



STATE RESPONSIBILITY TOWARDS ITS EMPLOYEES INFECTED WITH EPIDEMICS (COVID-19 AS A MODEL) COMPARATIVE STUDY

DR. KHALID BOUZIDI

Senior lecturer « A », University Centre of Maghnia

E-mail: k.bouzidi@cu-maghnia.dz

Received: 24/06/2024

Accepted: 19/01/2025

Published: 05/03/2025

Abstract:

This study attempts to shed light on the possibility of establishing the state's responsibility for damages resulting from the infection of its employees with epidemics during or on the occasion of performing their duties, especially employees assigned to perform their duties within the framework of preventing and combating the spread of the Corona virus (Covid-19), and linking and harmonizing it with the general rules and provisions applied to the theory of administrative liability in the French and Algerian administrative judiciaries, which guarantee individuals in general and employees in particular the right to obtain compensation, whenever they suffer damage as a result of risks arising from natural or biological disasters or other disasters, on the basis of the rules of justice, fairness and national solidarity.

Keywords: State responsibility, occupational risks, employee, compensation, epidemics.

INTRODUCTION:

The rapid spread of the Corona virus in many countries of the world has led various countries to adopt many preventive measures by declaring a state of health emergency, in order to limit the spread of this epidemic within the areas where the virus has spread, and to prevent its transmission to new areas, so that these measures taken included imposing a quarantine on individuals, by restricting their movement and isolating individuals who have been proven to be infected with this epidemic, within the framework of respecting human rights and fundamental freedoms of individuals.

In this context, Algeria, as one of the countries affected by this pandemic, has developed a national policy to combat the Corona virus related to quarantine, by taking a set of measures that aim, exceptionally, to limit physical contact between citizens in public spaces and in the workplace, according to which approximately 50% at least of the employees of public institutions and administrations were placed on an exceptional paid leave, with the exception of employees of vital sectors, especially the health sector, national security, customs, prison administration, and employees assigned to monitoring and guarding tasks¹.

Based on the fact that these employees are dedicated to performing their duties within the framework of preventing and combating the spread of the Corona virus (Covid-19), it is the responsibility of the state, in return, and a fortiori, to ensure the provision of an appropriate environment that limits and prevents the transmission of the Corona virus to employees during and on the occasion of their performance of their duties, within the framework of its legal powers that impose on it the protection of the employee in all circumstances from all forms of risks that he may be exposed to during the exercise of his job or on the occasion of it, and if necessary, to guarantee compensation for his benefit for the harm that may befall him, in order to enshrine the employee's

¹- Articles 1, 4, 6 and 7 of Executive Decree No. 20-68 of March 21, 2020 relating to measures to prevent and combat the spread of the COVID-19 corona virus pandemic, published in the Official journal No. 15 of March 21, 2020



right to perform his duties in working conditions that guarantee him dignity, health, and physical and moral safety¹.

This right cannot be imagined in such circumstances except through the state fulfilling its legal obligations and determining its administrative responsibility, which requires it to compensate the employee for the damages that he suffers as a result of his infection with the Corona virus during or on the occasion of performing his duties, in the event of a breach of its legal duties that require it to take care of the employee and protect him while performing his duties, especially in light of the current health conditions and considerations.

If the existing considerations require the administration to compensate for the damage caused to its employees resulting from the transmission of the Corona virus infection in accordance with the rules of justice, fairness and national solidarity, then in terms of structure it is based on the same justifications and motives that led to the emergence of the theory of administrative liability², especially in its aspect related to administrative liability without fault, as the theory of risks emerged as a new basis due to the major transformation in administrative activity that added to the administration's use of complex and dangerous machines and means, through which members of society, especially workers and employees, became threatened and exposed to danger more than ever before, which is what the French State Council relied on in its decision issued in 1895 in the case of Mr. Cames³, and was later followed by the Algerian legislator and administrative judiciary, which adopted this theory and established rules and provisions for it that are closely similar to those rules found in the French legal and judicial system.

The importance of this study comes from its connection to one of the basic rights of the employee to perform his duties in a healthy work environment, and one of the main obligations of the administration to exercise care and take the necessary measures and precautions to protect its employees from the risk of transmission of epidemics during or on the occasion of performing their duties, and that the breach of this right, especially in light of the spread of the Corona virus, which threatens the safety and health of its employees, requires consideration of the extent of the possibility of compensation for the damage resulting from the employee's infection with epidemics during or on the occasion of performing his duties.

