



THE LEBANESE CITIZEN'S GUIDE ON ADMINISTRATIVE JUDICIARY



“THE LEBANESE CITIZEN’S GUIDE ON ADMINISTRATIVE JUDICIARY”

Throughout daily life, one might encounter multiple disturbances that may create conflicts between that person and other entities (natural or moral), thus leading to clashes, hostilities, and misunderstandings.

Accordingly, the law offers every individual in society the right to resort to judiciary means when attempting to protect and preserve one’s rights. This is due to the fact that resorting to brute force to attain one’s rights threatens peace and stability.

Thus, the Lebanese constitution ensures one’s right to turn to judiciary means, and considers this a public freedom, as justice is the greatest ambition in all societies.

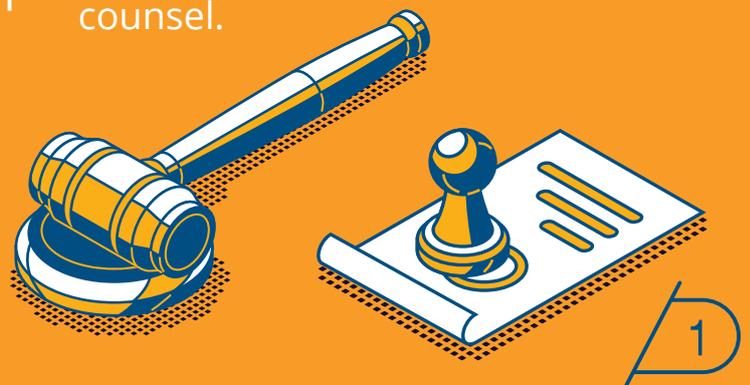
In Lebanon, a dual judiciary system has been adopted, thereby dividing judiciaries into Civil and Administrative courts.

Civil Courts

Specialize in settling disputes amongst citizens or between them and the administration, when the latter acts as an individual of private law – meaning, when the administration operates as a regular citizen. For instance, if a dispute arises between an individual and the administration due to the administration leasing the individual’s private property or due to it being the renting party of said property, then jurisdiction goes to Civil Courts.

Administrative judiciary

Or what is currently referred to as State Council, specializes in disputes concerning public law, where the administration is a litigant (the state, a local authority – municipalities in Lebanon, a public institution, or a private organization under public contract). The Administrative judge also adjudicates disputes arising from local elections (municipal). Finally, in addition to its judicial duties, the State Council provides governmental counsel.



THE STATE COUNCIL

Q What is the main role of the Council, and what is its importance in the Lebanese Judicial system? What is it composed of? What is the scope of its domain? And what are the litigations it handles?
These, and more, are all questions that the average citizen might wonder about.

In this guide, we attempt, to the best of our abilities and with the help of graphs and charts, to answer them as clearly and as concisely as possible.

Q Established in 1924 and composed initially of Lebanese and French judges, the State Council embodies the supreme court that undertakes the administrative bench.

Q Its function was limited initially to judicial affairs (meaning, resolution of administrative conflicts that result from the execution of public affairs and from the relationship between individuals and the administration) and did not include counsel duties. This, and the task of drafting laws were added in 1941. However, the State Council was disbanded on multiple occasions between the years of 1928 and 1953, with its capacities being transferred to the Civil Court of Cassation, until it resumed its functions permanently thereafter. Finally, in 1959, the State Council was restructured by order of legislative decree number 59/119, and a court was established for dispute resolution.

The structure and edicts of the State Council are currently governed by decree number 10434/1975 that pertains to the organization of the State Council. It has been amended multiple times, the last of which was in the year 2000, whereby law number 227 was published, establishing first instance administrative tribunals. These were created initially to act as first instance courts of general jurisdiction that handle administrative cases, with the State Council acting as a reference for appeals and cassations for the verdicts issued by them. However, the council would maintain its role as the first and last court in specific cases. Alas, as no decree was made by the Ministry of Justice that could establish these administrative courts, the State Council remained the one and only authority on administrative cases.

Q The State Council is currently located on the fifth floor of the Palace of Justice in Beirut.



Q Administrative judiciary differs from Civil & Criminal judiciary in that it follows an entirely different operating procedure whether regarding its applicable laws (administrative law that relies mainly on jurisprudence) or regarding its internal structure and the status of administrative judges. Administratively, the State Council comprises one of the Ministry of Justice, and is considered an independent and efficacious judicial authority that citizens and administrations can turn to for the protection of their rights.

WHO ARE THE JUDGES OF THE STATE COUNCIL?

The State Council is currently located on the fifth floor of the Palace of Justice in Beirut.

Judges of the State Council and Administrative Courts	Numbers
President	1
Governmental Commissioner	1
Chamber heads (5 including Council President)	4
Court heads*	6
Advisor / Counsellor	35
Assistant advisor / Assistant counsellor	32
Administrative court advisor*	20

Thus, rendering the State Council judges, to the total of

99 Judges

However, their actual number today (in 2020) is

48 Judges

NOTE: The administrative court has not been established yet.

WHO ARE THE COUNCIL'S JUDICIAL ASSISTANTS?

