

Consultancy Jurisdiction of the Iraqi State Council: A Comparative Study

Rana Ali Hameed

Faculty of Law and Political Science, alIraqai University, Iraq

Abstract

The Iraqi Council of State is a constitutional institution of a judicial and advisory nature with functions guaranteed by constitutional and legal rules. The Advisory Council of the Iraqi Council of State represents one of the two pillars of the post, as well as the judicial function established by Law No. 106 of 1989. It shall be entrusted with the legal opinions that illuminate its legal path and solve any problems that may arise among its departments. It also contributes to the preparation and drafting of laws related to public administration. This jurisdiction includes the presence of an entity possessing scientific expertise for its performance Under this function, the Council appears as a legal adviser to the State, which is provided with legal opinions that illuminate its legal path and resolve problems that may arise among its departments. It also contributes to the preparation and drafting of laws related to public administration. It is also of great importance to the state departments and their employees when they start their job responsibilities by properly implementing the laws based on the advisory opinions of the State Consultative Council in interpreting the various legislations in order to avoid misinterpretation of the laws or in their application. In this paper, we discussed the analytical approach of legal texts and the comparative method in scientific research by comparing the legislative texts mentioned in the comparative systems with comparing them with the legal opinions and decisions issued by the Iraqi Council of State, similar to those issued by the State Councils in comparative systems in France and Egypt. The research also includes an introduction and three sections The first topic revolves around the concept of the advisory jurisdiction of the State Council, while the second section we address it examined the legal basis for the jurisdiction of the Advisory Council of State, and then the third section we will cover it to the types of consultations expressed by the State Council, the legal value to it, and finally the conclusion.



CC BY: [Creative Commons Attribution License 4.0](https://creativecommons.org/licenses/by/4.0/)

1. Introduction

1.1. First, the Subject of Research

The consultative function is one of the cornerstones of the decision-making process and an indicator of its effectiveness, Advisory function of the most important activities practiced by the human mind as is, providing states and regimes remain dependent on the extent of reliance on the consultation process in decision - making and industry are thus becoming regulations and public and private institutions, and this is because of its essential role in decision - making and preparation process Policies In the state.

As the Iraqi Council of State judicial nature constitutional institution and a consultant with the terms of reference is guaranteed under the constitutional and legal rules as it represents a jurisdiction anus Chari of the Iraqi Council of Country A some extent the twin pillars of the functionality that the Deal out along with the judicial function developed by Law No. 106 of 1989 and under this jurisdiction the Council appears as a legal adviser to the State takes the legal opinions of providing them with that illuminate the legal way and resolving what may constitute between the departments of problems as me as they are part of another in the preparation and formulation of draft laws Relationship to the General Administration This jurisdiction includes the presence of an entity possessing scientific and technical expertise in its performance.

1.2. Second: The Importance of the Subject

Is the advisory competence of the Council of State One of the pillars of function carried out by the State Council in Iraq , the Li side of the judicial function, and under this function of the Council appears as a legal adviser to the State shall providing them with the legal opinions of which illuminate the legal way and resolving what may constitute between the departments of problems as my contributed by a spare in the preparation of And drafting draft laws related to public administration, which includes the function of a body that has scientific and technical expertise in its performance.

The theme of great importance to government departments and their employees when engaged functional specializations through the implementation of laws properly relying on the opinions of the State Consultative Council in the interpretation of the various legislation, in order to avoid the error in the interpretation of laws, or in the application of which is often government institutions in Iraq, it is located.

1.3. Third: Research Problem

- What is the essence of the advisory function?
- What is the legal value of the advisory opinion issued by the Iraqi State Council to the government?

- To what extent does the advisory jurisdiction of the Iraqi State Council extend? Was our Iraqi legislator successful in granting the Council the powers and independence it needs to carry out its functions in the best way possible?
- Does the advisory jurisdiction of the Iraqi State Council affect the principle of separation of powers?
- Why the field is limited to the advisory jurisdiction of the preparation and drafting of bills without proposing laws, regulations and instructions?

1.4. Fourth: The Reason for Choosing the Subject

Due to the consideration of and objectively shed light on the advisory jurisdiction of the Council of State of Iraq and try to find out its specificity as a modern origins on the one hand as well as of jurisdiction statement Qualities of the task assumed by the State Council in the advisory and legislative drafting as a study compared with France and Egypt, as The reason for an optional subject For the scarcity and scarcity of studies and research that dealt with the advisory jurisdiction of the Iraqi State Council in the light of the recent legal amendments under the Constitution of the Republic of Iraq for the year 2005 .

1.5. Fifth: Research Methodology

The research was based on the analytical approach to legal texts and the comparative approach in scientific research by comparing the legislative texts mentioned in comparison with the comparative systems, as well as comparing the fatwas and legal opinions and judicial decisions issued by the Council of State of Iraq to those of the State Councils in comparative systems in France and Egypt.

1.6. Six: Previous Studies

1. Jihad Ali Juma, Role of the Iraqi State Consultative Council in the Protection of Public Rights and Freedoms - Comparative Study, PhD Thesis, Faculty of Law, University of Baghdad, 2017 .
2. Dr. Mohamed Madi, The State Council's Jurisdiction in Formulating Draft Regulations, Instructions and Internal Regulations, Research published in Journal of Law and Judiciary, 2016.
3. Sadiq Mohammed Ali Al-Husseini, Advisory Function of the Iraqi State Consultative Council, Research published in Ahl al-Bayt Magazine, 2013.

1.7. Seventh: Research Plan

Introduction

The first Chapter - the concept of consultative jurisdiction of the Iraqi State Council

The second Chapter is the legal basis for the consultative competence of the State Council

The third Chapter - The kinds of advice provided by the State Council and its legal value.

Conclusion.

1.8. Preface

The advisory function is one of the two pillars of the job undertaken by the State Consultative Council in Iraq, in addition to the judicial function established by Law No. 106 of 1989, which shows the Council as a legal adviser to the State, providing legal opinions that clarify its legal path and resolve problems that may arise among its administrations. It also contributes to the drafting and drafting of laws related to public administration this function includes the presence of a party that possesses scientific and technical expertise in its performance. Hence the importance of the consultative function in the life of the legal state. The idea of the Council's opinion, opinions and legal advice in Iraqi legislation is based on the text of article (84) of the Iraqi Basic Law Of 1925, which, apart from the case of constitutional interpretation, is authorized to interpret laws and regulations at the request of the competent minister under the chairmanship of the President of the Civil Cassation Court and the membership of three judges of the Court of Cassation and three senior officials of the Department. Based on this provision, the Law for the Formation of the Special Interpretation Bureau No. (87) For the year 1926, regulating the work procedures of this office.