Accordingly, the problem of our study revolves mainly around the extent to which it is possible to determine the responsibility of the administration towards its employees infected with epidemics? On what basis is this responsibility based?

Based on the above and to answer the problems raised, we have divided this study into two main sections. In the first section, we examine the basis for establishing the state's responsibility towards those infected with epidemics in the French and Algerian systems. In the second section, we will review the importance and specificity of the damage as a condition for establishing the state's responsibility on the basis of occupational risks towards its employees infected with epidemics.

¹- Articles 30 and 37 of Order No. 06-03 of July 16, 2006, containing the general basic law for the civil service, published in Official journal No. 46 of July 16, 2006

²- The French administrative judiciary established the theory of administrative liability for the first time by virtue of the ruling issued by the French Court of Conflicts on February 8, 1873 in the Blanco case. For more on this subject, see:

See Anna Neyrat, *The relationship between national administrative law and foreign administrative laws*, Editions L'Harmattan, Paris, 2019, page 69

See also Nadine Poulet-Gibot Leclerc, *Administrative law: sources, means, controls*, Editions Bréal, Paris, 2007, page 194

³- Abdul Malik Younis Muhammad, *The Basis of Administrative Responsibility and Its Rules: A Comparative Study between the Unified and Dual Judicial Systems*, Dar Al-Kotob Al-Qanuniah, Egypt, 2012, p. 280



I- The basis for establishing the state's responsibility towards its employees infected with epidemics in the French and Algerian systems

Repairing and compensating for the damage caused by the employee's infection with epidemics by determining the responsibility of the administration, requires us at the beginning of this study to research the basis on which the employee's right to obtain compensation is determined, especially if it is taken into consideration that the responsibility of the administration is either based on error or without error on the basis of risks or on the basis of violating the principle of equality before public burdens, by addressing the position of the French administrative judiciary as the cradle of this theory, then to the Algerian legislative and administrative judiciary.

1- Recognizing the state's responsibility towards its employees infected with epidemics based on occupational risks in France

It is very likely that employees¹ will be exposed to and injured by material and moral damages during or in the course of performing their duties, especially in light of the spread of epidemics and infectious diseases that can be transmitted to this category, by virtue of the job and profession they perform, which often requires them to have direct or indirect contact with citizens, which may expose them to the risk of transmitting a specific epidemic, as is the case with the Covid-19 pandemic.

It seems that the French administrative judiciary has taken this type of damage seriously, as it is related to the category of employees in general, and as it occurred during and on the occasion of their performance of their duties in particular, as the French State Council has tried to find a legal and judicial basis to guarantee the right of the employee harmed by the transmission of epidemics to obtain compensation and protection, by establishing the responsibility of the administration on the basis of occupational risks.

The credit for raising and approving this type of liability for the first time goes to the French administrative judiciary in many judicial decisions, including the decision issued by the French State Council on November 6, 1968 in the "Mrs. Soules" case, the facts of which are summarized in the teacher Soules contracting German measles while she was pregnant, as a result of the infection she contracted due to the spread of this epidemic in the girls' school where she worked, which led to her newborn child being affected by deformities and hearing and visual impairments, which led the teacher to file a lawsuit against the French Ministry of Education before the French State Council, which ruled (that the administration is responsible on the basis of occupational risks, since the harm that befell the teacher's newborn resulted directly from the risks of infection with the epidemic that the teacher was exposed to while performing her job)².

¹ - Article 04 of the General Basic Law of the Civil Service defines the civil servant as follows: (Any employee appointed to a permanent civil service position and assigned to a rank in the administrative ladder is considered an employee). Order No. 06-03 dated July 15, 2006 includes the General Basic Law of the Civil Service, published in the Official journal No. 46 dated July 16, 2006

See also the definition of a civil servant, Rasha Abdul Razzaq Jassim Al-Shammari, *Modern Principles of the Civil Service between Islamic Sharia and Positive Law*, National Center for Legal Publications, First Edition, Egypt, 2016, p. 24

² - The French State Council decision issued on November 6, 1968 stated the following:

(Considering that, in the case of a Rubella Epidemic, the fact that a pregnant teacher is permanently exposed to the dangers of contagion involves a special risk for the unborn child and, since it causes serious harm to the victim, is such as to engage, for the benefit of the latter, the liability of the State). See *Revue générale du droit*, Conseil d'Etat, Assemblée, 6 November 1968, Dame Saulze, application number 72636, rec. p. 550

