

Public Amicable Settlement of Disputes in Accordance with Jordanian Law: A Comparative Study

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1. Introduction

Public disputes are those controversies that may arise between the insured or with his rights on the one hand and the agencies of Social Security on the other hand about renderings kind and cash entitlement or not and expanding the field of application of this disputes to include obligations rests with the employer and relating to non-implementation of the obligations to the Fund in the legal proper time¹, More specifically legislator of insurance has developed a set of rules governing the relationship between the insurance institution and worked with the parties, particularly the insured and the employer and that the report of a set of rights and duties and breach could lead to disagreements of a general nature, Where the insurance institution issues decisions within the framework of the relationship between them and the insured or employers arise naturally rights and consequent duties and raised legal graduated according to the nature of their medical disputes or technical disputes, in an administrative decision, which the insurance institution issued as part of a secure work-related injuries and occupational diseases may be subject refused to provide for the rights established by law and may be the subject of the decision to pay sums of money, whether sanctions or increases delays or forced collection if it related to the employer, in this regard the legal rules of public disputes in terms of the organization of space into two parts: The first Section relates to disagreements relating to the rights of insured and with their rights in this aspect the focus of dispute mainly about insurance benefits entitlement or not, and this either for breach of the institution obligations in payment of compensation or non-eligibility of the beneficiary or with his rights to benefit from renderings in-kind and cash for non-of insurance file for the conditions and procedures laid down legally.

As for the second section it regard to disputes arising from the non-implementation of employer obligations, which lies on the shoulder of the permit activity, wages and affiliation to the provisions of the law and perhaps most importantly, the performance of subscriptions, but there are disputes not less important than previously mentioned and most notably those disputes relating to compensation for the error which may commit by the employer or a third party², And in front of public disputes diversity and expansion of its areas³ Jordanian law as well as comparative substantial measures governed and driven by the most important passage in mandatory administrative appeal before the competent committees pre-appeal against the decisions issued by the insurance institution following their stay first remedy may be appealed to the Appellate committees

while respecting proper time and appointments when resorting to it that before resorting to the competent judicial authorities, , But the exercise of this right and assets that differ from one country to another according to the different legal systems applied as will be indicated, but it should be noted that there are some disputes that albeit in the intervention in framework of public disputes for Social Security, but it is by their nature, the jurisdiction of the chapter in which devolves to eliminate the normal directly without resorting to

¹ J.-P. Chauchard, *manuel Droit de la sécurité sociale*, 2e ed., L.G.D.J.,1998, P.218; S. Julliot-Bernard et J. Moret Bailly, *Les nouveaux contentieux des professions de santé*, Dr. Social sept-octobre 1996, p. 840. La modification du contentieux des relations entre l'assurance maladie et les professions de santé, Bull soc. Fr. Lefèvre, février 1997, p. 65. H. Ouaisi, *Contentieux général de la sécurité sociale et de la mutualité sociale agricole*, Juris.-Class. Procédure civile, 2009, P.P.2.

Semati Tayeb , public disputes in the field of social security in the light of the new law, op. Cit., P. 13 et seq. Ben Sari Yassin, social security disputes in Algerian legislation, op. Cit., S12-13.

² Article 452-1 and following of the legalization of social security. Look : CE, 5e et 3e sous-sect. Réunies, 13 mai 1987, Mme Mohand ; Rec. CE, p. 169

³ D. Ceccaldi, *Contentieux général de la sécurité sociale et de la mutualité sociale agricole*, Jur. Class.1996, Fasc 649. H. Ouaisi, *Contentieux général de la sécurité sociale et de la mutualité sociale agricole*, article précité, P.3

committees pre-stabbed or the competent judicial affairs social security¹.

As the relationship that develops between the insurance institutions and insured on the one hand, and between these institutions and employers on the other hand require rights and obligations produces legal effects may lead to differences of a general nature, the complexities that characterized by these differences have made the legislator develops a procedural rules relating to disputes to settlement of other protests and objections that may arise regarding the insurance institution decisions in the framework of the general disputes through the pre-obligatory appeal as part of a friendly committees and select proper time for that, So they preference it to be the origin of the settlement of disputes, hence the importance of the pre-appeal against the institution decisions, which is a fundamental of public order adopted by the legislature to resolve such disputes before resorting to the competent judicial authorities, in order to achieve greater capacity of speed and flexibility in resolving this kind of disputes².