Then issued the Office of Legal Blogging Law No. (49) of 1933 Vonat competence of the legal advice and opinion form the body on behalf of (the Office of Legal Blogging) and consists of the President of the Court and legal bloggers no fewer than four and be linked to the Minister of Justice (Article (1)) (And the preparation and organization of laws and regulations concerned with judicial affairs and other matters related to all departments of the Ministry of Justice (Article (3)) As well as the scrutiny of the laws and regulations relevant to other ministries and make observations on the basis and materials and how to codify them (Article (3)), and also to express opinion and advice in the contracting, conventions and treaties that are held with a real person or a government or state, whenever the Government considers that the Office must consult with them (Article (3)) and specializes in opinion and advice on legal topics and transactions between the different ministries and over or obtained frequency in which one of the ministries (Article (3)) also takes " to clarify the legal provisions when clarification about from one of the ministries or its main departments (Article (3)) and it exercises a mandate to consider orders and decisions issued by the staff and boards of directors and municipal health (Article (3)) and entrust the Court also "functions of the General Discipline Council (Article (6))¹ The Court shall also refer to the courts and government departments when they find ambiguity, lack or contradiction in the provisions of the laws when they are applied or there is a need

to make new provisions. This requires a statement to the court and a report to the court. Or contradiction, or to avoid such deficiency or to make such provisions (Article (8)).

Then issued the State Council Law No. 65 of 1979 (as amended) was aimed at forming a specialized preparation of legislation and scrutiny and to express an opinion in order to ensure the unity of legislation and the formation of new cadres of a legal horizon that responds to the necessities of Iraq building phase (Sabah Saadiq Jaafar al-Anbari, 2008). Thus, the foundations of the State Consultative Council to replace the Office of Legal Blogging, as provided for ALMA Dah (1) of this law that (based in the Ministry of Justice, the Council called the State Consultative Council, composed of the President and two Vice-Presidents and a number of advisers at least twelve and a number of consultants Assistants no more than half the number of advisers). The legislator amended this article in accordance with Article (1) of the Second Amendment Law by Law No. (106) for the year 1989 to become the following (establishing a council called the State Consultative Council) administratively linked to the Ministry of Justice, which is based in Baghdad. At least twelve, and from a number of associate advisers not more than half the number of advisers (in this text, the law shall specify the minimum number of members of the Council, indicating "in other texts the membership of which is permanent in the form of appointment or promotion for the Counselor (Articles (19)), and this text is illustrated by the law to take the path of temporary membership for jobs employment consultant, by way of the Mandate. The judges of the first category, the general directors in the departments and agencies of the ministry, the judicial inspectors, the head of the public prosecution and the public prosecutors may be appointed as consultants for a period of two years, renewable only once and according to the conditions specified by the law. For the same purpose, Legal or administrative or economic matters and meet the conditions stipulated in the law to work in the Council as consultants for a period of two years renewable for only once (Article 24) and also it goes out to mandate a faculty member in the College of Law who have the legal conditions for the work of the Council as a consultant is available (Almaddh (25)). The law also allows the council to use the experienced members of the teaching staff in the Iraqi universities to participate in some of its work. This is done to experience in legal matters, although it is purely the function of the council and its jurisdiction (Obaid., 2013) and the issuance of the Constitution of the Republic of Iraq for the year 2005, which stated that (permissible by law, the establishment of a State Council specialized functions of the administrative judiciary, advising and drafting, and representation of the State and other public bodies, in front of the judicial bodies, except those exempted by law) (Article (101)) and in line with this constitutional provision was initiated the Council of State No. (71) for the year 2017 (Published in the Iraqi Gazette No 4456, 2017) with a view to the independence of the administrative judiciary from the executive branch after it was linked to the Ministry of Justice, and to make the State Council an independent body with the moral character, which includes the administrative judiciary and the courts eliminate staff and administrative Court and the Supreme Council detailing the issues before him impartiality, integrity and independence, similar to the developed countries and in order to disengagement The State Council for the Ministry of Justice and the replacement of its name in the State Council In accordance with the provisions of the Constitution, the Council of State of Iraq was established under this law for the functions of Administrative Judiciary, Arbitration and Drafting. It is an independent body with a moral personality represented by the President The Council is chosen by the Presidency of the Council to be among the advisers in it and appointed in accordance with the law (Article (1)).

2. The First Chapter

2.1. The Concept of Consultative Jurisdiction of the Iraqi State Council

In the exercise of its competencies, the administrative authority of the State often requires the use of an advisory body to which it submits legal opinion and advice so that its work conforms to the legal texts regulating it, since the administration, when applying the legal texts to its work, And different legal views within the administration, so it seeks to obtain an official interpretation of the law resort to the request for explanation from the competent authorities so as to ensure the application of the legal text properly, and does not relate to this interpretation judicial interpretation that It is being handled by the judiciary on the occasion of a dispute before it Jihad (2017).

Therefore, the legislator to establish such advisory bodies like the Council of State in Egypt, France and the Council of State in Iraq, Lebanon, and often the legislator gives these councils multiple functions in the areas advisory and judicial, and as far as it comes to the subject of our research will address this topic Introducing the advisory competence of the State Council, The bodies exercising consultative jurisdiction, the legal nature of the advisory competence of the Council of State, and the legal impediments to the exercise of such jurisdiction, as follows:

2.2. However, Demand Well

2.2.1. Definition of the Advisory Competence of the State Council

Consultation language name in the sense of consultation, and a name indicated by the Shura Council is the council to hear suits or customary trading in the country's affairs and said it is in any Consultation asked him to advise and consult it means between shone (Upholstered in the language and the media, 1975) of what the idiomatic is to obtain detailed data and full study may be in specialized operations or in general operations (He pointed out to him)

It is intended for advisory competence State Council to express an opinion and the legal advice of the state and its departments, as well as the preparation of a trustee Legislators laws referred to him by the administration

bodies, this function Tate analyzed into two parts: the first relates to the formulation of opinion and legal advice, and the second preparation and drafting bills. With regard to the first section, the Council plays an important role in providing legal advice within the Ministry of reluctance regarding a particular legal issue, as well as the dispute that arises between the ministries or between non-affiliated parties. The request for opinion in the previous cases is accompanied by the opinion of the Legal Department, Points to be expressed. The Council also shows the legal opinion and advice in international treaties and conventions held before and join them, and in this regard the Council express its opinion on the compatibility of its provisions with the legal system of the state or oppose him and be the opinion submitted by the Council in this regard , non - binding ([Article 6](#))

It is clear to us that the fatwas issued by the Council include a resolution of a dispute between public administrations, or include an end to the frequency that may arise from these parties. It also includes the last explanation or clarification of the provision of a provision in the law that is clarified by the governing bodies and which is to be interpreted. He added of the above mentioned Council shall also clarify the legal provisions in order to interpret and define the scope of force, and finally the Council will give opinions and legal advice in matters before him from the top ([Articles 5 and 9](#)).