See also J.-P. CHAUDFT, *ADMINISTRATIVE JURISPRUDENCE: Responsabilité sans faute en cas d'épide de rubéola*, *La Revue administrative* 22nd Year, No. 128 (MARCH APRIL 1969), page 174



Accordingly, we conclude that the French administrative judiciary allows the possibility of establishing the administration's responsibility towards its employees infected with epidemics, including the Covid-19 pandemic, so that it assesses it on the basis of the idea of occupational risks, in which the administrative judiciary is satisfied to rule on the administration's responsibility and the right of the injured employee to receive compensation, once the elements of damage and causality are achieved, that the infection is the cause of that damage, without the need to prove the error on the part of the administration because it is non-existent or unknown¹.

2- The Algerian judiciary and legislator's adoption of the idea of occupational risks as a basis for the state's responsibility towards its employees infected with epidemics

The Algerian administrative judiciary and legislator have adopted the same approach that was established and settled upon by their French counterparts, such that they have established in many legal texts the system of administrative liability for occupational risks and damages that employees are exposed to during or in the course of performing their duties, perhaps the most prominent of which is the general basic law for public service and the model basic law for workers in public institutions and administrations.

Where we find that Order No. 06-03, which includes the general basic law for the civil service, stipulates the state's duty to protect the employee from any assault of any nature to which he may be exposed during the exercise of his duties or in connection with them, and to guarantee compensation for his benefit for the damage that may befall him, so that the state replaces the employee in these circumstances to obtain compensation from the perpetrator of those acts. The state also has the right for the same purpose to file a direct lawsuit before the judiciary by establishing itself as a civil party before the competent authority². This is the same provision included in Decree No. 85-59, which includes the model basic law for workers in public institutions and administrations³, which stipulates in Article 19 that the public institution or administration must protect workers from any assault of any kind to which they may be exposed during the exercise of their duties, by imposing the burden of compensating them for the damages incurred as a result of those assaults, while reserving its right to replace the victim worker and to refer to the perpetrators of the threat and assault, to recover the amounts of compensation that it paid to the injured worker, in addition to the possibility of filing a direct case for the same purpose before the criminal judiciary when necessary in order to claim By civil right.

Perhaps one of the most severe attacks that may occur to an employee, especially during this period of the spread of the Corona virus, is the deliberate assault on him by others during or on the occasion of performing his duties by transmitting the infection of this virus to him, and in view of the danger involved in this heinous and irresponsible act, as it threatens and exposes the employee's life and physical safety directly to danger in a clear violation of the duties of precaution and safety imposed by law or regulation, and therefore we find that the Algerian legislator has criminalized and increased the penalty for the perpetrator of this type of attack in light of the

¹ - It is an objective, non-subjective responsibility, meaning that it does not require the administration to be convicted of committing an error, but rather it is determined by its administrative activity, even if it was legitimate, simply because it caused harm to others, and that harm is redressed by compensation. For more on this topic, see Abdullah bin Shatit Al-Sharari, *The Position of the Saudi Administrative Judiciary on the Theory of Administrative Liability Without Error*, a working paper submitted to the Seventh Conference of Presidents of Administrative Courts, held on 21-23/08/2017, at the League of Arab States, the International Center for Legal and Judicial Research, Beirut, Lebanon, p. 25

² - Article 30 of the General Basic Law of the Civil Service

³ - Decree No. 85-59 of March 23, 1985, including the model basic law for workers in public institutions and administrations, Official journal No. 13, dated March 24, 1985

latest amendment to the Penal Code issued by Law No. 20-06 dated April 28, 2020¹, especially if these acts are committed during the quarantine period during which the Corona virus is witnessing a peak and rapid spread².

This means that in the event that an employee is subjected to an assault by a third party in order to transmit the Coronavirus infection, the employing administration must take all necessary measures to protect its employee from this assault, including filing a complaint with the regionally competent public prosecutor, to prosecute the perpetrator of the damage criminally³, for the misdemeanor of directly endangering the employee's life or physical safety in accordance with Article 290 bis of the Algerian Penal Code⁴, in addition to the necessity of taking all necessary measures to enable the injured party to obtain compensation for the material and moral damages he suffered as a result of this assault, as he has the right to demand compensation from the employing administration, which must cover the amounts of compensation due resulting from harmful accidents that occur to its employees during the exercise of their duties or in connection with them, from its own budget on a fair and equitable basis, provided that it reserves the right to return to the perpetrator of the damage the full amount of compensation it paid to the injured employee⁵.

