



The Legal Status of Electronic Administrative Decision through Signature of the Competent Authority for issuing it (Analytic Study)

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Administrative decision is a final legal action that emerges based on the sole will of the administration and aims at achieving legal effects for achieving the public interest. The legal status of the electronic administrative decision is a substrate for forcing the legal effects resulting from the administrative decision. Jurists of law have been divided into two parties about the procedure by which the legal status of the electronic administrative decision is achieved, the first party confirms that the legal status is related to the act of announcing the electronic administrative decision while the second party sees that the status of the electronic administrative decision is based on electronic signature by the authorised person. Through research, both legal opinions and evidence were offered to prove the validity of the legal status of the electronic administrative decision with the overwhelming perspective represented by the opinion regarding the electronic signature of the decision.

Keywords: *Legal Status, Electronic Administrative Decision, Electronic Signature.*



Introduction

General administration seeks with all its efforts to keep up with technology while practising its legal business and actions. The advances in administration require law specialists to search for all new and recent theories about administrative law and in particular, the theory of administrative decision. Given the overwhelming desire of the comparative countries to implement the system of electronic government and administration, we have selected the topic of this research accurately to benefit the library of law.

The legal status of administrative decision making is a significant one as it is directly related to the time by which the electronic administrative decision arranges its legal effects via the followed procedure in the process. The significance of this topic lies in the great significance for the administrative decisions theory as administrative decision making is among the most important aspects of administrative law and it is the mouthpiece and the real translator of the administration, Being both explicit and implicit administrative will and the axe of the general administration business in addition to the penetration of the technological sector at all the aspects of the general administration's business which led to the development of new legal relations that had not existed before therefore this study investigates this topic for its practical and scientific importance. This study aims to explain and to define the legal status of the administrative electronic decision by which the legal effect of the existence of the administrative, electronic decision in addition to investigating the most important legal provisions developed for the electronic signature of administrative decision. The study attempts to answer the researchers' main question represented by: what is the procedure by which the legal status of the administrative electronic decision? From this main question, the following sub questions were formulated:

- 1- What is meant by the legal status for the administrative electronic decision?
- 2- How is the administrative electronic decision implemented and offered to the audience with its roles?



- 3- What are the Juristic views regarding the validity extent of announcement and signature procedures as controls for the administrative, electronic decision status?
- 4- What is meant by electronic signature, and what are its validity provisions?
- 5- How is the electronic signature documented to obtain the technical security stage?

Legal Status of the Administrative Electronic Decision and the Act of Implication

Administrative decisions are the most important and common method by which the administration practice all its activities at the local level. The administrative decision is an explicit or an implicit expression for the administration's will regarding its authority based on the laws and regulations and to give a full idea about the legal status of the administrative electronic decision and the time of its implementation.

What is Administrative Electronic Decision?

The Jordanian legislator has avoided, as the case of comparative legal systems, to determine a specific definition of the administrative decision, in viewing the difficulty of the legislator's intervention and determining the many concepts of administrative law and its items, the jurisprudence, the judiciary and the administrators have addressed this issue, as presented as follows:

The Concept of Administrative Electronic Decision

Formulating a legal definition is a hard thing and as stated by the Romans: "identification is a dangerous thing". Identification is usually an act of jurisprudence and should be based on the subjective characteristics of the phenomenon as the law is a will and a judgment. Contrasted with identification's task to identify the elements composing the phenomenon represented by the requirements of the law science (Kassab, Naser, & Al Shobaki, 2017). The administrative decision is a phenomenon and when there is an attempt to formulate its particles and aspects there will be a distracted element and an intervened construct which contradict the subjective feature of the law science as a normative science aims to formulate models that are based on the absent rule. At the

jurisprudence level, digit defined the administrative decision as an administrative act made by the administration to modify the legal status at the time of issuing this decision or as it would be at a specific future point. Rivero identified it as an individual legal act by the administration to create a specific legal focus or changing a specific legal focus based on its general authority (Al Shobaki, Naser, & Kassab, 2017). An administrative decision is also defined as a legal act conducted by one party and is made from an administrator and this decision has legal effects (Wayenberg & Kuhlmann, 2018). These definitions does not take into account the electronic nature of the administrative decision but instead offers its traditional definition. To this end, many specialists in administrative law and administration science have worked on determining and formulating a definition for the administrative electronic decision as to the result of the recent technological development; these definitions include:

- The administrative electronic decision which is an electronic document that expresses the individual binding administration intending to arrange specific legal effects.
- An administrative, electronic decision is a disclosure about an individual binding administration that is made by a general administrative authority via electronic means with legal effect resulted.
- An administrative electronic decision is a disclosure about the administration's task regarding its binding administration via electronic means to arrange legal effects.

Based on the above mentioned, the researcher sees the administrative electronic decision is the administrative expression about its binding administration via electronic means, therefore, the administration's authority to make the administrative electronic decision is a natural extension for its authority to make traditional decisions with a different method of expression within this context.

The administrative electronic decision has a group of legal characteristics such as:

- 1- The administrative electronic decision is a legal act with the aim of the decision-maker is to create specific effects whether by either establishment or abolition and here the administrative decision is distinguished from the physical acts that lead to legal effects.



- 2- The administrative electronic decision is made by a national authority, that is, by general law staff or public institutions and it follows the administrative decisions made by law persons that are not administrative ones even if the aim is to achieve the public benefit.
- 3- Administrative electronic decision is made via electronic means based on the Jordanian 2015 act item 4 of electronic transactions: any official ministry or institution or municipality is allowed to conduct its transactions using the electronic means with the provision of the availability of the electronic transaction conditions listed in this act and the regulations and instructions related to this act.

According to the text mentioned above, the Jordanian legislator allowed the national institutions to adopt the electronic government and to use the modern and advanced electronic means instead of the traditional ones to avoid complexity and bureaucracy.

4- The final description of the administrative electronic decision and by (final) it is meant that the administrative electronic decision is not subject to comment or discussion or ratification by a higher administrative authority than the issuing authority, and by meeting all stages of the administrative hierarchy necessary for the existence of administrative decisions, and thus the final decision means that the decision is ready and meet the implementation conditions without subsequent action when issued by an administrative body with jurisdiction to issue. This is what the Supreme Administrative Court in a ruling states that "the administrative decision cancellation is the final administrative decision that affected the legal status of the appellant and based on the provisions of Article (5 / A) of the Administrative Justice Act. After reviewing the most important characteristics of the administrative electronic decision, it is time now to shift to addressing the most important provisions for the administrative electronic decision validity based on the following arrangement.



Jurisdiction's Provisions

The meaning of jurisdiction in the administrative decision stems from the body responsible for issuing or making it, and jurisdiction can be granted to an administrative body; maybe an individual or a body for a specific work. Legislation works on distributing jurisdiction among the administrative systems taking into account the legal centres, nature of jurisdiction and the extent of risk and importance of the administrative electronic decision (Amuna, Al Shobaki, Naser, & El Talla, 2017). Rules of jurisdiction are defined as legal controls that determine who has the authority and who acts whether individuals or bodies (Naser, Al Shobaki, Amuna, & El Talla, 2017). In light of the electronic government, the pillars and bases and requirements were made available through an electronic technical environment, therefore, the jurisdiction provision has witnessed several developments as the practice of jurisdiction is not limited to the public employee alone but the electronic government system is now based on a self-propelled mechanism when making and forming the administrative decision (Rubtcova & Pavenkov, 2019). The element of jurisdiction has a specific characteristic represented by the person or the body responsible for making the decision based on the administrative law rules within the limits of the electronic general administration and this element can be electronically controlled through providing the concerned employee with a user name and a password to protect the account and forbidding any admission of any other persons to the electronic system (Kassab et al., 2017). The jurisdiction provision has an amendatory characteristic for the electronic general and this condition is achieved when defining the program concerned to carry out specific work and this definition gives the status of commitment to the conduct of the electronic intermediary in these works, this rule of public order may not be violated or violating its rules.