With regard to rationing, the council is studying this matter, either preparing and drafting draft laws and prepared by the ministries or auditing draft laws in case the ministry prepares them. It also contributes to ensuring the unity of legislation and standardizing the legal drafting, And standardization of legal terminology and notes that it is important that the preparation of draft laws and regulations, and reviewed by a committee with scientific and technical expertise ([Najib Khalaf al-Jubouri, 2018](#)) . In the same context, the role of the Council of State in France and Egypt does not depart from the analysis mentioned in Iraq ([Dr. Abdel, 1999](#)). As is the French Council of State since its inception under the Constitution of the eighth year of the French Revolution independent advisory body for public administration, which led to go some to the origin of the emergence of the Council is to be the hand you are giving opinion and legal advice to the government in legislative matters or administrative ,where the Council was merely an advisory body It limited its work to give legal opinion and the advice of the French consul in the legal and administrative Affairs ([Alexander, 1979](#)).

Under Article 52 of the Constitution of the eighth year councils regions in the provinces and the Council of State in Paris , established and entrusted with the task of the advisory non - binding only and to give advisory opinions concerning disputes under them, ie just propose a solution only this under the supervision consuls to help them solve administrative problems, as The role of the Council was limited to the preparation of draft resolutions subject to the ratification of the First Consul, which is the period of restricted judiciary, after which the Council entered a new phase by the law of 24/5/1872, which fulfilled the mandatory status of its decisions, which no longer need the ratification of its implementation, .

In Egypt, the Egyptian Council of State was established as a body attached to the Egyptian Ministry of Justice under Article 1 of the Council's Law No. 112 of 1946 and Decree Law No. 115 of 1952 was issued by the Council under the Presidency of the Council of Ministers. , And the enactment of Law No. 140 of 1962, the Council of State was attached to the Executive Council. At the time of the promulgation of the Interim Constitution of 1964, Article 136 of the Constitution stipulates that the Prime Minister shall directly follow all the supervisory and inspection bodies in the State. By Decree Law No. 27 of 1969, Justice, however, was described by the law as a m It is the same trend adopted by the current law of the Council No. 47 of 1972, although the Constitution of Egypt in 1971 stated in Article 172 of the Council of State an independent judicial body, but the Egyptian legislator, in a position which he praises, Ministry of Justice issued a law No. 136 of 1984 to amend the first article of the Council of State law in force to be the State Council an independent judicial body ([Majed Ragheb Al Helou, 1985](#)) This is the perfect situation right and in line with the Constitution of Egypt in 2014 , in force ([Article 190](#)).

2.3. Demand the Third Ne

2.3.1. Bodies Exercising Consultative Competence in the Council of State

In talking about bodies exercising consultative competence, we note that the French Council of State The body or section exercising consultative jurisdiction is referred to as the Advisory Section for Fatwa and Legislation and includes the following sections:

1- The original sections: four sections and the following ([Dr Majed Ragheb. Al- Helou.](#)):

Financial Affairs Section: It is competent to issue fatwas on matters of a financial nature or have financial aspects.

A. Public works department: It is specialized in issuing fatwas in matters related to public works.

B. Department of social aspects: and specializes in the issue of social issues.

C. Department of Internal Affairs: It is responsible for organizing the internal affairs of the State Council.

2- The new sections are as follows:

A - Department of Administration was introduced in 2008.

B- reports and studies department and specializes prepare annual reports of the State Council and to coordinate studies in the common European area has been attached to this section of the International Relations Council mission and the mission of coordinating the areas of cooperation with foreign bodies ([Site Rass Mai French Council of State p Barr link email](#)). There is a decision for each section Mauchle collect documents and study files and representatives can ministers who hold the title of commissioners to clarify the government 's point of view and visited the section on ([Site Rass Mai French Council of State p Barr link email](#)).

3. General Assembly for Administrative Matters:

The General Assembly of the Council of the French state achieved an important role in the work of the Advisory Section of the Legislation and Fatwa and is chaired by the vice president and membership includes workers council advisers and all concerned to decide on the draft laws and orders submitted by the sections mentioned ([Site Rass Mai French Council of State p Barr link email](#)), and the general assembly shall either the plenary of each include their degree consultant and specializes in the eyes of matters assigned them as well as the elections , which are among the members of the Council, and either be held in a normal general assembly, consisting of a number of consultants and specializes in the consideration of laws and resolutions projects, as well as The issues presented by the Ministry.

4. Standing committees: These are committees that branch out from the General Assembly and are competent to consider draft laws and urgent decisions' ([Dr. Majid](#)).

But the **Egyptian Council of State** bodies are exercising advisory jurisdiction which is the following:

1- General Assembly of the Fatwa and Legislation sections:

The establishment of a general assembly for the two sections is evidence that the Egyptian legislator still believes that then a close relationship between the two sections provided for the formation of the General Assembly of the Fatwa and Legislation sections under the chairmanship of the Vice-President of the Council and the membership of the Vice-Presidents of the sections of Fatwa and Legislation, ([See: Article 60 of the Egyptian Council of State Law No. 47 of 1972 Amended](#)).

2- Fatwa Section:

It includes specialized departments for the various departments and also includes Fatwa committees composed of heads of departments of fatwa with homogeneous jurisdiction, which is as follows:

A fatwa departments: includes competent departments of each of the Presidency of the Republic and the Presidency of the Council of Ministers, ministries and public bodies, each headed by a counselor or assistant management consultant appointed by the number of departments and determine the competence of the decision of the General Assembly of the Council of Chambers ([See: Article 58 of the Egyptian Council of State Law No. 47 of 1972 Amended](#)).

B committees fatwa: meet the heads of the competent homogenized departments body committees headed by Vice - President of the competent Council showing how its formation and jurisdiction circles in the internal regulations and may be a decision of the General Assembly of the Council to establish a committee or more specialized in a particular type and extends its jurisdiction to all advisory departments ([See: Article 60 of the Egyptian Council of State Law No. 47 of 1972 Amended](#)).

C- Delegates to the governing bodies: The Presidency of the Republic, the Presidency of the Council of Ministers, the Ministries, the Governorates and the public bodies may be appointed at the request of the concerned parties, as assistants to the Council of State to use them in the study of legal affairs and administrative grievances. The fatwa concerned with the affairs of the body where he works ([See: Article 59 of the Egyptian Council of State Law No. 47 of 1972 amending](#)).

3. The Legislation Department: The Legislative Department is composed of one of the Vice-Presidents of the Council of State and a sufficient number of advisers and assistant advisers. The Vice-President and Vice-Chairmen shall be assigned to the Section. In the absence of the Vice-President, the Senior Advisors shall be chaired by the Head of the competent Fatwa Department. Private managed to participate in the deliberations of legislation and have a voice in which numberless and issued decisions by a majority vote of those present ([Consideration: Article 62](#)).

Finally, the Iraqi Council of State consists of a number of bodies, which are divided over the exercise of the functions of the Council in general. With regard to the performance of the advisory function, this function is exercised by a number of bodies:

1. The General Assembly: It shall consist of the Chairman of the State Consultative Council and the membership of his deputies and advisers. The sessions shall be held under the chairmanship of the President or his deputy from his deputies in his absence ([Consideration: Article 2](#)), and the Public Authority is being held in the presence of a majority of its members, and shall take decisions by a majority of the members present and, if votes are equally likely side who voted with the president and advisers to attend meetings of the General Authority assistants and participate in the discussion of the right to vote ([See: Article 2](#)).