The legal assistants who help judges fulfill their tasks are comprised of governmental employees, and consist of: department heads, division heads, editors, clerks, assistant clerks, process servers, and bailiffs.



Paralegals	Numbers
Department head	1
Division head	5
Editor or Clerk	15
(Assistant clerk (first or second	10
Process server	10
Bailiff	7

Thus, rendering the total of judicial assistants to

48

Assistants

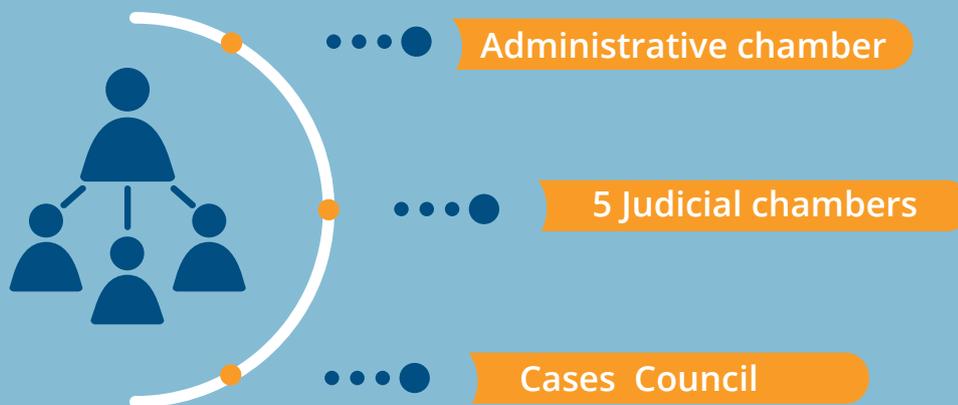
THE INSTITUTIONS OF THE STATE COUNCIL

The tasks of the administrative judiciary are distributed among institutions with a judiciary or advisory capacity on one hand (I), and institutions with an administrative or decision-making capacity on the other (II). These will be summarized as follows:

I. INSTITUTIONS WITH A JUDICIARY AND ADVISORY CAPACITY:

The State Council is divided into seven units:

- Six chambers: one of which is administrative, and the remaining five judicial
- Cases Council



Additionally, the government/state commission assists the State Council in its judicial duties.



1. THE CHAMBERS

The six chambers of the State Council are divided into one administrative chamber, and five judicial ones. The founding of the chambers and the distribution of duties within them ensues from a decree issued by the Minister of Justice based on a proposal from the State Council President.

THE JUDICIAL CHAMBERS:

- Currently totaling five, it is possible to add to their number by order of a decree from the Council of Ministers upon a request from the Minister of Justice.
- Each chamber is comprised of a president and two advisors, at least, with one or more assistant advisors attached to help with the work.
- The chamber president can appoint a rapporteur and complete the commission when necessary, and in the absence of the chamber president, the highest ranking counsellor performs his/her duties.

The duties are currently distributed among the chambers as follows:

- i** • **The First Chamber:** Handles cases that revoke misuse of authority.
- ii** • **The Second Chamber:** Handles recourses to administrative contracts, public property occupancy, franchises, and expropriation matters.
- iii** • **The Third Chamber:** Handles recourses to building permits.
- iv** • **The Fourth Chamber:** Handles the revocation and annulment of litigations related to state employees, employees and freelancers of public institutions and municipalities, as well as their disciplinary cases.
- v** • **The Fifth Chamber:** Handles cases related to elections and classified institutions (like gas stations, quarries, and crushers), cases dealing with taxes and tolls, and any other cases that don't fall under the jurisdiction of other chambers.

NOTE:

The fifth chamber acts as an appellate court in requests for recourse and objections on the decisions of the tax objection committees as per principles and mechanisms specified by tax laws in terms of fees and appellate insurance.

THE ADMINISTRATIVE CHAMBER:

Role:

This chamber handles counselling tasks in administrative and legislative affairs. As such, the State Council is consulted in administrative matters that governmental administrations refer to it.

Additionally, the State Council partakes in the formulation of laws, provides an opinion on the law drafts that the ministers refer to it, suggests amendments it deems necessary to them, and prepares and drafts legislative texts that it is required to produce. The state council can also be consulted on drafts for international treaties as well as drafts for circulars and on any other important matter that the council of ministers needs consultation on.

Requests for consultations from the State Council become compulsory in matters of drafts of legislative decrees and drafts of regulatory texts, as well as in all matters that the laws and protocols specify the need for its counsel.



Structure:

A president heads the State Council, with the possibility of one of the chamber presidents filling in for him/her where necessary. It is also possible for him/her to appoint one or more counsellors and assistant counsellors to partake in the chamber's affairs as titular members. Currently, this chamber is composed of all the members of the council, and cases are assigned to the judges as per their area of specialty in each of the five chambers they work in.



2. CASES COUNCIL



Role:

The Cases Council looks into lawsuits that are filed to the State Council and referred to it due to being controversial or having a certain importance from a legal perspective. Additionally, judges' litigations and litigations filed in favor of the law fall into its jurisdiction by default.