Consequently it can be said that the procedures objection to the decisions of the institution in the field of social security are the subject of the utmost importance not only in terms of legal structures that regulate and control the conduct of these objections, but in terms of not identify the different types of public disputes that inevitably lead to an expansion of the scope so the need to resolve and settle such disputes necessarily require the entry of all other disputes that are beyond the scope of medical and technical disputes within the public disputes And thus subject them to settlement procedures, which represented in amicable settlement procedures characterized by Internal character and friendly comes to submit the dispute to pre-appeal committees tasked by law to receive the rest of Appeals prior and objections against the insurance enterprise decisions first following their stay to take second validity receive appeals device to appeal against the decisions of the First Committee³.

1.1 Significance of the study

Modern legal thought tends in the field of resolving the disputed issues thereon to find common ground agreed upon by the disputants without resorting to the judiciary, which is known as the friendly settlement to resolve disputes. This kind of settlement represents a alternative method tends to not total reliance on the judiciary alone in the field of dispute resolution as a monopoly on its own jurisdiction between persons to each other or between them and government institutions, even as between all these parties and other parties.

A recourse to amicable settlement of disputes has become one of the most important ways that should be resorted to in order to avoid a lot of material and moral losses that may be incurred by disputing parties. The amicable settlement has done after coordination between the disputed parties with lawyers and through establishment treaties and agreements. Also the amicable settlement system contains an important multiple legal mechanisms devolves ultimately to compromise the disputing parties and agreement on a solution fits all of them.

The success of the work through the amicable settlement to resolve disputes is due in fact to a number of reasons the most important one is integrity and credibility in the subtraction and intelligent negotiator, where only the subject of the dispute is discussed, other than the judiciary, which could open the closed avenues between two disputing parties, It also helps in the mutual consent of all parties and quickly find solutions to disputants. Furthermore, it sums up the steps explaining to the competent court the technical matters may be modern for them which leads to consumption greater time and effort, In addition to the obvious effectiveness in relation to many of the shortcomings, and the length of routine procedures, the length of time between the various stages of litigation, the slow pace of sentencing, and the burden of physical, moral and psychological costs faced by all parties to the dispute, whatever the qualities, plaintiffs or defendants, without losing sight of separation of Non amicable of the parties after the issuance of the final verdict in the case of the parties resorted to the judiciary

¹ See, Semati altaeb , social security disputes in the Algerian legislation, Badi Foundation Publishing, Algeria, 2008, p. 117. Mohammad-Cola, the legal system of social security disputes, op. Cit., P. 89.

² X. Prétot, Les grands arrêts du droit de la sécurité sociale, Préface J. Rivero, Sirey, 1988, P.277.

³ See, Semati alTeab, public disputes in the field of social security in the light of the new law, Dar Al-Huda for printing, publishing and distribution, Algeria 0.2010, p. 69.

The slowness with which characterizes the work of judicial institutions contributed to making the scales of justice group put among the most important objectives attempt to obtain an amicable solution before bring claims and dispute by resorting to alternative solutions that take into account the principles of justice and fairness, , Without commitment of prior legal rules, and unappeasable provisions, and work in a way dominated by secrecy and flexibility stemming from the conviction and harmony between the parties where they virtually involved in stages of settlement process from the beginning of starting the process of settlement proceedings to an end, which would end the disputes in a friendly atmosphere allows later to continue the relations between the parties. And the amicable settlement earns an executive bond signed and ratified by the disputes parties.

Accordingly, the amicable settlement of dispute resolution, based on several legal methods and technical skills are used, and then conduct negotiations in a professional and a high degree of expertise and professionalism, so that the resulting ultimately positive effects desired in the issue of access to patients compatibility between the disputing parties. Recipient should resolve the dispute amicably, to have adequate and good command of work to document the decision of reconciliation, which ensures that preserve the rights of everyone. . Also, the recipient should have prudential knowledge of settlement way, since the time of initiation and even get the draft resolution in a final form and satisfactory to all disputing parties, and their approval of the draft, and all its clauses, ejected before the final form.