2. The Presidency: is being held by the Presidency headed by the President of the State Council and the membership of the two vice presidents and chairpersons, and the President of the Supreme Administrative Court [40], the Presidency is the competent authority in the Council to receive requests of ministries , according to their subject matter which is competent to address all other official bodies ([Consideration: Article 2](#)).

3. The specialized body: specialized body headed by Deputy Chairman of the State Consultative Council on Legislation and Opinion is being held and advisory or senior advisers and a number of consultants and advisers assistants , provided that no more than accounted for one - third of advisers and head of the State Council when necessary nomination deems advisers for the presidency of the specialized body ([Consideration: Article 2](#)).

It is clear to us that the comparison between the composition of the advisory bodies in Iraq and the systems of comparison brings us to Iraq approached the French model, as the main unit of advisory work in Iraq is the specialized body and corresponded in France Standing committees working in the field of codification and advisory opinion other than the Egyptian model which The General Assembly of the Council of State in Iraq and the General Assembly of the Council of State in France are to meet with them .

We believe that the Iraqi legislator should follow the Egyptian legislator's decision to divide the consultative authority in the Iraqi Council of State into the Fatwa and Al-Rai section, and the other section for the legislation to promote the difference between these two sides.

2.4. Third Requirement

2.4.1. The Legal Nature of the Advisory Competence of the State Council

The function of the councils in general in the advisory aspect is focused on the legitimacy without appropriateness. The appropriateness of the texts, their usefulness and the achievement of the desired objectives are outside the scope of the consultative jurisdiction, but this does not preclude comments on their compatibility.

So according to the above focused oversight of the Council on whether the legislation before has taken into account include laws, but there is a contradiction is intended to equal him in power texts, but contrary to the provisions of the legislation before some of them with some other, and that the terms are clear in terms of understanding and hand Legal art.

2.5. Fourth Requirement

2.5.1. Legal Impediments to the Exercise of Consultative Jurisdiction of the Council of State

The Council shall refrain from expressing opinion and advice in two of the first acts. The cases before the Judiciary and the second group are cases that have a reference to appeal. This is what we shall address in the following two sections:

2.6. First Branch

2.6.1. Cases Before the Courts

Article (8) of the Law of the Council states that "the Council shall not give the opinion and legal advice in cases before the Judiciary ... and the word (cases) shall accommodate (suits).

It is noticeable on this text that a stated restriction on the competence of the Council to show Opinion my legal advice and this restriction includes bi - communal business first Vtaivh which cases before the judiciary, under this restriction the Council may not express an opinion and legal advice on those issues and the reason behind this is due to prevent The issuance of opinions from the Council contradicts what the Judiciary issues in these matters, and therefore conflicts with the judicial authority of the authority of the matter ordered. Moreover, the jurisdiction of the Judiciary in the examination of these matters is more likely than the jurisdiction of the Council to express opinion. This exception includes the cases that were presented Li judiciary has not been adjudicated any sense that the Council refrain from expressing an opinion about the These cases, once brought before the judiciary and even before consideration, and whatever kind of civil or criminal cases are mentioned in this regard, for example, the failure of the Iraqi State Council to express its opinion on the request submitted by the Independent Electoral Commission on the possibility of appointing the Secretary General of the Council of Commissioners and Commissioners And the directors of the offices in the provinces as the Director General of the fact that the subject is presented by the integrity of the judiciary to decide what it sees on the subject ([Decision of the State Consultative Council No 2/2012, 2011](#)).

The Council also refrains from expressing opinions on matters before the Administrative Court in the decision of the State Council declined to express an opinion on the Authority of the Administrative Iraqi Red Crescent Society solution because of a lawsuit before the administrative court in this regard ([State Council Decision No. \(91/2008\), 2009](#)).

In another decision of the Iraqi Council of State refrained from expressing opinion and advice to the General Secretariat of the Council of Ministers regarding the clarification submitted by the Salahuddin Governorate Council regarding the resignation of one of the members of the Council under the influence of the threat has been explained by the Council's failure to have a lawsuit in this regard before the Administrative Court ([\(92/2010\), 2009](#)).

2.7. Section Two

2.7.1. Issues that Have a Reference to Appeal

In the field of opinion and legal advice, the Council may not address the opinion or legal advice for a case that has a legal reference to appeal, whether it is a court or otherwise. "Therefore, the Board decided to refrain from expressing opinion regarding the possibility of continuing the fire transactions for the right to disposition of the agricultural land on which the state projects are built sold to others ([The State Consultative Council Decision No. \(57/2010\)](#)). The Board also refrained from expressing its opinion regarding the re-registration of the property in the name of the original owner if he was not Iraqi or his heirs in the event of his death. The Council also refrained from expressing its opinion on the continuation of the Supreme National Commission for Accountability and Justice to exercise its functions in accordance with Law No. (10) of 2008 as replacing the Supreme National Commission for De-Baathification ([Decision of the State Consultative Council No. \(90/2010\)](#)). The Board also refrained from expressing the opinion that the Minister's approval to include the employee for damages caused to public money due to negligence ([Decision of the State Consultative Council No. \(109/2010\)](#)). The Council also declined to express an opinion regarding the download grades of the Ministry of Defense staff in the light of the uncles of the General Secretariat of the Council of Ministers included the need to reconsider the salaries of ministry staff in the light of the provisions of the Civil Service Act and the salaries of state employees and the public sector No. (22) for the year 2008 ([Decision of the State Consultative Council \(156/2010\)](#)).

3. The Second Chapter

3.1. Legal Basis for the Advisory Competence of the State Council

The principle of the rule of law requires that the State be subject to all its powers of law. All the binding rules in the State, whether written or unwritten, regardless of their origin, are concerned with the gradualness of their legal force and the extent of their obligation.

In other words, the establishment of a state of law requires the establishment of a foundation and principles, the most important of which is the existence of a constitution that governs the state, and the state cannot be described in this description unless its legislation is in accordance with the provisions of its constitution based on the principle that the legal rules are subject to the minimum legal basis of the legal rule. Constitution, the basic parameters of the exercise of the administration and its actions and translate into regular and sub - legislation (Dr. Rana, 2019).

In this regard, we will address the statement of the constitutional basis and the ordinary legislative texts of the advisory jurisdiction of the Iraqi State Council and the comparative laws, as follows:

3.2. First Branch

3.2.1. Constitutional Basis for the Advisory Competence of the State Council

The constitution is the basic legal rules that define the shape of the state and the prevailing system of governance group, the composition of the public authorities and the terms of reference and relationship to each other the other, as decided by individual rights and freedoms) (Dr. Ramzi, 1983).

Thus, all the administrative authorities in the State must abide by the limits of the constitutional texts, and they are not entitled to violate them or to return their acts unlawfully, thus exposing them to cancellation and compensation for damages caused by them (Dr. Naguib, 2018). In the sense that in the exercise of its jurisdiction, a document in the Constitution legitimizes its actions.