How recourses are referred to it:

The parties in a lawsuit do not have the authority to request the referral of a recourse to the Cases Council. The privilege to refer an unresolved consultation in one of the chambers of the State Council is reserved for the president of the Council, upon his request or that of the government commissioner or the head of the chamber conducting the litigation. Furthermore, the Cases Council of the Ministry of Justice can submit, as a matter of course, or upon the request of the competent minister, revisions in favor of the law, opposing every administrative or judiciary verdict, even when this verdict is final.

The primary objective of this is to unify jurisprudence: multiple rulings might issue from the State Council on one matter. Accordingly, it is then referred to the Cases Council to unify the jurisprudence. Taking precedence from the principles implicit in its decisions, the Council unifies the jurisprudence of the chambers of the State Council, working in accordance with the provisions of the last paragraph of article 35 of decree 75/10434.



As for matters defaulting under the jurisdiction of the Cases Council:

1. Recourses submitted by judges
2. Recourses submitted by the Judicial Commission of the Ministry of Justice for the benefit of the law. These recourses have no effect on the litigants, but are only beneficial to the law as they aim to correct the legal path of a certain issue. An example is the decision of the Cases Council to invalidate the ruling of the State Council (totally or partially) due to an error in the interpretation of the law.



Its Structure and Decision-Making Process:

The Cases Council is composed of the president of the State Council as its head, the chamber heads, and three counselors chosen by the president of the council at the beginning of the judicial year. Accordingly, the Cases Council consists of 9 members.

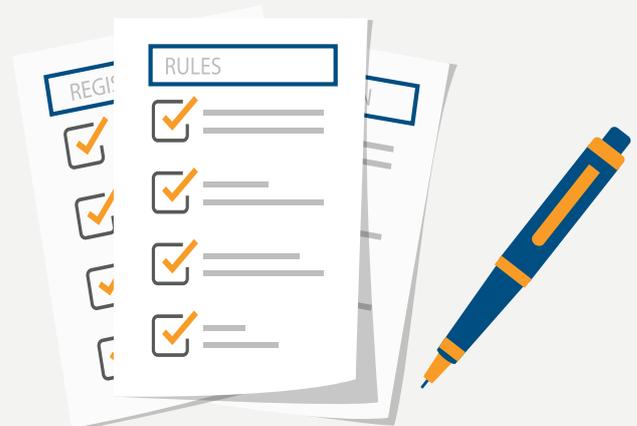
No rulings may be issued by the Cases Council except from the president and at least four members, such that the presidential vote is qualifying in the event of a tie.

3. STATE COMMISSION

Role:

The State Commission assists the chambers of the State Council with regular litigations as well as when facing the Cases Council. Additionally, its opinion is required in cases that necessitates summary proceedings.

After reviewing the case file sent to him/her by the appointed advisor, along with the attached advisor's report, the State Commissioner or the delegated assistant commissioner proceeds with a justified review for all the cases presented to the State Council. Additionally, he/she is expected to present his/her opinion as an impartial and independent representative of the law, with no prejudice. The review is then saved along with the appointed advisor's report, and all parties may make comments about it. However, it is nonbinding as it does not link the State Council. Finally, the State Commissioner personally presents his/her review to the State Council, but when that is not possible, his/her main assistant may present it on his/her behalf.



Structure:

The commission is composed of the State Commissioner aided by a maximum of four assistants appointed from among the counsellors or assistant counsellors following a decree issued upon the termination of the Council's office and the suggestion of the Minister of Justice. The State Commission in the State Council is not considered a representative of the government, despite what the title suggests, but is independent in his/her tasks from the Ministry of Justice and the government.

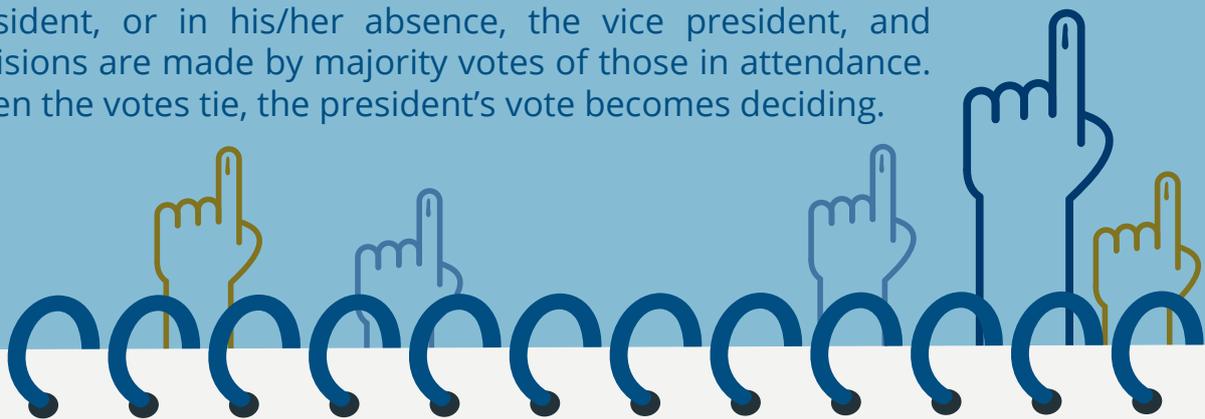
II. INSTITUTIONS WITH AN ADMINISTRATIVE OR DECISION-MAKING CAPACITY:

Certain administrative bodies exist to regulate the administrative judiciary, such as the Office of the State Council, or to supervise it, such as the Disciplinary Council. Additionally, the judges together form a public commission that meets annually and has, in principle, decision-making power. However, its role remains marginal in this regard.