Form and Procedure Provision

The administrative electronic decision should take an external form or feature, and originally, the administration is not bound by certain descriptions of the form of the administrative decision, it is enough for the decision to be issued or made with a form where the intent of the administration to make it is clear with the way that is understood and recognised by the audience, despite this, there are some cases where the legislator may require a specific form for the administrative decisions



and these requirements called the form and procedure structures in the administrative decision. At the level of the administrative electronic decision, the administration can adopt an electronic form for the administrative decision via the electronic mediator, and these electronic forms are electronic information with technical characteristics at the shape of symbols or letters or digits or any other form of databases with a clear and understood manner and explicit expression (Cunha, Ferreira, Amaral, & Camões, 2019). To apply this, the administrative, electronic decision may be issued based on electronic steps and procedures through preparing special pre-determined fields in the electronic model for the administrative decision and one of these fields is specified for the necessary element of form and procedures to be issued based on their extent of importance (Mendoza & Cano, 2019).

Status' Provision

By the provision of administrative electronic decision, it is meant to be the direct resulting effect of the administrative decision, and this status is conditioned to be legal and in agreement with the documented and not documented legal rules, in addition, it is conditioned that the status is practical as when the administrative decision effect is impossible, this leads to the lack of decision and the electronic mediator can treat the decision electronically through specifying a field for each provision of the legal status of the electronic listing decision (Bartlett, Kaul, VAN WERT, Wang, & Wang, 2019).

By reason, it is meant the legal status or the real status preceding the administrative decision issuance and allows the administrator to express the desire of issuing a specific legal effect. For the reason of the administrative electronic decision to be valid, it should exist until the issuance of the administrative decision because when the bases and facts the administration depended on in issuing the decision do not exist the decision then is not valid. It is conditioned for the reason to be legal, that is, valid and legal reasons based on the law and regulations whether the administrative authority is discretionary or an absolute one (Bartlett, Kaul, Ryan, Wang, & Wang, 2019). It is possible to check for the existence of the reason and its legality in the administrative electronic decision through listing a special field in the model prepared for issuing the administrative decision



where the legal or real reason that leads to issuing the administrative decision is clear (Gorbenko, Yesina, & Ponomar, 2016).

The purpose of issuing the administrative electronic decision is to achieve the public benefit which is the main goal for the general administration activity within a country and to offer protection for the administrative electronic decision; special fields can be designed for this provision based on the electronic model prepared for issuing the administrative decision. These fields are programmed and divided for what it is to be achieved and subjected based on detailed information related to the public benefit so as the element of purpose can be accurately controlled as the administration is committed to the electronic steps including the element of purpose in the electronic model (McCabe & Gosner, 2016). By achieving the purpose, the provisions of the administrative decision are complete which allows the opportunity to investigate the legal status of the administrative electronic decision.

Literature Review

Legal Status of the Administrative Electronic Decision

By the legal status of the administrative electronic decision, it is meant the procedure by which the legal effects of the administrative electronic decision are achieved, and for the administrative decision to achieve its legal effects, it is necessary to determine the timeframe where the work is based on the rules of the administrative decision starts and based on the general principle in such case as the achievement of the legal status for the administrative decision leads to implementing the decision's rules (McCabe & Gosner, 2017). The legal status of the administrative electronic decision is viewed as the main base for the possibility of implementing it and without it, the decision is not valid and has no legal effects at all levels, and as the administrative electronic decision does not differ from the traditional one regarding the necessity of implementing the legal status is a main condition for its rules' implementation, and administrative law specialists are divided into two main contrasted parties regarding the procedure by which the legal status of the administrative electronic decision is achieved as follows:



The Theory of Certain Knowledge in the Administrative Electronic Decision

An aspect of jurisdiction goes to that the administrative electronic decision is achieved since the announcement of this decision, that is, by issuing it or announcing it which means that just a signature on it is not enough to validate its status as it has not been announced yet, therefore, the decision- as confirmed by this jurisdiction aspect- is just a decision projected during the period between its signature and pre issuing or announcing it and the administration is not able to implement it directly or indirectly and cannot refer to it in issuing another decision (Yun, Khaliullin, & Jung, 2019). Proponents of this view see that the administrative electronic decision cannot be a part of the existing legal system only after the knowledge has been achieved and that the scientific methods fall within the conditions of its validity, it is clear that supporters of this view waste any legal value for the signature of the administrative electronic decision, and consider that the signature is merely a preparatory procedure for the emergence of the administrative decision. This view is supported by the logic, justice and preservation of the individuals' rights and that it comes in response to the aspirations of the legislator who required the publication of administrative decisions, and what is less than this is an internal work as long as it is not concluded correctly as prescribed by the legislator, namely, publishing the regulatory decisions, and announcing the individual decisions (Peterson, Rybacki, & Wald, 2016).

Electronic publication means informing all those concerned with the content of the decision issued by the general administrations to be acknowledged about it, and the administration should select the publication method based on what it sees as appropriate to inform everyone but when there is a specific single method determined by the law, publication should be based on this method (Hermosillo, Alvarez, Ramirez, & Salazar-Linares, 2018). Electronic announcement in the other hand is a procedure by which the content of the administrative decision is transferred to a specific individual/s and it is a real informing method for administrative decisions and not an assumed method such as the case in publication, in addition, announcement is close in meaning to the person informing the content of the decision. Electronic announcement is achieved through relying on procedures and methods with technical characteristics that do not exist in the normal cases of announcement and are related to the existence of the decision in the form of an electronic document



and the mechanism of its transferring among parties is based on a software process implemented by computer or cell phone according to the commands (Griffin & Stapleton, 2019). To illustrate, the supporters of this opinion see that the legal status of the administrative electronic decision is represented by announcing it through the publication of organisational decisions or through announcing individual decisions.

The Theory of Electronic Signature for the Administrative Electronic Decision

The overwhelming jurisprudence opinion states that the signature of the administrative party on the decision it issues leads to Legalizing it and the administrative electronic decision acquires its legal status at the moment of adding the signature on it by the administration specialised party to issue it and the achievement of this status does not relate to any other procedure the administration may practice (Petrogiannis, Laurie, Leblanc, & Goudreault-Emond, 2017). Therefore, the procedure of electronic signature is evidence of admitting the legal status of the administrative electronic decision and hence it exceeds the initial preparation stage and enters the legal application stage. Proponents of this view believe that the publication and declaration of the administrative decision has nothing to do with the legal status of the administrative electronic decision; thus, the administrative electronic decision is achieved by the signature of the source of the decision, and the publication and advertising are means of informing the administrative decision and not within its legal entity (Petrogiannis et al., 2017).

The Egyptian and French administrative judiciary supported the previous opinion as it is stated in an adjudication of the Egyptian Administrative Judiciary Court: The administrative decisions produce their legal effect once they are provided with signature of the legally authorised party even though they are not published because publication is outside the frame of the legal status of the administrative decision and is an amendatory method to inform the administrative decision and to inform those whom may be concerned with the content of the decision and it is necessary to sign the decision even if not published (Peterson, Rybacki, & Wald, 2018). The Jordanian administrative court also adjudicated that the judicial litigation in cancellation proceedings is not valid unless there is a lawsuit against who provides with the signature on the administrative



decision as to the source for this decision. The introduction of the signature theory has several consequences, and these include:

A- To judge the validity of the administrative decision, it is necessary to review the already existed laws at the time of issuing such a decision in addition to the real circumstances.

B- The administration has the right to implement the administrative decisions it issues as these decisions have no negative effects on whom may be concerned pre-announcement or publication.

C- The administration has no right to reject and invoke the failure to notify the administrative decisions issued by it to avoid its provisions.

The researcher agrees with those who view the theory of electronic signature as a controller for the legal status of the administrative electronic decision since the grounds are correct and in accordance with the rule of law, and the status of the administrative decision is different from acknowledging it, and therefore the effects differ between the non-signed decision and the uninformed decision, and thus we see the validity of the theory of electronic signature after presenting the related arguments and the evidence, and to give a full image it was necessary to investigate the legal framework of the legal nature of the electronic signature in the following section.