In Iraq, Article 101 of the Constitution of the Republic of Iraq for the year 2005 stipulates that "a Council of State may be established to deal with the functions of the Administrative Judiciary, the drafting and the representation of the State and other public bodies before the courts, the Egyptian Constitutional Law of 2014 states in Article (190) that "The Council of State is an independent judicial body that deals exclusively with adjudicating administrative disputes and disputes of implementation relating to all its provisions, as well as adjudicating cases and disciplinary appeals. To review and draft laws and resolutions of legislative nature and to review draft contracts for which the State or a public body is a party and the law defines its other competences.

In France, its Constitution, promulgated in 1958, explicitly amended the advisory jurisdiction of the Council of State and defined four cases in which the Council's consultation is mandatory:

1. The text of the influential French Constitution stipulates that the Council of State must consult with the Government bills prior to its discussion in the Council of Ministers (See: [Article 39 Second paragraph of the amended Constitution of France of 1958](#)).
2. The text of the French Constitution should be consulted with the Council of State before issuing the decrees of the Council of Ministers, as the Government may request a mandate from the parliament for a specified period to take action under a decree which is usually within the scope of the law in order to implement the government's program (See: [Article 38 of the amended Constitution of France of 1958](#)).
3. The text of the French Constitution should be consulted with the Council of State before the decrees issued by the Council of Ministers on matters not within the jurisdiction of the law which is the so - called regulations in France, where it is released from the jurisdiction of the government without reference to Parliament to take a legislative mandate as in the preceding paragraph ([Article 37](#)).
4. It is mandatory to consult the Council of State whenever the text of the law was issued to consult the Council before issuing a regulation to facilitate the implementation of the law note that the advisory jurisdiction of the State Council is not constrained by the constitutional texts mentioned, as most of the views of the Council are issued on the basis of legislative texts ([Jihad](#)).

It should be noted that the position of the French Constitutional Council from the advisory jurisdiction of the Council of State contributed to its expansion. A Constitutional Council decision stated that [some actions would prejudice the fundamental principles of the free administration of local bodies and the property system and that the obligation to resort to a decree issued after taking the Council's opinion In this case, the constitution must be considered as a basic guarantee for the bodies and individuals concerned with these procedures. They have the right to object to such a situation, and for this reason, these provisions fall within the jurisdiction of the legislator, provided that the decrees are issued after taking the opinion of the Council of State. Situations in which there is no reason for the issuance of these texts] (See: [French Constitutional Council Decision No. 76/73 in 1973 by Sach Gazia, 2008](#)), and shows us that the Constitutional Council did not limit the advisory function of the State Council, the cases stipulated by the Constitution only, but admitted to the legislator the right to grant such jurisdiction of the State Council and expanded, no longer prejudice to the provisions of the Constitution and an amendment to the rules of jurisdiction set out constitutionally and binding for all authorities as long as this procedure Was taken to increase the fundamental guarantees for the protection of the rights and freedoms of individuals.

In addition to the compulsory consultation of the French State Council, there is an optional consultation in the absence of a text requiring the consultation of the Council of State. The Council's consultation is optional and a general rule. For simple decrees or any legal issue, the opinion of the Council of State may be requested from the Government or one of the Ministers, And the government can request the interpretation of any legislative text or

request for opinion in a legal problem, and the Council may, on its own initiative, initiate proposals to the public authorities in legislative or organizational reforms that it deems necessary (Sah jazz).

3.3. Section Two

3.3.1. Legislative Basis for the Advisory Competence of the State Council

The concept of legislation goes to the legal rules established by the legislative authority within the limits of its competence specified in the constitution to regulate the work of the administrative authorities in the state and indicate its competence, functions, sections and types in general. In particular, as far as the subject matter of our research is concerned the Iraqi State Council in terms of its legal organization and jurisdiction. In the second place after the legislative legislation in terms of legislative hierarchy as issued by the legislative authority with jurisdiction in that, Article (61 / I) of the Constitution the jurisdiction of the House of Representatives in all federal laws and the adoption Law in the House of Representatives by simple majority after the quorum (*The quorum of the Chamber of Deputies shall be achieved in the presence of the absolute majority of the members, 2005*), and it applies to the amendment of the law.

This provides the draft laws from the President of the Republic and the Council of Ministers (*Article 60/1*), while offering proposals of laws by ten members of the House of Representatives or from one of the specialized committees (*Article (60/2)*), not the Constitution or the law provides for the mechanism followed by the preparation of the draft law also did not appear in the text of the legislation explicitly requires the President of the Republic or the Council of Ministers introduced a draft law to the State Council for the purpose of conducting checks on it.

However, the jurisdiction of the Council of State is used by the legislative drafting function. This jurisdiction represents a division of the functions of state institutions. There is an obligation, even indirectly, to present the draft law to the Council for scrutiny. In addition to the absence of a provision in the State Council Law, Of the duty to the Council and may not be submitted to the Office of the Presidency directly, except in the cases attributed by the Bureau, which benefits the need to audit the Council of legislation, except in the cases seen by the Court, even if it is permissible in the absence of there was legislative benefit of this text and then there is a social interest in the compulsory status Because the audit council represents a guarantee in safety legislation , experience has shown that the legislation was issued without the scrutiny of the State Council weak legislative and marred by serious flaws and problems left in the scope of application (*Yamamah Mohamed Hassan, 2012*).

In **Iraq**, the advisory bodies of the State Council exercise several competencies, including a purely consultative nature, which is exercised by the specialized bodies and the General Assembly, including mixed advisory and administrative functions exercised exclusively by the Presidency.

First: Mixed jurisdictions: Competent jurisdictions, including those of an advisory nature, including administrative nature, which are exercised exclusively by the Presidency (*Article 2, 2013*), namely:

1. The submission of an annual report or whenever it deems it to the Secretariat of the Council of Ministers. The provisions of the provisions or research shall indicate a lack or ambiguity in the legislation in force or cases of misuse of power by any authority or exceeding those of its authorities or a proposal for the preparation of new legislation. This jurisdiction is the most important advisory competence of the State Consultative Council, which reflects the argument that the State Consultative Council is the State Council. In order to activate this jurisdiction, we believe that a special section for legal research should be established in the Council.
2. Review or increase the number of specialized bodies of the Council.
3. The selection of the Vice-Presidents of the Council from among the advisers.
4. Recommending the appointment of the Chancellor and the Assistant Counselor of the Council or its promotion to an Adviser.
5. Recommend the assignment provided for in Articles 24 and 25 of this Law.
6. Recommending the appointment of the Secretary-General of the Council from among the Board's staff.
7. Proposing the formation of other courts for the administrative judiciary or the judiciary of employees in the provincial centers where necessary.

Second: Pure advisory competencies: The advisory powers of the State Council are divided into terms of reference in the area of rationing and in the field of legal opinion and advice, as follows:

1. The terms of reference in the field of codification (See: Article (5) of the State Council Law No. 65 of 1979 amending):

1. Preparation and drafting of draft legislation related to ministries or non-governmental bodies at the request of the competent minister or the superior president of the non-affiliated entity after attaching to it the provisions of the required legislation with all its priorities and the views of the relevant ministries or agencies.
2. Audit draft legislation prepared by ministries or entities not related to the Ministry in terms of form and subject matter.
3. Contribute to ensuring the unity of legislation, standardizing legislative drafting and standardizing legal terms and expressions.