1. THE OFFICE OF THE STATE COUNCIL

The Office of the Council is responsible for overseeing the proper functioning of the administrative judiciary and its independence and the smooth functioning of its operations, as well as its prominence and makes the necessary decisions for this regard. Additionally, the Office of the State Council plays, for administrative judiciary, a role that resembles that of the Supreme Judicial Council plays for juridical judiciary. Accordingly, it enjoys the same powers of hiring, promoting, and transferring judges as well as distributing the work within the council.

The Office of the State Council meets at the invitation of the president, or in his/her absence, the vice president, and decisions are made by majority votes of those in attendance. When the votes tie, the president's vote becomes deciding.



Structure:

The Office of the State Council is currently composed of 7 members, including:

1. The President of the State Council (President)
2. The State Commissioner at the State Council (Vice President)
3. The Chamber Presidents at the State Council (Members)
4. The President of the Judicial Inspection Authority (Also a member of the Supreme Judicial Council).

* Three members are supposed to be added to the council, consisting of the three highest ranking presidents of the administrative courts, once they are formed. Thus, making the total number of members ten, as is the case in the Supreme Judicial Council.

2. THE DISCIPLINARY BOARD:

The Lebanese legislator provided a number of guarantees for the members of the State Council to allow them to perform their tasks with confidence and reassurance. For instance, no member can be terminated from service except through the Disciplinary Board. Accordingly, the Disciplinary Board looks into matters that concern the conduct of administrative judges. Consequently, a judge is referred to the Disciplinary Board if he/she commits a behavioral transgression, such as negligence in performing his/her duties, or committing an act that mars the honor, integrity, or ethics of his/her position, pursuant to the provisions of article 24 of Decree 75/10434.

Structure:

The Disciplinary Council is composed of:

- The President of the State Council
- The State Commissioner
- The three highest ranking Chamber Presidents.



As for the penalties that the Disciplinary Board may adjudicate, they are:

1. Reproach
2. Suspension from duties without pay for a period not exceeding one year
3. Delaying ranking for a period not exceeding two years
4. Demotion of rank
5. Demotion of class
6. Termination of service
7. Dismissal with denial of compensation or pension, and in this case, retirement deductions are returned to the judge.

* It is of note that the law does not include a classification for the seriousness of the behavioral errors. As such, the disciplinary board has a margin of discretion when meting punishments, such that a certain punishment might not be in proportion with the gravity of the mistake. Additionally, the decisions of the disciplinary board are in no way contestable, including by cassation, such that a decision is effective as soon as the concerned person is informed administratively. This is inconsistent with the principles of a fair trial (Article 26 of the State Council bylaws).

3. THE GENERAL ASSEMBLY OF THE STATE COUNCIL



The General Assembly plays, in principle and according to legal script, a vital role, whereby the President of the State Council submits a detailed report about the Council's accomplishments throughout the previous year, and reference is made in this report to the various legislative, systemic and administrative reforms that are deemed useful to the public interest.



After debating the content of the report and the suggested reforms, the decisions of the General Assembly are drafted and sent to the Minister of Justice. The decisions of the General Assembly are taken by majority votes of the attending members, with the vote of the President being weighted in the case of a tie.



Alas, in reality, the situation is very different, such that an annual report is prepared containing a general inventory of all the important matters that had happened throughout the year as well as the number of lawsuits and revisions submitted to the State Council and those that have been fully dismissed. These are then compared with previous years. It also showcases the most significant jurisprudences issued, during that year, by the Chambers and the State Council. Consequently, it is clear that the General Assembly of the State Council does not issue decisions with the aim of instituting legislative, regulatory and administrative reforms that benefit the public interest.



Furthermore, it is now customary for the President of the State Council to submit a copy of the report that he prepares to the other judges on the day of the assembly, and the content is neither discussed nor the decisions formulated. Thus, the report only includes the decisions of the President.

Structure and Meetings:

The State Council convenes annually in a general assembly during the month of October, by invitation from the Council President. This General Assembly is composed of all the judges of the State Council.

The assembly convenes only when half its members are present, at least.

Article 46 of Decree No. 10434 of 1975 that organized this body stipulated that its meetings must be confidential.

IN WHICH DISPUTES CAN THE STATE COUNCIL BE CONSULTED?

Structure and Meetings:

A review is presented to the Council for:

1. Disputes against persons of public law {the state in all its agencies (the ministries, provinces...), municipalities (and municipality federations), public institutions} – that is, when the review is filed by a citizen (as a petitioner) against a person of public law (as a respondent). Then, the State Council must mediate this dispute, and not the juridical judiciary.

However, if the lawsuit is filed by the public administration against a citizen or between citizens among themselves, it is then the specialty of juridical judiciary.