1.2. Problem of the Study

Individual labor relations operates several problematic process during implementation, leading to tension in the relationship between the worker and the employer, regardless of the nature, duration and form of the legal instrument or contractual upon which the employment relationship, and the individual dispute at work is every disagreement between the worker, or a apprentice worker, and employer, due to the implementation of the employment relationship, Because of breach of one of them the commitment of the commitments specified in the contract, or for violation of or failure to comply with a legal text or regulatory or agreements, which causing harm to the other party and is considered the dispute all the odds in the existing work among salaried workers, and the user, on the implementation of the business relationship between the parties, If it is not resolved in the framework of the settlement processes within the organism used by amicable settlement, which appeal by the method of reconciliation.

The researcher will doing a comparison between the amicable settlement of public disputes , according to Jordanian law, and amicable settlement of public disputes in accordance with Egyptian law and finally the amicable settlement of public disputes in accordance with French law.

1.3. The Study Question

What are the procedures that monitored by the Jordanian laws and the laws of Egypt and France to resolve public disputes in the field of social security?

our study is divided into sections, in the first section we address the amicable settlement of public disputes in accordance with Jordanian law, then the show in the second section: the amicable settlement of public disputes in accordance with Egyptian law, to conclude by third section: the amicable settlement pf public disputes in accordance with French law.

2. Section One

Amicable settlement of public disputes in accordance with Jordanian law

Since the right of appeal from the fundamental principles enshrined in the International Convention and national legislation¹, the Jordanian legislator For this purpose the inauguration of several committees for the adjudication of all appeals that are filed against public decisions issued by the insurance institution, and therefore the prior appeal considered a mandatory procedure we resort to him before resorting to the judiciary, So that they can settle the dispute internally in amicably and for this purpose the Jordanian legislator established two pre-appeal committee its mission settlement of the public dispute, the first represent in the Committee of central

¹ See, Amer Salman Abdul Malik, social security in the light of international standards and practical applications, Volume I, publications Halabi rights, Beirut, 1998, p. 59 et seq.

rights settlement¹ and the second is Committee of Social Security Affairs² Brought before the dispute as a appeal to the resolutions of the First Committee, based in Public Institution for Social Security administration and the resolutions of the recent final and subject to appeal before high Court of justice unless the subject related to the dispute amounts of money in this case is to appeal the institution's decision to directly in front of the ordinary courts without resorting to arbitration, Because of financial disputes are subject to the general rules in litigation clearance³; and thus the internal settlement procedures are formality restriction consequent failure not to accept the lawsuit form.⁴

Accordingly, the study of the amicable settlement committees to resolve public disputes as a first appeal requires addressed by three sections the first allocates to study the central rights settlement Committee, as for the second section we allocates to the study of the Social Security Affairs Committee, and finally address the legal effects of the decisions issued by pre-appeal committees.

2.1. The first topic

2.1.1. Central rights Settlement Committee

The Jordanian legislator have established an automated system to settlement the public disputes in area of social security in general and in the framework of work-related injuries and occupational diseases, in particular, and this by viewing all the disputes with general nature to the central rights settlement Commission as a appeal against the decisions issued by sub-rights settlement committees and decisions of the director of pension administration and directors of departments, branches or liaison offices affiliate In addition to the decisions of the cancellation of the coverage established for the emergence of boosters documentation supporting that decision before resorting to the competent judicial authorities, To achieve this, the executive instructions of insurance was issued according to the provisions of Article (11 / b .107) of the Law, Where it was renamed the Central rights settlement Commission as one of the insurance work devices and make method of formation, and identified its powers and functions, methods of appeal against the decisions in front of other committees to be a appellate reference to report rights on its decisions.

Accordingly, the study of the work of this committee requires exposure to various related aspects in terms of the extent of pre-appeal mandatory to them or its formation or its procedures functioning, as well as its terms of reference and the necessity of its Report to the person concerned and in the following manner:

2.1.2. The first item: the formation of a Commission for the central rights Settlement

Regarding the issue of the formation a central rights settlement Committee the Article II of the Executive Committee of the instructions for central rights settlement requires that form a committee in the organization called central rights settlement Committee of four full-time members of the institution employees with the insurance and legal expertise, In addition to a doctor from inside or outside the institution, and the Insurance Council called based on the submission of the director Based on the submission of the director and members of the Committee and one of them called as its chairman and one vice-president exercise his powers in the event of his absence, the Council also called members instead of original members exercise their powers in the absence of original members, also a full-time secretary has appointed of the commission and appoints a substitute exercise his powers during his absence⁵

It is noted from operative ruled of this Article that with regard to the formation of the Committee members, That in terms of the formation of the Committee members and if is assign it to qualified members in the field of social security and have experience and expertise and know-how of what they can do their best alright But it does not include among its members a representative of the workers or the employers and thus

¹ Chapter III of Title VIII of the executive instructions of insurance commissions.