The Legal Frame of Administrative Decision Electronic Signature

The administrative electronic decision acquires existence through electronic procedures practised by the general administration by its technical employees, and the topic of electronic signature has attracted both a local and international legislators' interest due to the importance of documenting all legal transactions and acts in addition to the contribution of electronic signature in defining the identity of the decision-maker and confirming the acceptance of all individuals legal acts and the legal jurisdictions regarding the electronic signature are addressed following the division below:



What is the Electronic Signature?

The revolution of communication and the spread of the internet have created a digital world that is different regarding its environment from the real-world environment and this technical development has made the administration to use the IT in practising its legal business and acts such as issuing administrative decisions and making administrative contracts. To define an electronic signature, this requirement is divided as follows:

Defining the Electronic Signature

Electronic signature is audios, signals or symbols or any other forms that are logically related to the electronic information processing system and the European parliament has defined electronic signature as information or outcomes that take electronic form and are electronically related or connected to other electronic outcomes (either letter or document) and used as a method to validate these later outcomes (Kahoul, Marginier, Buttighoffer, Schwartz, & Chardon, 2019). Electronic signature is defined by the Egyptian legislation in law no (15) for the year 2004 issued for electronic signature as what is provided for an electronic editor and takes the form of letters, digits, symbols, signs or any other forms and has a unique characteristic that allows to define the identity of the person provides with the signature and distinguishes this person from others. The Jordanian legislation, in electronic transactions' law No (15) for the year 2015 has defined electronic signature as data that takes the form of digits, symbols or any other forms and listed electronically or with any other similar method within the electronic record or added to this record or related to it to determine the identity of the person provides with the signature and distinguishes this person from others.

Some others have defined electronic signature as a way to determine the character or identity of the person provides with the signature and it indicates the presence of the legal act and characteristic at signature time or the presence of the parties this signature legally represents or with agreement in contracting acts and in the administrative electronic decision, it indicates the full desire of the person in charge to issue the electronic signature to create the legal effects resulted from issuing the decision whether by establishing, amendment, or cancelling legal points related



to audience (Kawamoto & Tanaka, 2018). Reviewing some jurisdiction definitions, it is indicated that legislators have focused on the way with which the electronic signature is carried out and emerges paying no attention to the role it plays and they defined it as the signature resulted from following specific procedures that lead at the end to a pre-determined result or outcome and the sum of these procedures is the alternative for the traditional signature or by focusing on the method or way with which electronic signature is carried out as a group of limitless technical procedures with indicating to the necessity of defining the identity of the person providing with the signature (VanBlon, Mese, Peterson, & Weksler, 2019). The researcher sees that electronic signature should not be established following a specific way or form as the technical development may offer methods other than those known for us currently, and the definition should also be based on the function of the electronic signature and to determine the person provides with it and to express commitment to accept the content of the electronic editor for which the signature is issued.

It is worth to note that electronic signature for administrative decision reflects a developmental aspect of the eternal feature of the administrative decision as a result of relying on electronic procedures in preparing and issuing them in light of applying the electronic government system in addition to creating a new form for the administrative decision that should be taken into account and studied in light of the structures that govern the form of the administrative decision. Electronic signatures have a great importance for the administrative decision as it indicates that the administrative decision is issued by a specific administrative party that works in light of applying the electronic administration system with its wish directed toward arranging the legal effect resulted from this decision and through these outcomes it is possible to determine the extent of the administration's respect for the rules of job competence, especially since the signature reveals the identity of the source of the decision and the owner of the jurisdiction accordingly (Pravetz, 2017).