II- The importance and specificity of damage as a condition for establishing the state's responsibility on the basis of occupational risks towards its employees infected with epidemics

The administrative judiciary attaches utmost importance and care to the element of damage in administrative liability without fault in general and administrative liability based on occupational risks in particular, as without it the employee cannot claim compensation for being infected with the epidemic. In fact, the administrative judiciary refuses to compensate for the damage associated with the employee being infected with the epidemic, if any, unless this damage meets a set of conditions, which are represented in particular⁶ in the necessity that the damage has reached a certain level of seriousness and unusual danger, in addition to the specific nature of the damage, which we will try to clarify in each element separately.

1- The requirement of the specificity of the damage to rule on the state's responsibility on the basis of occupational risks

¹- Law No. 20-06 of April 28, 2020 amending and supplementing Ordinance No. 66-156 of June 8, 1966 containing the Penal Code, published in the Official journal No. 25 of April 29, 2020

²- Article 290 bis, paragraph 02 of the amended and supplemented Penal Code states the following: (The penalty shall be imprisonment from three to five years and a fine from 300,000 DZD to 500,000 DZD, if the above-mentioned acts are committed during periods of quarantine or during a natural, biological, technological or other disaster)

³- Hussein bin Sheikh Ath Malouia, Lessons in Administrative Responsibility, Book Two, Responsibility Without Error, Dar Al-Khaldouniya, First Edition, Algeria, 2007, p. 70

⁴- See Article 290 bis of the amended and supplemented Penal Code

⁵- See Article 148 of Law No. 11-10 of June 22, 2011 relating to the municipality, published in the Official journal No. 37 of July 3, 2011

⁶- Taking into account the general conditions of damage required by the administrative judiciary to establish administrative liability of both types, faulty and non-faulty, where the damage must be certain, the damage must be quantifiable in money, and the damage must have violated a position protected by law. For more on this topic, see Alaa El-Din Mohamed Hamdan, Administration Liability for Moral Damage: A Comparative Study, Al-Wafa Legal Library, First Edition, Egypt, 2018, p. 114. See also Ali Khattar Shantawi, Public Administration Liability for Its Harmful Acts, Wael Publishing and Distribution House, First Edition, 2018, Jordan, 2018, p. 297



The administrative judiciary has settled on the condition and necessity that the damage resulting from infection with epidemics has the specificity¹, as this condition is considered a decisive element in this type of responsibility², and accordingly it does not hesitate to rule to exempt the administration from its responsibility, and thus refuse compensation for the damage resulting from infection with epidemics, if the specificity of this damage is absent³.

Jurisprudence defines private damage as personal damage as (the damage that befalls a specific person or persons or a specific category, such that the injured person finds himself in an exceptional situation that is not shared by other individuals)⁴. It is understood from this that private damage is the opposite of public damage that befalls an unspecified number of individuals,

¹- The applications of administrative judiciary, whether in Algeria or France, are many regarding the issue of requiring the specificity of the damage that gives rise to non-fault administrative liability. For example, we mention the decision issued by the French State Council on November 30, 1923 in the (Couitéas) case, in which it recognized the latter's right to obtain compensation for the damage he suffered as a result of the failure to implement a judicial ruling in his favor, since the damage he suffered was private, and not of the general damages that the plaintiff must bear as a general burden. The French State Council decision stated the following:

(For the reasons and in the circumstances above, the damage which may result from this refusal cannot, if it exceeds a certain duration, be regarded as a burden normally falling on the person concerned, and it is up to the judge to determine the limit to which it must be supported by the community). See *Revue générale du droit*, Conseil d'Etat, Section, 30 November 1923, Couitéas, request number 38284, rec. p. 789

This is the same trend that the Administrative Chamber of the Supreme Council in Algeria based its decision issued on June 9, 1977, where it considered the damage caused by the explosion of a gasoline tanker in a warehouse belonging to the Central Security in Algiers, as private damage in view of its seriousness that exceeds the burdens that private individuals must bear. As indicated by Hussein bin Sheikh Ath Malouia, *Al-Muntaqa fi Qada'a Al-Dawla*, Part One, Dar Houma for Publishing and Distribution, Algiers, 2002, p. 78