² Chapter IV of Part VIII of the executive instructions of insurance commissions.

³ See, Saeed Saad Abdul Salam, arbitration in the Social Insurance Law, Menoufia University Press, 1997, p. 61.

⁴ See, Semati alTaeb, public disputes in the field of social security, op. Cit., P. 71

⁵ Article II paragraphs (a, b, c, d) of the executive instructions of the Commission

shrouded in mystery and the lack of neutrality of this composition, inconsistent with the provisions of the International Labor Organization conventions, which requires the need to settle disputes by an independent authority for administrative authority that gave the original decision not to be the meaning of review phantom¹.

2.1.3. The second item: the Committee competence and procedures for the conduct of its business

Commission is competent to pre-appeal in the study and decide on appeals and objections submitted to it by the insured party or by the action against the decisions of sub-rights settlement committees and the decisions of the insurance institution to be taken by the director of pension administration or by the departments of branches or affiliate link offices Managers owners² These decisions relevant to the estimation and the granting of payments in kind and cash given to the insured or with his rights on the occasion of illness or death or maternity, as well as disputes relating to salaries of pensions, Also the pre- appeal Commission competent to determine the deductible paid in the event of non-availability of records and data of the entity or in the event of non-conformity of the data submitted to the reality and that the concerned branches departments calculates the contributions and the settlement of rights on that basis, Perhaps the most prominent in the functions and powers granted to this committee is the placement of the Commission on Social Security affairs to adopting resolution of reference to others to demand the full costs that institution paid if it is proved that the injury suffered by the worker had done by third parties³ and has for that information gathering and validating to decide in the cases before it, or the inspection request and any other cases that require⁴.

3. Section Two

3.1. Affairs of Social Security Commission

Once the person concerned found that the decision of the central rights settlement Committee against him was unfair he can submit an objection to the Social Security Affairs Commission for issued a final administrative decision is subject to appeal in front of the Supreme Court of Justice, To achieve this, executive instructions of insurance was issued according to the provisions of Article (11 / b .107) of the Law,

where the Naming of security affairs Committee as a appellate entrusted with adjudicating appeals made to it from other than those relating to appeals and increases fines for the delay, as painted method of formation, And identified its powers and functions, methods of appeal against the decisions, and then the law and regulations issued the rounder has a prominent and direct impact on the public to support the settlement of disputes within the framework of pre-appeal committees which is results that there has been two levels of appeal, in an effort of the legislature in settling disputes amicably without resorting to the first stage of the judiciary due to the simplicity and clarity of pre-appeal proceedings in addition to its role in the convergence of the insured from the insurance institution.

3.2. The second topic

Public amicable settlement of disputes in accordance with Egyptian law

Egyptian legislator impact that the judiciary should not be the only way to resolve disputes arising from the application of the provisions of the Social Insurance Law, and this by make the amicable settlement way mandatory and precede resort to the judiciary stage, so some call it⁵ compulsory arbitration in the Social Insurance Law, which litigants mandatory penetrates the door of arbitration in the framework of public disputes

¹ See, Amer Salman Abdul Malik, social security in the light of international standards, op. Cit., P. 61.

² According to Article III, paragraph (a) of the insurance executive instructions of the Commission.

³ According to Article III, paragraph (c, e) of the insurance executive instructions of the Commission.

⁴ In accordance with the provisions of Article IV of the insurance executive instructions of the Commission.

⁵ See, Saeed Saad Abdul Salam, arbitration in the Social Insurance Law, op. Cit., P. 33.

in order to obtain protection measures accessible and reasonable dates in the distant atmosphere

somewhat from the litigation before the access the judiciary, Arbitration means that committees provided for in Article 157 of the law, and we will pay special importance to the examiner disputes Committees as a general jurisdiction in all disputes and social insurance, Therefore, we address in this requirement to the formation of these committees and terms of reference and working procedures then we show the legal nature of these committees, and before that we show in detail each of the these committees are offering first to the importance of these committees, as follows:

3.2.1. The first section

The importance of amicable settlement committees

Arbitration is the most appropriate alternative route to resolve disputes and social insurance in general and public disputes, in particular, because the courts are no longer able to respond to these various disputes individually, along with the emergence of the urgent need for specialist by those who look at these conflicts, Arbitration is no longer only the alternative route for public disputes settlement, but has become a necessity and inevitability for these disputes to be one of its parties the State or one of the persons of public law as a public authority, also the importance of arbitration has increased as a resort way for settle public disputes in view of what characterizes of speed and simplicity of the procedure, in addition to achieve fairness because of neutrality which is characterized by the arbitrator or arbitrators¹.