In order to unify the methods of implementation and enforcement of laws in the process of life, depends on the art of Legislation drafting sometimes, and other times on the wisdom, where legislation on the general text and stripped depends which easily understood and applied by the executive and judicial branches (*Dr Mahmoud, 2014*).

2. The terms of reference in the field of opinion and legal advice (Article 6):

1. Provide legal advice in the matters presented to it by the higher authorities.
2. To provide legal advice in international conventions and treaties before they are convened or acceded to.

3. To express opinion on the issues that are disputed between the ministries or between them and the parties not affiliated with the Ministry if the parties to the case hold the Board and the opinion of the Council is binding on them.
4. Giving opinion on legal matters If there is a hesitation in one of the ministries or entities that are not affiliated with the Ministry, it shall be accompanied by the opinion of the legal department therein, specifying the points for which the opinion is required, and the reasons that it called for presenting it to the Council.
5. Clarification of the legal provisions when inquired by a ministry or entities not affiliated with the Ministry.

In **Egypt**, the terms of reference of the advisory section of the Egyptian State Council require research in the competence of each component of this section as follows:

First: The General Assembly of the Fatwa and Legislation Sections: This Assembly has two types of competences:

1 - Type I: The opinion is expressed in the following topics (See: Article (66) of the Egyptian Council of State Law No. 47 of 1972 amending).

- A. International, constitutional, legislative and other legal matters referred to it because of their importance by the Prime Minister or by a Minister or by the President of the Council of State.
- B. Matters in which one of the committees of the Fatwa Section finds an opinion contrary to a fatwa issued by another committee or by the General Assembly of the Fatwa and Legislation sections.
- C. Matters considered by one of the committees of the Fatwa Section to be referred to them for their importance.
- D. Disputes that arise between the ministries or between the public interests or between public bodies or between the local bodies or between these parties and the opinion of the Assembly is binding on both sides.

2 - Type Two: includes the review of the following topics (See: Article (66) of the Egyptian Council of State Law No. 47 of 1972 amending):

- A. Draft laws.
- (B) Decisions of the President of the Republic with legislative capacity.
- (C) Regulations which the Legislation Section considers to be important.

The fatwa section is concerned with expressing opinions on the legal issues of concern to the various administrative bodies. It is worth mentioning that the fatwas of this section do not constitute administrative decisions or judgments that are binding or subject to appeal, In the areas that require the law refer to the Department of Fatwa to find out his opinion on a matter of the matter and then the Department must take the opinion of the Section in advance and before making a decision otherwise the decision is defective in its form (**Dr Majed Ragheb. Al-Helou.**) . The following is a review of the competences of the components of the Fatwa section:

1 - The departments of Fatwa: It is competent to express opinion in the matters required by the administrative authority, which is competent to manage the fatwa, but consulting if it is a general rule is optional, the law requires the Department in some cases take the opinion of the Department of Fatwa on certain issues, namely the conclusion or acceptance or leave of contract or conciliation, arbitration or implement the decision of arbitrators in material worth more than five thousand pounds, as well as specialized fatwa examining administrative grievances (**See: Article 58 of the Egyptian Council of State Law No. 47 of 1972 Amended).**

2. Committees Fatwa: The Committee is concerned with all give opinions on matters referred to it by the President of the Fatwa optionally, on the other hand , the law requires the head of the Department of Fatwa to transmit to the relevant committee of the following issues (**See: Article (61) of the Egyptian Council of State Law No. 47 of 1972 amending):**

1. Each obligation is subject to the exploitation of a resource of natural resources in the country or interest of the general public interests.
2. Contracts of supply and public works In general, every contract arranges the rights or financial obligations of the State and other public legal persons or on them if the value exceeds fifty thousand pounds.
3. Licensing in the establishment of companies that the law provides for its establishment by a decision of the President of the Republic.
4. Matters in which an advisor considers an opinion contrary to a fatwa issued by a department of the Fatwa Section or its committees.

Third: Legislation Department: The Legislation Department is concerned with the drafting of legislation and reviewing the drafting of draft laws and regulations. The law requires that each ministry or department before issuing a law or any decision of the President of the Republic or a list of the proposed project to be submitted to the legislative section to review its wording, the concerned parties shall undertake to prepare the project (**Consideration: Article (63).**)

4. The Third Topic

4.1. The Kinds of Advice Provided by the State Council and its Legal Value

The Council of State shall, in the performance of its advisory role, exercise competences in the field of legal and other legal advice, as follows:

4.2. First Requirement

4.2.1. Practice of Jurisdiction Advisory Competence in the Field of Opinion and Legal Advice

The State Council shall play an important role in providing opinions and providing legal advice to the administrative bodies that request it. Such competence shall be necessary for the proper functioning and organization of the administrative work. Article 6 of the Law of the Council of State states the functions of the Council in the field of opinion and legal advice and as follows:

4.3. First Branch

4.3.1. Legal Advice in Matters Raised by the Higher Authorities

And the intention of the higher authorities other than the ministries and departments not linked to the Ministry, which is provided by the law title "to provide opinion and advice, and goes to the Council of Representatives and the Presidency of the Republic and the Council of Ministers and the Secretariat of the Council of Ministers", and The law did not explicitly specify the legal advice of the Board in the matters to which it was subjected by the highest authorities, a trend that most States have taken with regard to the bodies entrusted with the competence to advise such entities. However, there is a moral obligation on the part of the higher authorities to advise as is the case with the advice provided by the French State Council, which may have the same effect as the legal obligation. This is the result of respect for the law and the harmony of state institutions with its requirements and respect for those entrusted with the fatwa The opinion and the amount of guarantees that ensure good performance, especially since there are rules not accompanied by sanction but toady due respect for the rules of binding, so that the advice provided by the competent legal advice is one of the point of jurisdiction (not allocating h) put her in a way how to It is simply not legally.

4.4. Section Two

4.4.1. Legal Advice in International Agreements and Treaties

The Council shall provide legal advice in international agreements and treaties as defined in the Law of Treaties No. 111 of 1970 prior to its convening or accession. And the Council provides legal advice in international treaties and agreements before the contract or accession thereto, based on "the rule of paragraph (II)" of Article 6 of the law, the present the agreement before the contract or accession to the Council of State is one of the formal requirements of a necessary law by the law does not leave room "for the option of counting m following a and his order. However, the advice provided by the Council regarding the treaty is not binding on the government, which does not represent that conflict" between unnecessary advice and authority of non-compliance with them, because the law committed the government to explore the opinion of the competent authority not to organize or the State shall be aware of the Convention without foresight and of exploring its advantages and disadvantages.