Forms of Electronic Signature

As the traditional signature forms vary between signature and stamp or fingerprint so to does the electronic signature take different forms combined by either the electronic medium used, and the electronic signature takes different forms that vary between in terms of the degree of trust and the



level of guarantee provided according to the procedures followed for issuing and the techniques used for them. The most prominent forms include:

Electronic Signature by Magnetic Cards

This type is used by banks and credit companies as they issue this kind of cards on several forms as they include bilateral parties (the client and the bank) and trilateral parties (the client, the bank and a third party) and the holders of these cards can use them to pay for goods where the bank pay for the seller from the client's account in the card. Cards are also used for cash withdraw following two steps, the first one is by inserting the card that contains all information and data of the client in the automated party and the second is to provide with the secret code or password which represents an electronic signature of the client.

Biometric Signature

This signature is made using the person's physical, behavioural and natural characteristics. These features are many, the most important of which are the personal fingerprint, eye scan, voice tone and hand properties and user's personality which is verified by entering the self-property information into the computer by taking an accurate image and scan of it, and storing it in Computer memory in an encrypted way so that the user's property is matched with the image stored in the computer (Saxena, Kumar, & Pandey, 2018).

Digital Signature

Digital signature is a digital print or a distinguished mark related to another data system and each of which has its editor and person who signed thus there is an encrypted communication documenting the transactions conducted via the electronic medium and guarantees the electronic data safety and securing them against any modification, and encryption is a process of changing data and conducted using secret keys and complicated calculation methods (Zank, 2016). Encryption in present time is conducted using several methods that can be classified into two categories:



1- Symmetric encryption: where the data sender and receiver use the private key technology that was set up between the two ends of the relationship to encrypt the message and turn it into incomprehensible symbols

2- Asymmetric encryption: The technique uses two different but arithmetically linked keys. The first is for encryption and is called the private key, which is known for the owner and is kept as a secret and the second is to decryption and is available for the public. These are the most prominent forms of the electronic signature, and now we turn to address the provisions of the electronic signature validity.

H1: Electronic signature influence on electronic administrative decisions.

H2: Legal framework influence on the electronic administrative decisions.

Research Methods

The aim related to the study is to check the effects of the legal framework and electronic signature on the electronic administrative decisions. The data were collected from the companies that are used the electronic signatures for the decisions of the administration. Approximately 940 electronic questionnaires are sent to the respondents out of which 720 were returned that was only 76.56 percent response rate. Eight items measured the main construct electronic administrative decisions (EAD) while predictors like an electronic signature (ES) and legal framework (LFW) has eight and ten items.