The Study of the importance of amicable settlement committees requires as alternative way to resolve public disputes to address the concept of arbitration then we show the importance of arbitration as part of the Social Insurance Law as follows:

3.2.1.1. The first item: the definition of arbitration

Arbitration in language is taken from ruling, which is prevention, and prevention in rule is injustice which mean mandate and one rule in something mean making his command to him and authorized him to governance²

3.2.1.2. The second item: the importance of amicable settlement committees

A researcher at the advantages and positives of amicable settlement committees notes the extent of affiliation of those benefits to the two axes, the first that the amicable settlement concerning the rights of workers and employers on the one hand and the rights of the insurance institution on the other hand, and second to avoid litigation procedures, which has been lengthened thereby lose the right value for getting it, so the Arbitration many advantages includes allowing litigants to obtain a final judgment in their dispute, and more convenient for litigants than those that take place before the competent authority to decide the dispute in terms of distance from the excesses litigation conditions, it also achieves prompt settlement of the existing dispute which exhibit to arbitrators and other advantages.

3.2.2. The Second section

Examine disputes Committees

One of the most important developed by the Social Insurance Law No. 79 of 1975, the establishment of examine dispute committees in order to attempt disputes between the insurance institution and between employers and insured and pensioners and beneficiaries and other beneficiaries by amicable settlement way before resorting to the courts³, So the legislature wanted when creating disputes on rights arising from

¹ See, Mahmoud Ali Sartawi, arbitration of Islamic Sharia law, Dar thought, Jordan, i 1.2007, p. 16. Sana Boruls, alternative ways to resolve disputes of an international character of administrative contracts, Master Thesis, University Hadj Lakhdar 0.2011, p. 4.

² Upholstered in language and media, dar almashreq, Beirut, Lebanon, the fortieth edition, 2003, p 146.

³ Denunciation of a civilian in March 1996 28 technical office Year 47, C 1, stabbed No. 60 for the year 1468, S

occupational hazards that may be faced by the vast majority of the people to resort to a private way to examine such disputes through the presentation of this matter to committees established for this purpose in Article 157 of the law called examine dispute committees before resorting to the views of the competent judiciary law to settle this dispute, which is through a compulsory¹ should resort to him and not to prepare the person concerned in violation of basic procedures related systems litigation².

We address the role of these committees in the settlement of public disputes to present the formation of these committees and terms of reference and procedures for the conduct of their work as follows:

3.2.2.1. The first item: the formation of examination disputes committees and its competence

Originally that the arbitral tribunal constitutes by mutual agreement who agree among themselves on the name of the arbitrator or arbitrators who will solvers the dispute this principle has devoted origin arbitration legislation³, does this rule resonate in the form committees examine disputes?

Since the origin of the compulsory arbitration that the legislature intentionally set the regulation is mandatory for detailed procedures for arbitration so as not to be a liability to the will of any role in it⁴, It is by reference to Article 157 of the law found has been delegated the Minister of Insurance to issue a decision on the formation of disputes committees and operating procedures of its examination, and to achieve this the Ministerial Decree No. 360 of 1976⁵ was issued. Based on this delegation which includes a way constitute these committees.

3.2.2.2. The second item: rules and procedures for the functioning of the Commission

The legislator has dealt with these procedures in general deficit in Article (157) of the law, which its text is: "..., before resorting to the courts a request submit to the National Social Insurance Organization to submit the dispute to the Committees referred to settled in amicably way".

3.2.2.3. The third item: Subscriptions disputes

disputes examine committees Specialized in the study and decide on appeals submitted to it by the insured party or by the employer against the decisions of the insurance institution, and this latter related to the objections relating to the collection of amounts owed to the institution and in the objections relating to increases fines for delay, More specifically that the scope of an amicable settlement in this context is the locality of disputes account contributions and objections relating to the employer on the way the assessment of contributions, So the legislator was draw a paths must resort whichever before resorting to the courts in order to expedite the resolution of the dispute between them in order not to be an obstacle to the organization of access to entitlements⁶ The first way represent in object the estimate of participation of the institution, and the second way

110, p. 585.