²- Part of the jurisprudence attributes the strictness of the administrative judiciary in requiring the specificity of the damage that gives rise to administrative liability without fault, to the harsh criticism directed at it when it created this theory, as some warned of the danger of adopting it in its absolute and general sense, as it may lead to exhausting the state treasury. It seems that the administrative judiciary has responded to these demands when it set this condition, thus making administrative liability without fault an exceptional and complementary theory to the theory of administrative liability by mistake. For more on this subject, see what Ammar Awadi pointed out, *The Theory of Administrative Liability, An Authentic, Analytical and Comparative Study*, Office of University Publications, Algeria, 2007, pp. 204-205

³- For example, we mention the decision issued by the French State Council on December 10, 1961, which ruled that compensation for the damage suffered by the plaintiff as a result of the law issued not to postpone taking measures to evict residents in the winter was not acceptable, because the damage suffered by this plaintiff was not private damage, but rather general damage as it affected all property owners. For more on this subject, see Ammar Awadi, the same reference, p. 221

⁴- Abdul Malik Younis Muhammad, *op.cit*, p. 296



without them having the right to claim compensation, as it is considered a public burden that all individuals must bear.

Accordingly, compensation for damage in administrative liability on the basis of professional risks requires that the damage be of a specific nature, meaning that it befalls a specific number of employees, i.e. a specific person or a specific category of employees. However, if it befalls an unspecified number of employees, it becomes public damage, with which the administration's liability on the basis of professional risks is not established.

However, if this meaning does not raise any problem in distinguishing between private and public harm, when it comes to harm that befalls a specific person, the problem arises when the harm befalls a category or group of people, since public harm befalls a group of people as well, as if the harm befalls the residents of an entire city, as is the case with the Covid-19 pandemic. Is the harm in such a case considered private or public?

In this regard, some jurisprudence sees the possibility of the damage being private, even if the injured party is the entire population of a region, as long as the damage is not a normal and common occurrence, as is the case with disasters and epidemics¹. In this case, the administration is responsible and must therefore be obligated to compensate for the damage.

Hence, it can be said that the criterion in determining the extent of the specificity of the damage or not lies, as a general principle, in adopting the criterion of numbers, which represents the general rule, represented by the single person or the specific category in itself. However, it is possible to exclude adopting the criterion of the circumstances in which the damage occurred, as it is often possible to imagine that a large number of individuals have been injured in the case of exceptional circumstances, in which compensation is based on the idea of solidarity between individuals and the administration. This is the position adopted by the French State Council, which went so far as to rule that the damage that has befallen a large number of companies is a special damage, keeping in mind the specificity of their activity, which is confirmed by virtue of its decisions issued in 1984 and 1986.²

Accordingly, jurisprudence has established two hypotheses to determine whether the harm is specific. The first hypothesis is that an entire category of individuals representing the same characteristics, given that their professional status is concerned with the harm, and in such a case the harm is not of a specific nature. The second hypothesis is that a group of individuals from among the category practicing the same activity is concerned with the harm, and in this case the harm is specific³.

2- Requiring the severity of the damage to rule on the state's responsibility on the basis of occupational risks

In addition to the condition of the specificity of the damage, the administrative judiciary requires, in order to rule on compensation in administrative responsibility on the basis of occupational risks, that the damage resulting from infection with the epidemic be of a degree of severity, in a way

¹ - If the damage that befell the population is a matter of usual and common occurrence, then the responsibility of the administration is determined without fault, as is the case, for example, with regard to the damage that usually befalls a group of people and residents due to government measures to maintain security in a certain area, since it is one of the principles of justice and fairness that the social body bears the consequences of those measures taken. For more on this subject, see Maurice Nakhl, Maurice Nakhl, Responsibility of Public Authority, Dar Al-Manshourat Al-Huquqiya, first edition, Lebanon, no year of publication, p. 22

² - Alaa El-Din Mohamed Hamdan, Management's Responsibility for Moral Harm, A Comparative Study, Al-Wafa Legal Library, First Edition, Egypt, 2018, pp. 162-163

³ - Masoud Shihoub, Responsibility for Violating the Principle of Equality before Public Burdens and Its Applications in Administrative Law, Office of University Publications, Algeria, 2000, p. 24



that exceeds the normal burdens that individuals in society are exposed to or should bear, as it does not hesitate to rule to exempt the administration from its responsibility when the damage resulting from infection with the epidemic is simple.