2. Disputes between persons of public law, amongst themselves.

3. Disputes against persons of private law (such as those with special privileges who manage a public facility, or exercise an administrative public power).



PLAINTIFF	DEFENDANT	SPECIALIZED COURT
Civilians	Persons of public law	State Council
Persons of public law	Civilians	Juridical judiciary
Civilians	Civilians	Juridical judiciary
Persons of public law (such as: Ministry of Public Works)	Persons of public law (such as: a Municipality)	State Council
Civilians Persons of public law	Certain people of private law (such as those with special privileges who manage a public facility, or exercise an administrative public power).	State Council

THE POWERS OF THE STATE COUNCIL

Q The advisory powers of the State Council:

Within the legislative and administrative fields, the State Council's tasks are limited to providing advisory opinions to the governments and persons of public law.

For example: The State Council gives an advisory opinion on drafts of regulatory texts and legislative decrees (binding counsel, or the decisions are void) and drafts of laws prepared by the government (nonbinding counsel)

Q The judiciary powers of the State Council:

1 Appeals related to the annulment of administrative decisions
For example: The issuance of an administrative decision by the improper authority, such as a governor overstepping on another governor's powers.

Disputes related to administrative contracts

Conditions for a contract to be considered administrative:

1. *The administration is a party in the contract*
2. *The subject matter of the contract involves the conducting of a public matter*
3. *The contract involves exceptional and unusual conditions unprecedented in private law*

If these conditions are not present in the contract, it is considered civil, not administrative, and thus, falls under the jurisdiction of juridical judiciary.

For example: A contractor's contract for the construction of a public road.

Contestations to administrative council elections

For example: contestations to the elections of municipal councils, elective bodies, and others.

* Keep in mind that the disputes that arise from the elections of civil association bodies, those arising based on the provisions of the Associations Law of 1909, and those related to the validity of the elections of professional union boards do not fall within the jurisdiction of the administrative judiciary, but the juridical judiciary .

Direct and indirect tax issues.

The State Council specializes in reviewing cases as an appellate reference, as they are first looked into by tax objection committees.

For example: objections on income tax.

4

Requests for compensation for damages resulting from public works, the execution of public interests, or those resulting from the operation of administrative work.

For example: compensation requests for damages on private properties due to the construction work of a pedestrian bridge.

5

Cases related to the employment of public assets

For example: the employment of naval assets or a sidewalk without a permit.

6

7

Personnel issues and individual disputes related to Parliament employees.

For example: decisions to employ, discipline, or promote.

Issues of interpretation and assessment of validity of administrative actions

This situation arises when a case is pending in a judicial court, and the question of interpreting or assessing the validity of an administrative act is raised. As a result, it then falls to the State Council to interpret or assess the validity of the decision so that the court may settle the dispute.

8

On the other hand, to accurately determine the jurisdiction of the State Council, it is imperative to know the issues and actions issued by the public authorities that fall outside its jurisdiction.

1. The jurisdiction of the State Council does not extend to looking into the actions of the legislative authorities:

This means the tasks arising from the activity of the legislative authority. An example is the impugment of laws decided by parliamentary bodies or impugment of decisions and measures taken by the parliament, its president, or its committees.



2. The jurisdiction of the State Council does not extend to looking into the actions of the judicial authorities:

In this regard, it is important to distinguish between two cases:

Actions related to the functioning of the judiciary facility: meaning the actions that judiciary courts take to perform its judiciary tasks.

An example is judicial rulings issued by judiciary courts or the actions related to the operation of cases → the jurisdiction falls under juridical judiciary.

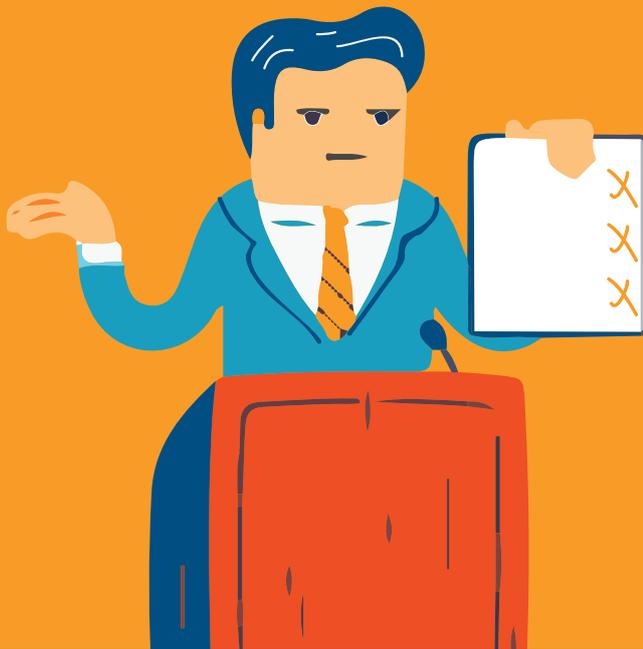
Actions specific to organizing the judiciary: is considered part of the administrative decisions subject to the censorship of administrative judiciary.