Research Framework

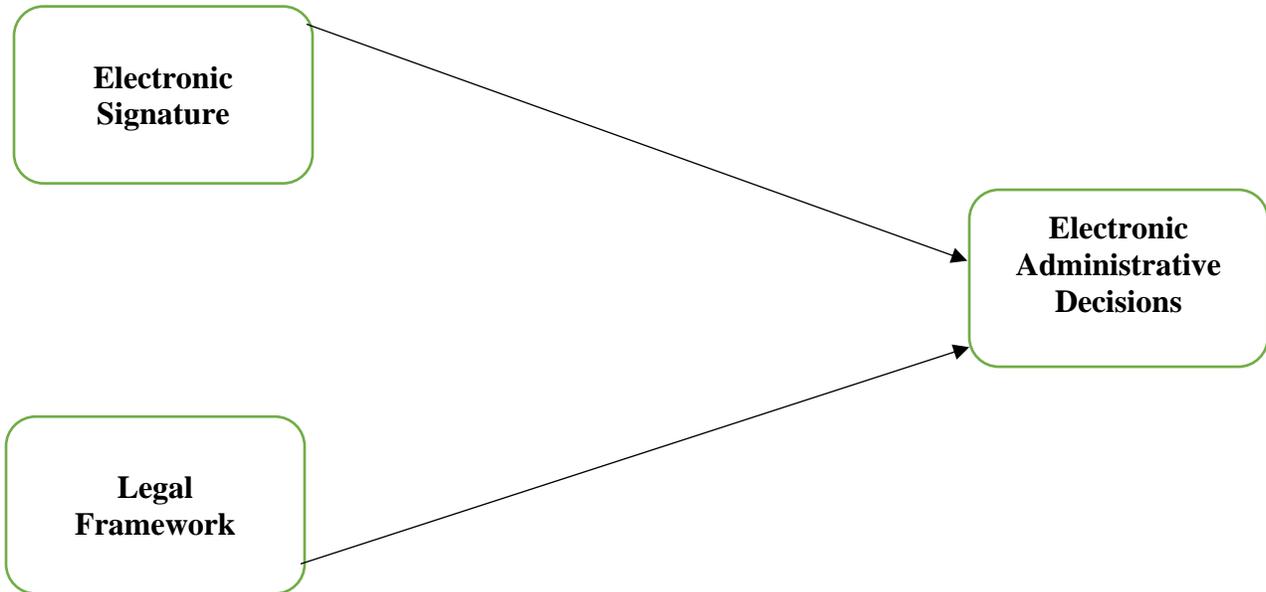


Figure 1: Theoretical Framework

Findings

The results demonstrate the convergent validity that pronounces the items inter-correlation and figures emphasised the high correlation among the items. Table 1 shows the convergent validity given below:

Table 1: *Convergent Validity*

Constructs	Items	Loadings	Alpha	CR	AVE				
Electronic Administrative Decisions	EAD1	0.705	0.849	0.884	0.523				
	EAD2	0.782							
	EAD3	0.822							
	EAD4	0.631							
	EAD5	0.626							
	EAD6	0.680							
	EAD8	0.789							
	Electronic Signature	ES1				0.838	0.883	0.911	0.631
ES2		0.834							
ES3		0.793							
ES4		0.666							
ES6		0.792							
ES8		0.828							
Legal Framework		LFW1	0.792	0.896	0.918	0.587			
		LFW2	0.843						
	LFW3	0.497							
	LFW4	0.812							
	LFW5	0.722							
	LFW8	0.776							
	LFW9	0.828							
	LFW10	0.800							

The discriminant validity is checked by the HTMT ratio that pronounces the constructs inter-correlation and statistics exposed the not highly correlation among the constructs. The values are lower than 0.90, that is the indication of no high correlation among the constructs. Table 2 shows the HTMT ratio given below:

Table 2
HTMT Ratio

	EAD	ES	LFW
EAD			
ES	0.803		
LFW	0.636	0.777	

The results express the path regression analysis that pronounces the relationship among the variables and figures express that electronic signature and legal framework have positive nexus with the electronic administrative decisions because positive sign with beta and t and p values are achieved the standards. Table 3 shows the path analysis given below:

Table 3
Path Analysis

	Beta	S.D.	t-values	p-values	L.L.	U.L.
ES -> EAD	0.307	0.098	3.115	0.001	0.143	0.459
LFW -> EAD	0.169	0.063	2.694	0.004	0.075	0.280

Conclusion

The research concluded with a group of findings and recommendations as follows:

- 1- Comparative legislation, including the Jordanian legislation, did not draw a definition of the electronic administrative decision, despite the recent trends to adopt the electronic management system.
- 2- The administrative electronic decision has the pillars of its existence and status and the conditions of its validity as the traditional counterpart while retaining its technical nature.
- 3- The idea of the legal status of the administrative electronic decision is represented by the action taken by the source of the administrative decision according to which the provisions of the decision are implemented into practice.
- 4- The correct opinion is that the electronic signature is the procedure through which the legal status of the administrative electronic decision arises.
- 5- The electronic signature is similar to the traditional signature with the same objectives and importance in terms of identifying the person of the signatory and the percentage of the legal work.



Recommendations

- 1- Comparative legislations should modify the laws that regulate the administrative work and actions in order to specify legal texts that resolve the issues related to the administrative electronic decisions regarding implementation and application.
- 2- States that have codified the special legislation for electronic signature should entrust to technical and legal committees specialised to develop regulations and instructions that serve as a procedural guide to estimate the electronic signature in all fields and activities of public administration.
- 3- Legal aspects of adopting the electronic government system should be clarified in a manner that reinforces the recent trends regarding the administration of public institutions with electronic ways.



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