights and Freedoms, Memorandum for obtaining a Master's Degree, in Law, majoring in Rights and Freedoms, Faculty of Law and Political Science, Ahmed Deraya University, Adrar, 2015/2016, p. 7.

²⁰ - Articles 158 and 159 of the Constitutional Amendment 2020.

²¹ - Articles 801, Law No. 13-22 of July 12th, 2022 Official Gazette No. 48 Complementary to Law No. 08-09 of February 25th, 2008, which includes the Code of Civil and Administrative Procedures.

²² - Abd al-Rahman bin Djilali, The concept of annulment lawsuit and its distinction from other administrative lawsuits, Concepts Journal for In-depth Philosophical and Human Studies, Issue 7, Zayan Ashour University, Djelfa, March 2020, p. 285.

²³ - Taima Al-Jarf, Judicial Oversight of Public Administration Work (Judiciary of Cancellation), Dar Al-Nahda Al-Arabiya, Cairo, Egypt 1977, pg. 243.

²⁴ - Aicha Bouzidi, Case for Cancellation in Algerian Legislation, Memorandum for Obtaining a Master's Degree in Law, Majoring in Local Community Management, Faculty of Law and Political Science, Department of Law, University of Dr. Moulay El Taher, Saida, Discussion Year 2014/2015, p. 91.

²⁵ - Amour Silami, The Brief on Administrative Disputes Law, Legal Library, Faculty of Law, Ben Aknoun, Algeria, 2008/2009, p. 39.