An example of this is the establishment and distribution of courts – appointing judges, promoting them, and the termination of their service → the jurisdiction falls under administrative judiciary.

3. The jurisdiction of the State Council does not extend to looking into governmental business:

Also known as “Sovereignty Acts”. This refers to the acts issuing from the government as a political authority (that is, in its relationship with other internal or external authorities), and not as an executive power.

An example of the decrees of the executive authority in its relationship with the legislative authority, such as proposing and publishing laws. Another example includes the relationships between the government and foreign countries as well as international agencies, such as actions related to international treaties and agreements as well as diplomatic activities and warfare actions.



4. The jurisdiction of the State Council does not extend to looking into some disputes between industrial and commercial public institutions:

It is important to make a distinction between two categories of public institutions: administrative public institutes (such as those that run the Lebanese University, public hospitals), and public institutions of an industrial or commercial nature that seek profit (such as Electricity of Lebanon, Establishment for Water Utilities, the Port Investment Services...).

Generally, disputes arising from the activities of industrial or commercial institutions do not fall under the jurisdiction of administrative judiciary. This is because these institutions behave as a person of private law, that is, as a regular citizen.

5. The jurisdiction of the State Council does not extend to looking into car accidents:

All requests for compensation for damages resulting from vehicular accidents fall outside the jurisdiction of administrative judiciary and under that of judicial courts.

WHEN CAN A REVIEW BE PRESENTED TO THE COUNCIL?

In order to submit a review to the State Council, it is important to differentiate between in two cases:

1

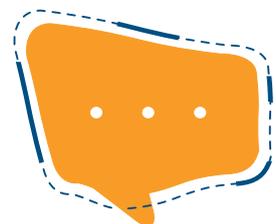
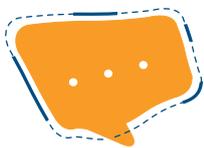
First case:

In the event that an enforceable and harmful administrative decision is issued, one that has legal effects directly upon its issuance and not in the event of a future occurrence, as well as if the decision could impinge on the interests of the plaintiff or harm it (for example: the transfer of an employee). As such, a review is submitted within a period of two months from the date of issuance of the ruling, the notification of the plaintiff, or proof of his knowledge of the ruling.

2

Second case:

In the event that an enforceable and harmful administrative decision is not issued, and if the person concerned considers himself/herself damaged, he/she must then work to obtain a decision from the administration (either an answer or an inherent refusal in the form of silence). And his request, called a Litis Contestati, is then submitted to the administrative authority to compel them to issue an explicit or implicit ruling regarding a specific disputed issue.



Litis Contestati is a written letter or summons that the concerned person presents to the administration, in which his/her demands are listed clearly and his/her intention to resort to judiciary means is expressed, in the case that his/her requests are not answered. As such, the administration then provides him/her with a receipt that mentions the subject of the request and the date it was received.

When submitting a Litis Contestati, the administration can:

1. Respond explicitly to the demands of the litigant
2. Issue an explicit rejection ruling on the basis of which the case can be submitted to the State Council within a period of two months
3. The administration finds it sufficient not to respond to the Litis Contestati. Consequently, after a period of two months from the date the memorandum is submitted and the administration's failure to respond, the latter is considered to have issued an implicit rejection ruling. The case can be filed based on this ruling within two months of the expiration of the period.



Is there a time limit for submitting the review to the Council?

In regards to the individual administrative ruling, that is, a ruling regarding specific individuals mentioned by name:

The time limit to submit a review to the council against such a ruling is two months from the date the concerned person is notified or from its execution or proof of awareness.

In regards to the executive administrative ruling, that is, a ruling that does not involve specific people mentioned by name:

The time limit to submit a review to the council against such a ruling is two months from the date it is published.

Additionally, the law has set other time limitations for certain reviews, such as:

- 15 days from the date of declaration of the results of local elections (municipal and mayoral)
- 30 days to appeal disciplinary decisions
- 6 months to object on the pension of an employee from the date of retirement
- 1 year from the date of the decision, to appeal the ruling about the compensation for water privileges from public properties
- 2 months from the date of publication of the decision of the tax objection committee.

WHAT ARE THE REQUIREMENTS THAT NEED TO BE MET BY THE PERSON FILING FOR A REVIEW?

1

The person submitting a review must have litigation capacity, represented by being a rational adult – that is 18 years of age or more (in the case this person is not of legal age; a parent or legal guardian may submit the review instead).

2

If the person submitting the review is representing an entity (such as an organization, a company, a public institution, or a municipality), then this person must have a legal identity qualifying him/her for a judicial review (such as the chairperson of the board of directors, president of the association, or a mayor).

3

Finally, in all cases, a litigant must have a personal, direct and lawful interest, such that the contested decision has caused damage directly to the litigant (for example an employee appealing the decision to unrightfully promote a colleague to a higher rank).

What is the number of men and women in the State Council?

- The number of men in the State Council: 24
- The number of women in the State Council: 30

Evidently, today, women constitute the greatest proportion in the State Council, approximately 57% of the judges of the Council. Unfortunately, men hold the majority of the high-level posts.

Is it necessary to hire a lawyer before the council?