Accordingly, serious harm has been defined as (harm that cannot be considered as a normal risk or burden to society, and cannot be attributed to a specific facility error)¹. In this sense, it can be said that serious harm is considered in its meaning as an extraordinary burden that leads to a lack of balance between members of society. Therefore, it is logical to apply administrative liability on the basis of professional risks as an exceptional system, to restore the lost balance when the harm reaches a certain level of seriousness.

Returning to judicial applications, we find that the French administrative judiciary has stipulated in many judicial decisions to rule on compensation for damage resulting from infection with epidemics on the basis of occupational risks, that this damage be serious and unusual. Among these judicial decisions, we mention, for example, the decision issued by the French Council of State on November 6, 1968 in the case of *Mrs. Soules*, in which it ruled that the injured teacher Soules had the right to demand compensation from the state as a result of her infection with the German measles epidemic while she was pregnant while performing her job of teaching, since the damage that she suffered as a result of this epidemic is considered a serious damage that involves special and abnormal risks².

This is the same position adopted by the Algerian administrative judiciary, which also relied on the condition of the seriousness of the damage as a basis for ruling on compensation based on professional risks. This is what is understood from the decision of the Algerian State Council issued on July 22, 2003, which stated the following: (In addition to that, if the responsibility of a public authority is established even without it committing any error, then the damage must also be serious and unusual)³.

By reviewing the various administrative judicial rulings issued by the Algerian and French judiciaries, we notice the extreme importance of this condition for ruling on the responsibility of the administration on the basis of occupational risks for employees infected with epidemics, noting that the administrative judiciary is not satisfied in this context with one single criterion to determine whether the damage resulting from the activity of the administrator is serious or simple, sometimes it relies on the criterion of the value of the material losses caused by the damage, and at other times it resorts to applying the criterion of time as the length of the delay or abstention of the administration from intervening to prevent the occurrence of the damage, and in general it can be said that the task of determining the extent of the seriousness of the damage in administrative responsibility remains a relative matter that depends primarily on the discretionary power of the administrative judge in each case brought before him⁴.

¹- Sulaiman Muhammad Al-Tamawi, *Administrative Judiciary, Compensation Judiciary and Methods of Appealing Rulings*, previous reference, p. 208

²- The French State Council decision issued on November 6, 1968 stated the following: (...In the case of a rubella epidemic, the fact that a pregnant teacher is permanently exposed to the dangers of contagion involves a special and abnormal risk for the unborn child which, when it results in serious harm to the victim, is such as to engage, on the latter's behalf, the liability of the State). See *Revue générale du droit, Conseil d'Etat, Assemblée*, 6 November 1968, Dame Saulze, application number 72636, rec. p. 550

³- Algerian State Council Decision No. 11086 issued on July 22, 2003, Case (B.F.) against the President of the People's Municipal Council of Oran, *State Council Magazine*, Issue 05, for the year 2004, p. 205

⁴- Abdul Malik Younis Muhammad, *op.cit.*, p. 296



CONCLUSION:

Through our review and analysis of various legal texts, we conclude that the administrative judge's recognition of the administration's liability on the basis of occupational risks for damages inflicted on its employees during or on the occasion of performing their duties, depends on the necessity of a set of conditions being met:

- That the employee's injury as a result of his exposure to epidemic infection during or on the occasion of performing his duties, as is the case with the Corona virus, requires the administration to be held accountable for that damage on the basis of the risk theory, whether as the source of that damage in the event of its failure to fulfill its legal duties and its failure to take the necessary measures to care for its employees and protect them while performing their duties, especially in light of the current health conditions and considerations, or if the source of that damage was someone else.
- The ruling on the responsibility of the employed administration on the basis of occupational risks towards its employees infected with epidemics is primarily dependent on the condition that the employee is exposed to harm as a result of the administration's negligence and failure to take the necessary precautions to limit the spread of the epidemic among its employees, or as a result of the employee being deliberately assaulted by a third party by an act punishable by law in clear violation of the duties of caution and safety imposed by law or regulation, especially during the quarantine period, during or on the occasion of performing his duties by transmitting the infection of this virus to him.
- The employee's benefit from his right to receive compensation based on the theory of occupational risks depends on the condition that the employee is infected with the epidemic (Covid-19) during or on the occasion of performing his duties, so that the administration's responsibility to compensate for any harm that may have occurred to the employee outside of working hours is negated.
- The specificity of the damage in administrative liability based on risks does not conflict with the right of the injured employee infected with the epidemic to obtain compensation, as long as the damage in such a case takes the private damage even if it affects a large group of employees, since this damage resulting from the epidemic infection is not among the usual and common things that occur and occur, so that compensation is based on the idea of solidarity between individuals and the administration.
- The administration's responsibility towards its employees infected with epidemics based on occupational risks remains a relative and non-conclusive issue, given that this responsibility is not decided unless it is proven to the administrative judge that the damage suffered by the employee is serious and not simple, and that the issue of assessing the damage whether it is serious or simple remains a relative issue such that it depends primarily on the discretionary power of the administrative judge in each case brought before him.