¹ See, Ahmad Shawqi Meligi, social legislation, op. Cit., P. 1117.

² Denunciation of a civilian 23/05/1983, for the year 49 BC, mentioned the appeal 267. Said Abdel-Salam, modern insurance disputes, op. Cit., P. 65.

³ See, Khaled Ahmed Abdulrahman Arabiat, the formation of arbitral tribunals under the law of the Jordanian arbitration and comparative law, op. Cit., P. 75.

⁴ See, Munir Abdul Majid, eliminate arbitration in international trade disputes, Dar university publications, Alexandria, 1995, p. 80 .

⁵ Ministerial Decree No. 360 of 1976 was issued regarding the formation and procedures of the screening committees disputes dated 12/28/1976, and the dissemination of the Egyptian Gazette issue No. 8 dated 01/09/1977.

⁶ See, Mustafa jmal, the mediator in the social insurance, op. Cit., P. 282. Ramadan Jamal Kamel, Encyclopedia of Social Insurance, op. Cit., P. 143.

is to try to settle the dispute amicably through examination disputes committee. Accordingly, the exposure to these issues will be as follows:

First, object to the insurance institution

Also the legislator dealt stages of this litigation by text in Article (128) of the law, which its text is: "taskmaster in the private sector is committed to provide the competent national authority employees data, wages and their contributions, according to the forms prepared by the Authority and by the terms and conditions set forth in Article 151, Contributions are calculated on the basis of the data contained in these models,

if the employer did not provide the data set forth in the first paragraph the contributions payable calculated on the basis of the last statement submitted to the Commission until such time as the contributions due, In the absence of such data, or the lack of records and the documents referred to in Article (151) The calculation of contributions according to the outcome of the Commission investigation the size of determining compliance, according to the rules established by a decision¹ from the Minister of insurance upon the proposal of the Board of Directors, and the competent authority to notify the employer of the value of calculated contributions in accordance with the preceding paragraph, as well as other amounts due to the Authority recommended by registered letter with knowledge of access²

Second: the appeal among the examiner disputes committee

If the employer objected to linking notification contributions as the aforementioned, and the Commission rejected the objection he had a right to request the dispute to the examiner dispute committees provided for in Article (157) of the Act, Therefore the legislature enjoined on the employer within thirty days from the date of receipt of the Commission's refusal to apply to view this dispute before committees examining disputes to be settled amicably, If they are not making such a request the receivables shall become due immediately , and if the request is made too late it will not be acceptable to the Commission and issue its decision within the limits of the Commission's report and the employer requests³

Commission employer announce the decision recommended by registered letter of dues and adjusted in accordance with this decision, if doesn't notice the employer of claim to replace crumbling letter with acknowledgment of receipt, so nothing for him if he does not objecting to the account and used his original right in resorting to the courts and not only it is bounded on the obligation to submit a request for the dispute to dispute resolution committees examined before resorting to the courts⁴, Also, the receivables It must be performed without expiry the dates of appeal occurrence⁵, or the issuance of the Commission's decision, denying the competent authority to intercept the employer, or that he did not request the dispute to the disputes committee examined within thirty days from the date of receipt of the notification of rejection.

4. Third section

Legal nature of the examiner dispute committees and its decisions

Due to the importance of legal nature of the subject, especially in the field of legal studies, the significance appear to be more pronounced for those committees, so as having general jurisdiction in the

¹ Article (27.25) of the decision of the Minister of Finance No. 554 for the year 2007.

² Paragraph replaced by Law No. 93 of 1980, the Official Gazette, Issue No. 18 (bis) dated 03/05/1980.

³ See, Mohammed Hassan Qassem, social insurance, op. Cit., P. 285. Mustafa beauty, the mediator in the social insurance, op. Cit., P. 285.

