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**“Harm Caused by the Fault of organization and  
Compensation for It”**

**A comparative Study between Jordan and Egypt**

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401120186

/

2013/2012

ب

## التفويض

أنا الطالب غازي فوزان ضيف الله العدوان أفوض جامعة الشرق الأوسط بتزويد نسخ من رسالتي ورقياً وإلكترونياً للمكتبات، أو المنظمات، أو الهيئات، والمؤسسات المعنية بالأبحاث والدراسات العلمية عند طلبها.

الاسم: غازي فوزان ضيف الله العدوان

التاريخ: ٢٠١٢ / ٦ / ٢٠

التوقيع:   
غازي فوزان

## قرار لجنة المناقشة

نوقشت هذه الرسالة وعنوانها: "الضرر الناشئ عن خطأ الإدارة والتعويض عنه" وأجيزت

بتاريخ ٢٠١٧/٦/٢٠

التوقيع



رئيساً

أعضاء لجنة المناقشة

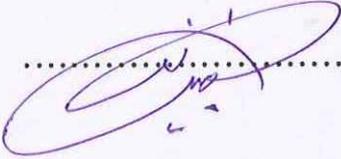
الدكتور مهند عزمي ابو مغلي

عضواً

الدكتور حمدي سليمان القبيلات

عضواً ومشرفاً

الدكتور زهير احمد قدوره



## الإهداء

أهدي بطني المتواضع إلى:

من علمني الحكمة والصبر وأثار لي دربي... أبي  
إلى معنى الحب والعاطفة والحنان في حياتي... أمي  
إلى من كان في ليلي قمرى المنير... وغمرني بجبهها الكبير  
وأكرمني الله بها... زوجتي  
إلى فلذة كبدي وعروس عمري "ديالا"  
إلى من كان مصدر عزتي وفؤتي... إخوتي  
إلى من وقف بجانبني وأعانني في مشواري الطويل  
ونحمل معي أمشاط والصعاب وأثار دربي بنور عينيه  
خالتي وصهرتي.. معالي المهندسة شحادة أبو هديب

الباحث

شكر وتقدير

أقدم بـعظيم الشكر والامتنان إلى

الدكتور / زهير أحمد فدوره

لإشرافه على هذا البحث ومتابعته خطواته، وإرشاداته لي

ونصائحه التي أثارث لي درب هذا البحث

ما بذله من جهد لوصولي إلى هذه الدرجة من العلم

والمعرفة.

كما أتوجه بـجالص شكري وتقديري لكل من ساهم بإعطائي

المعلومات المطلوبة

الباحث

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## **Harm Caused by the Fault of Organization and Compensation for It**

### **A comparative study between Jordan and Egypt**

**Prepared by**

**Ghazi Fozan DaifAllah Aladwan**

**Supervised by the Dr.**

**Zuhair Ahmed Qaddura**

#### **Abstract**

The public administration run its usual activities by normal staff members, thus, it may causes harm to others throughout the course of doing work and activities, therefore; the administration is held responsible, which means the management's commitment to compensate those who fall in harm either (physical or moral) as a result of the administrative legal activities, that is, any administrative decision or the management physical functions.

this study included, the management responsibility of fault. Moreover; its establishment on the basis of risk theory (without an fault) as well as, areas of application in both Egypt and Jordan. We have also shown personal Pictures of fault and the jurisprudent standards that have appeared to distinguish between the fault and the accompanied personal one , as well as, the opinion of each Jordanian and Egyptian judicial of these criteria.

We have discussed during this study the possible damage that shall needed to be compensated for, as a result of the management fault ,and that should meet the conditions to which the damage deserves the compensation . we made it very clear that the administration compensation can only be conceived in the form of the monetary compensation, where not in the form of restitution even if this is possible.

The study also reviewed the provisions of the administrative limitations of compensation which made by the reference to the civil law

provisions. This study came in a comparative framework between the Jordanian and Egyptian judicial.

We came out in this study with a number of findings and recommendations, contained in the conclusion of this study, where the most prominent results showed that the jurisprudence and the administrative judiciary have settled on, that the compensation does not necessary mean compensating cancellation. So that, the decision of public administration can be cancelled but does not cancel compensation .we have concluded that the management responsibility is to compensate for the moral damage that may be caused as result of legal and physical work, as well as, its responsibility for compensation of the physical damage. in addition to, that's the only possible way to compensate for the damage arising from management fault is by the image of monetary compensation, it can not be applied in-kind compensation, even if possible, unless the management has made it in its own.

the High Court of Justice consider compensation disputes limited by the decisions and actions that are set forth in paragraph (a) of Article 9 of Law of the Supreme Court No. (12) of 1992, that is, it comes out of its competence to fall within the ordinary jurisdiction courts of disputes for compensation of the administration decisions that have not occurred in the text of Article (9 / a) of law, while it goes out of its jurisdiction disputes of compensation for the damages resulting from the physical and administrative contracts of management.

Among the most prominent recommendations, the Jordanian legislation reconsider the text of Article 9 (/ b) of the Law of the Supreme Court No. (12) of the year of 1992, to work on granting a general mandate in consideration of all claims of administrative compensation disputes without limitation, in an effort to reach the comprehensive judicial

administrative system to build the Jordanian State Council like the Egyptian State Council, and shall be a competent jurisdiction.

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838	1998	1997/10/8	( <sup>3</sup> )

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	266	( <sup>1</sup> )
	212	( <sup>2</sup> )
189	1973	( <sup>3</sup> )
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2002/9/25	2002/1826	( <sup>1</sup> )
2002/2/18	2002/199	( <sup>2</sup> )
249		( <sup>3</sup> )
2003/10/29	2003/2734	( <sup>4</sup> )

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2004/12/22	2004/2869	( <sup>1</sup> )
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3230	1995	1994/11/16	( <sup>1</sup> )
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772	1487	1998	1997/2363	( <sup>1</sup> )
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4378	1997		1997/9/28	97/176	( <sup>1</sup> )
	56	1995		1994/193	( <sup>2</sup> )
			207		( <sup>3</sup> )

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(<sup>2</sup>)

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	545	( <sup>1</sup> )
	546	( <sup>2</sup> )
303	2004	( <sup>3</sup> )
	781	( <sup>4</sup> )

" 1949/3/24

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781	( <sup>1</sup> )
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348	( <sup>1</sup> )
494	( <sup>2</sup> )
347	( <sup>3</sup> )
311	( <sup>4</sup> )

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.1978	1978/8/14	77/246	( <sup>2</sup> )
	.551		( <sup>3</sup> )
	.305		( <sup>4</sup> )

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554	( <sup>3</sup> )

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561	( <sup>2</sup> )
788	( <sup>3</sup> )
305	( <sup>4</sup> )

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558	( <sup>2</sup> )

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	443		( <sup>2</sup> )
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141		( <sup>3</sup> )

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