In principle, a review must be submitted to the State Council by a lawyer. However, some exceptions exist. The law permits a review to be filed to the State Council without the assistance of a lawyer in the following cases:

- Disputes related to disciplining an employee
- Disputes related to the legality of the elections of administrative councils, such as municipal councils and elective boards
- All other disputes where summary procedures apply (those with time limits shorter than two months).

Even then, it is preferable to hire an attorney even for these disputes to best preserve the rights of the litigant.

What are the fees due upon submitting a review?

1. Judicial fees, and these are two types: a flat fee of 50,000 Lebanese Pounds for rebuttals, and a percent-based fee, equating to 2.5% of the sum requested in compensation claims, half of which is due when submitting a review, with the other half pending the issuance of the judicial decision
2. The bar association fee
3. Judges' Mutual Fund fee (determined as a percentage of the judicial fees)
4. Additionally: the review registration fee, a fee for the stamps used on the documents attached to the review request, a fee for the summons, and a notification fee. Additionally, there is also a fee for every certified copy requested by the subject.



Can the State Council's rulings be appealed to another reference?

The decisions of the State Council cannot be contested by another entity. It is the supreme court for administrative judiciary. As such, its decisions are not subject to appeals by any method of review, except by the same council.

Subsequently, what are these methods of appeal?

1

1. Objection – an appeal method available to a litigant, if a ruling is issued in his absence. That is, when the litigant is not informed of the proceedings of the trial, and a verdict is issued without having been able to defend himself and present his response to the opponent's claims.

2

2. Objection by others – if the verdict inflicts material or moral damage to a person not originally involved or represented in the lawsuit, this person then has the right to contest the verdict by way of objection by other.

3

3. Retrial – the most common method to appeal the decisions of the State Council due to its comprehensiveness. It is only available to the original opponents of a lawsuit who have a right to rebut only once. Thus, a retrial is only possible in the following cases:

- o If the decision was based on counterfeit documents
- o If a ruling is made on a litigant for not presenting a decisive document in his opponent's possession

If the investigation and verdict do not respect the essential principles imposed by the law (failure to respect the right to defend and the adversarial nature of the court, failure to address one of the demands or one of the primary legal reasons set forth in the review, or distortion of the facts such that a verdict is based on false and improper facts).

4

4. A request to right a material error that might appear in the verdict, as well as a request for an explanation of the verdict of it – or its decisive paragraph, particularly – contains ambiguity or vagueness that impedes its execution.



What is the judicial recess, and how long is it?

During the judicial recess, the court registry remains open and fully operational. Furthermore, certain judges remain on duty to follow up on cases of an urgent nature. Consequently, courts do not shut down entirely, but remain functional with a minimal number of cases during this period.

The judicial recess at the State Council begins on the 15th of July, and ends on the 1st of October of every year, during which, business is regulated by a decree from the council's office.

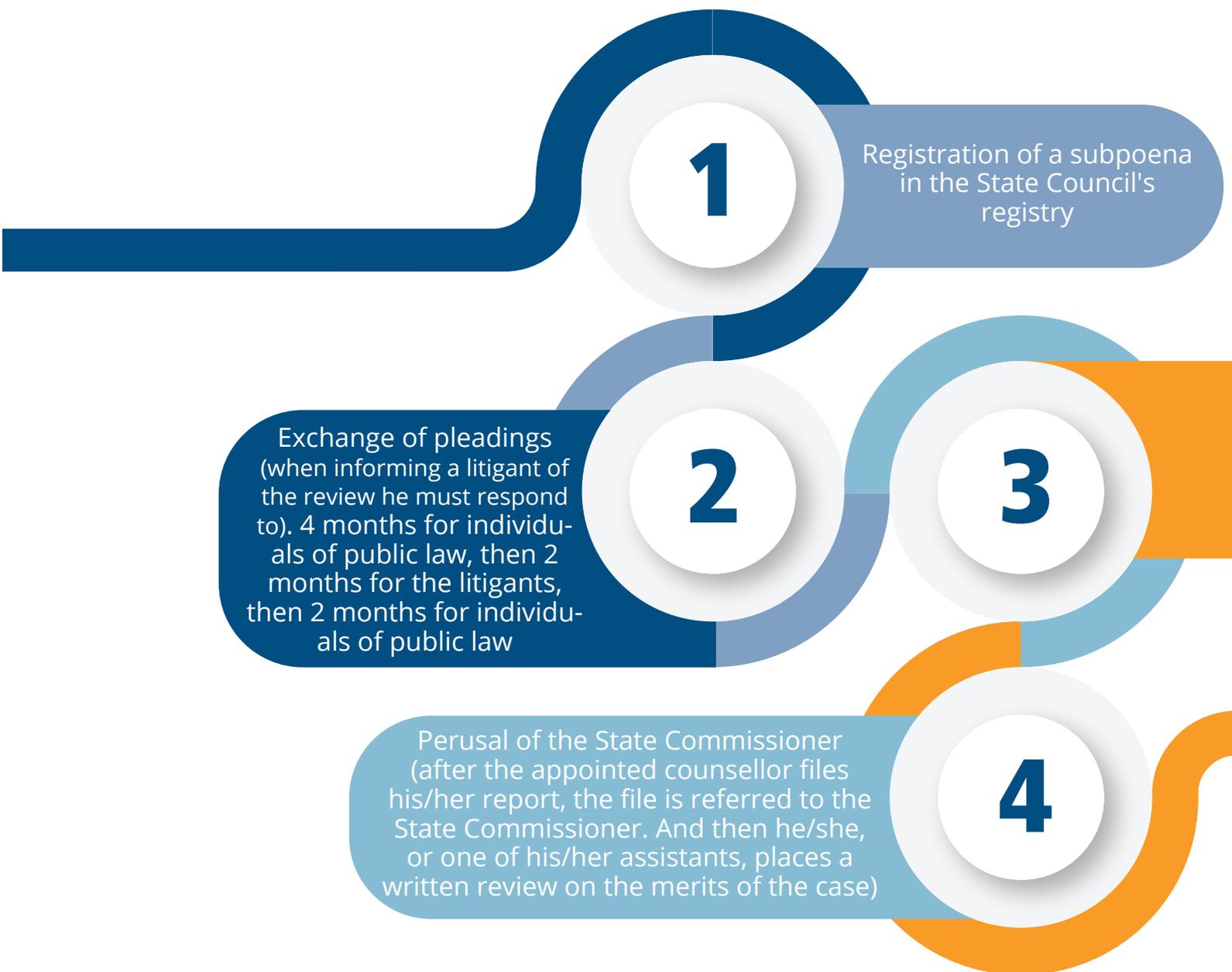
The members of the State Council are not entitled to any days off in addition to this recess, with the exception of a fully paid leave, no longer than 15 days, granted by the Minister of Justice based on a written request submitted to him/her.