⁴ Denunciation of a civilian, stabbed No. 59 for the year 1189, S 210, July 11, 1996, the Technical Office, the year 47, C 2, p. 1125

⁵ Denunciation of a civilian, stabbed No. 65 of 63, dated 01/27/2000, Journal of attorney, GS 1.2001, p. 273.

settlement of disputes arising from the application of the provisions of the law, Therefore, determining the legal nature of the examiner dispute committees, and decisions issued by it finds fertile ground in the field of judicial rulings issued in this regard, where he settled on the examiner dispute committees decisions are not administrative decisions that being appeals before the administrative court, and that these committees are not considered relevant jurisdiction commission¹, That the legislator did not entrust the task to decide the dispute between the two parties but inadvertently created an attempt to settle the dispute amicably before resorting thereon to the elimination, and these committees during its mission to try an amicable settlement recede by administrative capacity and keep their business circle in the framework of the compromise efforts replace - with the consent of the person concerned - its results from indulging in a subsequent administrative and judicial disputes, Including the effect that what comes out of this committee is not an administrative decision, which specializes in administrative court to adjudicate of disputes that arise about it, and it consequently the lack of reaching a acceptable amicable settlement by the concerned person that opens the way for him to resort to the competent judiciary into this kind of disputes².

4.1. The third section

Public amicable settlement of disputes in accordance with French law

The pre-appeal on the procedures of litigation on disputes between the concerned insurance institution of the most original ideas has offered talent legislator in the 1946 Act, French legislator through the Report of pre-grievance procedures have wanted to support the social dimension of the dispute, and that the limits of bureaucratic organizations feared that raised so it has opened the door to everyone opposes the decision of the Social Security Fund to hasten the lifting of his appeal to the Appeals Committee and the truth is that this will It may actually materialized in the composition of the Appeals Committee according to the law in 1946³, This law was issued after the Second World War and is no secret that this period in particular revealed the critical importance of the establishment of a specialist and then spend the large area of diversity that characterized the issues being considered by the judiciary led to the creation of the first two categories of legal deductions, And other medical and then it is inevitable that both categories of discounts courts consider vary in terms of specialization and configuration, there are affairs of the courts of the social security on one side, and the courts of the deficit by another In both cases constitute grievances committees basic step for a settlement before moving antagonism to eliminate⁴.

4.1.1. The first section

Formation of a amicable settlement committee and its terms of reference

Pre-appeal is not much different from the Pre-decision rule in administrative law, which reveals the content of reality commitment on the shoulders of the appellant against the administrative authority that leads to in tyro case grievance before heading stabbed him to justice and then Whenever Palace in fulfilling this obligation, so he has no right to filing of the appeal in front of the administrative Law judge⁵.

Thus the Pre-appeal is considered mandatory conduct resorted to before resorting to the courts so that they can settle dispute internally in a amicably way, for this purpose French legislator was established a Commission for pre-appeal its mission is to settle public disputes in the field of social security and the terms of

¹ The Supreme Constitutional Court, challenged the constitutionality of s No. 26/23, 07.07.2002 session. Denunciation of a civilian, the appeal in 2039,

² The Supreme Constitutional Court, the appeal the constitutionality of s No. 26/23, 07.07.2002 session. Denunciation of a civilian, the appeal in 2039, the year 51 BC, 04.28.1986.

³ L. Bihl, *Le contentieux de la sécurité sociale et de la mutualité sociale agricole*, Préface de E. DARY, Librairies Techniques, 1971, P. 18.

⁴ F. Kernaleguen, *Institutions judiciaires*, 3ème éd., Litec, 2003, P. 144.

⁵ L. Mélenne et J. Juttard, *Traité de la réparation des accidents du travail*, Préface de Pierre Bouzat, Paris, L.G.D.J., 1969, P.221

reference, so the function of these committees are limited to just the opinion of the Council of fund, which in turn makes decisions that do not have any judicial nature management, and this is what we will look to: first formation of the committee second it's terms of reference.

4.1.1. The first item: formation of a amicable settlement committee

As it is in the Jordanian and Egyptian law the French law requires relating to appeal the decisions of the insurance institution to try to resolve the dispute amicably by resorting to the friendly CRA Committee before resorting to the courts, Nor the court does not accepted the appeal before depositing file with the amicable committee and the form of this committee on the board in every branch of the institution¹, this committee includes administrators within half belonging to the same category of the appellant and other appointees, among other categories of administrator, Also includes forming a committee of two wage-earners when the appeal issued by the salaried worker, or his successor, or a person who does not exercise any professional activity, may include the formation of the committee two employers when was the appeal issued by the employer, there are two members are selected from other categories of managers², and give its opinion of the Committee of the Governing Council, which issued its decision and declares to his interest.