4.5. Section Three

4.5.1. Arbitration Between Ministries and Entities Not Affiliated with the Ministry

The State Council shall exercise the jurisdiction of arbitration in matters that are different between ministries and entities not affiliated with the Ministry, if the parties to the case control the Council. Where arbitration may be agreed upon in a particular case regardless of its origin. The arbitration shall be established in writing, whether in a record, agreement, contract, or written form, directly or indirectly. The arbitration may be agreed upon after one of the parties has applied to the Board and requested arbitration with the other party. If the second party does not agree, the parties may agree to withdraw it, where the Council decides to close the case and no the parties' waiver of arbitration after its approval and the communication of the Council. If the Council's jurisdiction is subject to arbitration, the Council shall refer the matter to one of the specialized bodies and shall then be referred to a member of the Board to be a rapporteur ". He shall listen to the statements of the representatives of the parties, review the documents and prepare a report and submit the opinion he reached to the specialized body. Of procedures.

And based on "the provision of paragraph (w the third)" of Article (6) of the State Consultative Council Act of 1979 amended to be binding on her opinion. Where the opinion of the Council in this case is authoritative and the order is not allowed to go into the subject of the claim and the report of the other, based on the rules for arbitration.

4.6. Section Four

4.6.1. Opinion in Legal Matters

Opinion in legal matters AC where P if the Council took to express an opinion on legal issues when there is a frequency at one of the ministries or departments not related to the Ministry where according to the provisions of paragraph (IV ") of Article 6 of the law, the opinion of the Council shall be binding on " the point of student The opinion as required by law "of his followers, where he acquires his immunity from the text of the law.

4.7. Section Five

4.7.1. Clarification of Legal Provisions

The Iraqi Council of State Law allows ministries and non-affiliated entities to request the council to inquire about the legal provisions based on Article (V) of Article (6) of the Council's Law.

When the Board submits an opinion "by seeking clarification by a ministry or non-departmental bodies of a legal provision based on article 6 (v) of the law, then the opinion is not binding.

However, the party requesting the legislation may find it necessary to comply with the opinion on its own initiative because it represents the opinion of the party to whom the law is based. It has the jurisdiction of the advisory opinion in the legislation and it is sufficient to be a title for "health of opinion when that health is a criterion".

4.8. Section Six

4.8.1. The Opinion Requested by the Competent Minister or the Supreme Head of the Entity not Connected to the Ministry (This item was added to Article (6) under the second amendment to the Law of the State Consultative Council No. 106 of 1989).

The Board shall exercise the function to express an opinion, which transmits the competent minister or supreme head of the entity that is not associated with the Ministry, and includes what envisage the minister referred. The Council has accepted the opinion of the Minister, and the opinion expressed by the Council at the request of the Minister or the head of the non-linked body is not binding on the Minister or the entities not affiliated with the Ministry.

It is possible that the opinion expressed by the Council will be binding on a decision issued by the higher authorities, whether for the requesting party or for the State and public sectors. Where the General Secretariat of the Council of Ministers deliberate on some of the views of uncles expressed by the Council on the state's departments and the public sector to work under⁽¹⁾. It is a proper regulatory practice because it works to coordinate the State's application of the law and to prevent its inconsistency.

4.9. The Second Requirement

4.9.1. Practice of Advisory Competence in the Field of Rationing

Select the State Council Law procedures followed by the Council in its performance advisory role, as it refers to the President of the Council of State laws and cases before the Council of State projects to one bodies or private constitute the consent of the board of the President of the Council of State for consideration and scrutiny, and its opinion (Article (11)), and in the body mandated to give opinions based member of its members to study the subject and prepare a report thereon (Article (12)), and he has asked for that the presence of a representative of the relevant information to complete the degree to be director of at least (Article (13)), and then distribute the report of the member of the Commission with the draft law on the members for discussion and decision, and may call the representative of the entity or entities concerned to attend to discuss the project (Article (14)), and after performing the Divinely of the mission shall be referred as done by the President of the Council, which in turn refer bills to the general body was to discuss the principles contained in the draft law in the presence of a representative body or the relevant authorities, where appropriate Obna on the Authority's recommendation charged with studying the project (Article (17)).

It is noted in this regard that the opinion of the Commission is final if approved by the President, whether it has a contrary opinion is returned to it and then hold a meeting chaired by the decision if the agreement becomes final, otherwise the President to refer the case to the General Assembly or the expanded body (Article (15)) which consists of the Divinely of specialized work and that has created a specialist of other appointed by the President, but the President of the Council may not refer the case to the body was extended, but referred to the public and the Authority gets in the assumptions specified by law (Article (17)), these assumptions and is what comes

- A - If a body adopts a new principle.
- B. If the Council has a previous opinion that contradicts the new opinion.
- C. If the body charged with examining the case is invited.
- D. President of the Council if it deems that the issue of importance or an important principle.

In all cases, the general of the Authority shall take decisions by a majority of the members present and if votes are equally likely, the Chairman (Article (17)), and the President of the Council to ask the General Authority to reconsider its decision with a statement of the reasons for that (Article (7)), and has in this case, the public body was Lleras decision it becomes final if the challenged was issued with the consent of a majority of the number of public members of the Authority (Article (18)).

5. Conclusion

The creation of legal opinion and advice of the State represents a function of a specialized nature given to the law by the body prepared for this purpose, the Council of State. It is a reflection of the proper administrative organization followed by most States and keen to devote it to the unity of opinion and advice of the state, and thus the law guarantees this opinion good performance in a number of controls. But the similarity of this jurisdiction between the States make it based on common grounds is almost different way of expressing opinion and advice for the specialized bodies, which enhances the importance of this jurisdiction and justify its existence.

It is also necessary for the state to work on the unity of legislation, not only in laws, but also in sub-legislations. Therefore, the State Council has great importance in preparing, scrutinizing and drafting legislation and contributing to ensuring the unity of legislation and consolidating the basis of legislative drafting, terminology and legal expressions. The role of the administrative judiciary without interference from any party, surrounded by "guarantees and immunities sufficient, in order to protect citizens, including employees and secure their rights The

state's direction and, in turn, protecting and safeguarding the rights of the state to breach the duties of their employees.

As we see it necessary to the direction of the Iraqi legislator to put legal texts binding on the administration in the follow-up of the Council in the drafting of draft laws, so that this would achieve the real purpose of the existence of a party has the practical experience in the preparation and drafting of special laws if we know that the Council in The framework for the exercise of this role, which does not exceed the wording limits to the development of new materials.