LIST OF SOURCES AND REFERENCES

1. Law No. 11-10 of June 22, 2011 relating to the municipality, published in the Official journal No. 37 of July 3, 2011
2. Law No. 20-06 of April 28, 2020 amending and supplementing Ordinance No. 66-156 of June 8, 1966 containing the Penal Code, published in the Official journal No. 25 of April 29, 2020
3. Ordinance No. 06-03 of July 16, 2006 containing the general basic law for civil service, published in the Official journal No. 46 of July 16, 2006
4. Decree No. 85-59 of March 23, 1985 containing the model basic law for workers in public institutions and administrations, Official journal No. 13, of March 24, 1985



5. Executive Decree No. 20-68 dated March 21, 2020 regarding measures to prevent and combat the spread of the Corona virus Covid-19, published in the Official journal No. 15 dated March 21, 2020
6. Rasha Abdul Razzaq Jassim Al-Shammari, *Modern Principles of Public Service between Islamic Sharia and Positive Law*, National Center for Legal Publications, First Edition, Egypt, 2016
7. Suleiman Muhammad Al-Tamawi, *Administrative Judiciary, Compensation Judiciary and Methods of Appeal against Rulings*, Dar Al-Fikr Al-Arabi, Egypt, 2013
8. Abdul Malik Younis Muhammad, *The Basis of Administrative Liability and its Rules, A Comparative Study between the Unified and Dual Judicial Systems*, Dar Al-Kotob Al-Qanuniyah, Egypt, 2012
9. Alaa El-Din Muhammad Hamdan, *Administration Liability for Moral Harm, A Comparative Study*, Al-Wafa Legal Library, First Edition, Egypt, 2018
10. Ali Khattar Shantawi, *Public Administration Liability for its Harmful Acts*, Dar Wael for Publishing and Distribution, First Edition, 2018, Jordan, 2018
11. Amar Awadi, *Theory of Administrative Liability, An Authentic, Analytical and Comparative Study*, Office of University Publications, Algeria, 2007
12. Hussein bin Sheikh Ath Malouia, *Selected in the Judiciary of the Council of State, Part One*, Dar Houma for Publishing and Distribution, Algeria, 2002
13. Hussein bin Sheikh Ath Malouia, *Lessons in Administrative Liability, Book Two, Liability Without Error*, Dar Al-Khaldouniya, First Edition, Algeria, 2007
14. Maurice Nakhl, *Maurice Nakhl, Liability of Public Authority*, House of Legal Publications, First Edition, Lebanon, No. of Publication Year
15. Alaa El-Din Mohamed Hamdan, *Liability of Administration for Moral Harm, A Comparative Study*, Al-Wafa Legal Library, First Edition, Egypt, 2018
16. Masoud Shihoub, *Liability for Breach of the Principle of Equality before Public Burdens and Its Applications in Administrative Law*, Office of University Publications, Algeria, 2000
17. *Journal of the Council of State*, Issue 05, for the year 2004
18. Anna Neyrat, *The relationship between national administrative law and foreign administrative laws*, Editions L'Harmattan, Paris, 2019
19. Nadine Poulet-Gibot Leclerc, *Administrative law: sources, means, controls*, Editions Bréal, Paris, 2007
20. J.-P. CHAUDFT, *ADMINISTRATIVE JURISPRUDENCE: Liability without fault in the event of a rubella epidemic*, La Revue administrative 22nd Year, No. 128 (MARCH APRIL 1969)
21. *General Review of Law*, Council of State, Assembly, November 6, 1968, Dame Saulze, request number 72636, rec
22. *General Review of Law*, Council of State, Section, November 30, 1923, Couitéas, request number 38284, rec