4.1.2. The second item: the terms of reference of the amicable Committee

Initially there is a Ration loci for Committee, where its Ration Loci holds in the same circle of the place of Social Security Authority pursued by the Commission, and along the region, which the work accident was signed and when it occurred outside the usual spatial circle of the insured, the Fund followed the Commission can entrust the Commission Fund, which is based in the same place of the accident to consider appeals against its decisions³.

4.2. Second section

The procedures functioning of amicable Committee

First of all, it is worth to note that the amicable settlement Committee which have jurisdiction is the Working Committee of the Council of the institution that issued the decision management the grievance⁴, and when the incident took place in the form of social security department other than that followed by the insured, the latter could list entrust the organization that the incident occurred in her examine complaints lodged against its decisions,

When was the beneficiaries residing in a circle as opposed to organization followed by the insured, the first enjoyed in such a case, with the same authorities owned by the organization which is followed by the insured, that this rivalry between the Appeals Committee in the homeland of beneficiaries, and other committee followed by the insured restricted to investigate the grievance, and the decision in the end being only for the Commission have original jurisdiction under the law.

4.3. Third section

Disputes contributions

The dispute concerning the calculation and cover the premiums and benefits of the delay involved in public disputes, and then shall have jurisdiction dismissal where to spend the Social Security, so the insurance operation's success pan out on the accuracy and regularity of the financial side of it in this context the legislator keen to provide adequate safeguards and procedures which guarantees the payment of contributions due insurance institution to choose the action that it deems appropriate for the collection of these contributions, Prior

¹ See article (R142-1) of the Act. J.-J. Dupe roux, Droit de la Sécurité sociale, OP.Cit, P.901.

² L. Mélenne et J. Juttard, Traité de la réparation des accidents du travail, Préface de Pierre Bouzat, Paris, L.G.D.J., 1969, P.221.

³ L. Mélenne et J. Juttard, Traité de la réparation des accidents du travail, op. cit., P.222.

⁴ Cass. 2e civ., 6 févr. 1958 : Bull. civ. II, n 114.

the address of these actions first we should find out the origin of the relationship between each of the social security commission and employers, the latter providing the necessary statements and committed under these statements to pay contributions after warning that guides him in the interest of contributions and a payment in cash or by check¹, and when the debtor's delay in fulfilling the contributions, the Union is conducting cover these contributions and sanctions against the defaulting debtor fulfilled in accordance with the deadlines under the law.

4.3.1. First, the dispute procedures in fulfilling warning

The warning is a formality primarily directed against the debtor to fulfill the sums of money owed to him, so when he couldn't pay the warning recommend the subscriptions to settle amounts owed to him within a specified period and this warning doesn't have executive impact and the debtor may be meddling permission in this warning to fulfill.

4.3.2. Second: the dispute procedures to force the debtor to implementation

these procedures are represent in the application of the provisions of public law, in spite of giving the legislator social security commission special procedures for the collection of contributions, but did not deprive them of their right to resort to measures of public law, but before entering into the detailed aspects of the implementation of the forced on the debtor to fulfilling the entitlements institution will address previous stage coercive procedures, They also already have the Union to direct warning to fulfill the insured that the delay in fulfilling the value of contributions due from it, and the settlement of its status, and a common period of one month from the date of notification by warning the audience before the amicable settlement of the Union in order to dispute such a claim, and when it did not arrange warning provoked, both in terms of fulfilling the amounts owed or the dispute before the amicable settlement, The Union can in such a case, move the coercion procedures in accordance with the general rules inadvertently collection Forced debt and forcing debtors to implement their commitments, and given the nature of the work being done is to provide social services which require speed and needs of the funds periodically to achieve social goal, they resort to ways characterized by a kind of speed and in this regard can resort to civil proceedings and of collection actions by seizure - Attachment of Debtor for others , As well as collection actions by the performance order, while the second procedure, by complaint as a civil party². In short, if the contributor did not initiates to go before the amicable settlement Committee within one month following the announcement warning, even initiates settlement epicenter, Union has the right to announcing an order fulfillment to force him to fulfill, where they are an advertisement by way of judicial record, or through registered letter accompanied by acknowledgment of receipt .

¹ Article (R243-21) and Article (R256-4) of the Act.

² See, Samia Arar, methods of forced collection of social security contributions, memo out to win a vacation for graduate school of the judiciary, the High School of the Judiciary, Algeria, 2008, p. 23 et seq.