References

- (92/2010), S. C. D. N. (2009). *Decisions and fatwas of the state consultative council 2010 publications of the ministry of justice*. Baghdad. 216.
- Alexander, P. M. (1979). *Le conseil detat son histoire a travers documents*. Paris. 78.
- Almaddh (25) Paragraph (a) The second item of the State Council Law No. 65 of 1979 , amended,.
- Article 2 (2013). Iii / b / 1 of the state consultative council law no. 65 of 1979, as amended by law of the state council no. 17.
- Article 6 Of the state consultative council law no. 65 of 1979.
- Article 24 Of the State Council Law No. (65) of 1979 Amended.
- Article 37 Of the amended Constitution of France of 1958.
- Article 60/1 Of the Iraqi constitution for the year 2005.
- Article 190 Of the egyptian constitution for the year 2014.
- Article (1) Of the law of legal registration no (49) of the year 1933 repealed.
- Article (1) Of law no (71) for the year 2017 , and published in the iraqi gazette no 4456.
- Article (3) Paragraph (1) of the Law of Legal Registration No. (49) for the year 1933 repealed.
- Article (3) Paragraph (2) of the law of legal codification no. (49) of the year 1933 repealed.
- Article (3) Paragraph (3) of the law of legal codification no. (49) for the year 1933 repealed.
- Article (3) Paragraph (4) of the law of legal registration no. (49) for the year 1933 repealed.
- Article (3) Paragraph (5) of the law of legal codification no. (49) of the year 1933 repealed.
- Article (3) Paragraph (6) of the law of legal registration no. (49) for the year 1933 repealed.
- Article (6) Paragraph (1) of the law of legal codification no. (49) for the year 1933 repealed.
- Article (7) Of the state council law no. 71 of 2017.
- Article (8) Of the revoked legal codification law.
- Article (11) Paragraph (4) of the law of the state consultative council no. (65) for the year 1979 (amended). In this regard, we refer to the text of article (7) of the iraqi council of state law no. (71) of 2017 that "the reference to the minister of justice shall be deleted wherever it appears in the legislative texts relevant to the work of the council.
- Article (12) Paragraph (2) of the law of the state consultative council no. (65) of 1979 (amended).
- Article (13) Of the law of the state consultative council no. (65) for the year 1979 (amended),.
- Article (14) Paragraph (2) of the law of the state consultative council no. (65) for the year 1979 (amended).
- Article (15) Paragraph (1) of the second amendment law of the state council law no. 106 of 1989,.
- Article (17) Paragraph (1) of the law of the state consultative council no. (65) for the year 1979 (amended).
- Article (17) Paragraph (2) of the second amendment law of the council of state law no. 106 of 1989.
- Article (17) paragraph (3) of the Law of the State Consultative Council No. (65) for the year 1979 Amended.
- Article (18) Amended by law no. (36) for the year 2001 (the third amendment to the law of the state law council).
- Article (60/2) Of the Iraqi constitution for the year 2005.
- Article (101) Of the constitution of the republic of Iraq for the year 2005.
- Articles 5 and 9 Of the iraqi state council law no. 165 of 1979 are amended.
- Articles (19, 21, 22, 23), Of the state consultative council law no. 65 of 1979 (amended).
- Consideration: Article 2 Ter / a of the state consultative council law no. 65 of 1979.
- Consideration: Article 2 Ii / a of the law of the state consultative council.
- Consideration: Article 62 Of the egyptian state council law.
- Consideration: Article (63) Of the above law.
- Decision of the State Consultative Council (156/2010).
- Decision of the State Consultative Council No 2/2012 (2011). *Decisions and advisory opinions of the state council of 2010 from the ministry of justice*. Baghdad. 35.
- Decision of the State Consultative Council No. (90/2010).
- Decision of the State Consultative Council No. (109/2010).
- Dr Mahmoud, K. a.-J. (2014). *Administrative Judiciary in Iraq*. Dar al-Mortad: Baghdad. 2.
- Dr Majed, R. A.-H. previous source. 93.
- Dr Majed, R. A.-H. The former source. 93.
- Dr. Abdel, G. B. (1999). *Administrative judiciary and the lebanese state council*. University House for Printing and Publishing: Beirut. 88.
- Dr. Majid, R. a.-H. previous source. 154.
- Dr. Naguib, K. A. A.-J. (2018). *Administrative law*. Yadkar Library: Sulaymaniyah. 50.
- Dr. Ramzi, A.-S. e. (1983). *The general theory of constitutional law*. 3rd edn: Ain Shams University Press: Cairo. 58.

- Dr. Rana, A. H. A.-S. (2019). *Authority of the administration in the fight against terrorism and control of its elimination-comparative study*. 1st edn: Dar Al-Fikr Al-Arabi: Cairo.
- He pointed out to him *Mohamed Fouad Ben Sassi, the consultative position and its role in political and administrative decision-making*. Master Thesis, University of Qusdi Marbah-Ouargla, Algeria.
- Jihad A former source. 94.
- Jihad (2017). *The role of the iraqi state consultative council in protecting public rights and freedoms - comparative study*. PhD Thesis, Faculty of Law, University of Baghdad. 91.
- Majed Ragheb Al Helou, D. (1985). *Administrative Judiciary*. University Publications House: Alexandria. 101.
- Najib Khalaf al-Jubouri, d. (2018). *Administrative judiciary*. Yadkar Library: Sulaymaniyah. 119.
- Obaid., D. A. A. (2013). *Ghazi Faisal Mahdi*. 2nd edn Administrative Judgment. 132.
- Published in the Iraqi Gazette No 4456 (2017).
- Sabah Saadiq Jaafar al-Anbari (2008). *State Consultative Council*, 1(2008): 8.
- Sah jazz, o. Cit. 408.
- See: Article 2 li / b of the shura council of the law of the father of ululation.
- See: Article 38 of the amended Constitution of France of 1958:
- See: Article 39 Second paragraph of the amended Constitution of France of 1958:
- See: Article 58 of the Egyptian Council of State Law No. 47 of 1972 Amended:
- See: Article 59 of the Egyptian Council of State Law No. 47 of 1972 amending:
- See: Article 60 of the Egyptian Council of State Law No. 47 of 1972 Amended:
- See: Article (5) of the State Council Law No. 65 of 1979 amending:
- See: Article (61) of the Egyptian Council of State Law No. 47 of 1972 amending:
- See: Article (66) of the Egyptian Council of State Law No. 47 of 1972 amending:
- See: French Constitutional Council Decision No. 76/73 in 1973 by Sach Gazia (2008). *State Council System in the Algerian Judiciary, doctoral dissertation*. Faculty of Law, University of Algiers Ben Youssef ben Khaddah. 408.
- Site Rass Mai French Council of State p Barr link email: Available: www.arabic.conseil-etat.fr
- State Council Decision No. (91/2008) (2009). *Resolutions and fatwas of the state consultative council 2010 publications of the ministry of justice*. Baghdad. 242.
- The quorum of the Chamber of Deputies shall be achieved in the presence of the absolute majority of the members (2005). Article (59/1 and 2) of the Constitution of the Republic of Iraq shall be considered for the year.
- The State Consultative Council Decision No. (57/2010):
- This item was added to Article (6) under the second amendment to the Law of the State Consultative Council No. 106 of 1989:
- Upholstered in the language and the media (1975). *Louis maalouf 1908 in the language and fernardtutel in 1956 in the media*. Orient House: Beirut. 407-08.
- Yamamah Mohamed Hassan (2012). The effect of legislative drafting on the application of laws - study in the law of governorates not organized in region. *Research published in the Journal of Law*, (4).