Conversely, the recess for judicial court judges is two months long, extending between the 15th of July and the 15th of September.

What is the operational procedure of a case in the State Council?

A case goes through several stages, from the moment it is submitted to the State Council until a final verdict is issued.

We will present these stages in a brief and simple manner to simplify the procession of a case before the State Council in the minds of citizens.



How are the verdicts of the State Council executed?

The verdicts of the State Council are binding for the administration, and the moral entity of the public law must implement, within a reasonable timeframe, the rulings issued by the council or be held responsible. In the event that execution is delayed for no reason, the affected person may request that the defendant be compelled to pay a penalty for non-compliance estimated by the State Council.

Additionally, any employee who uses his/her power or influence, whether directly or indirectly, to obstruct or delay the execution of a ruling issued by the State Council is forced by the Court of Audit to pay a fine of no less than 3, and no more than 6, months' salary.

Hence, the law considers public administrations, or the state, honorable opponents who follows the law and submits to the will of the law. However, in practice, it was proven that there is a need to reevaluate this concept and the establishment of legal frameworks, deadlines, and methods for the implementation of the State Council's verdicts that are stricter and clearer.



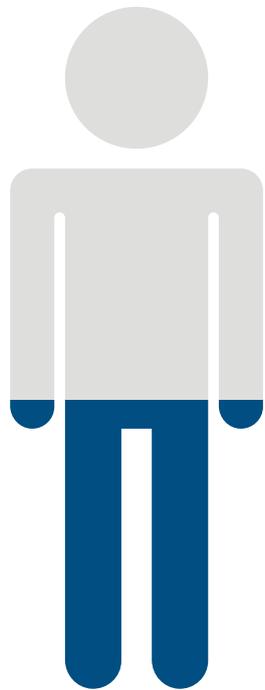
5

The litigants are invited to review the report and the commissioner review (the litigants are invited to peruse the report and provide notes) – a proclamation of the issuance of the review is published in the official gazette. The litigants then have 1 months to review and submit observations

6

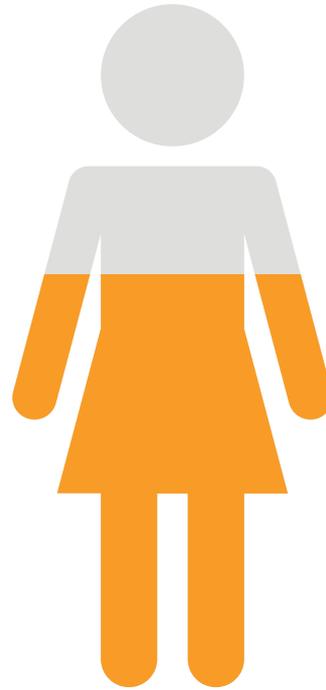
A verdict is issued (with the expiration of the deadline given to the litigants to review and comment on the report, the case is ready for a verdict. Thus, the ruling body can meet to deliberate and issue a final verdict)

WHAT IS THE NUMBER OF WOMEN AND MEN IN THE STATE COUNCIL?



Number
of men
in the State
Council

24



Number
of women
in the State
Council

30

This shows that today women make up the majority in the State Council, which is about 56% of the total Council's judges.



However, the heads of the chambers are all male while the government commissioner is a woman

**This booklet was produced
on the administrative judiciary
by the Gherbal Initiative**

**Funded by
Konrad Adenauer Foundation**

