



THE AUTHORITY OF THE ADMINISTRATION TO REVOKE AN ADMINISTRATIVE DELEGATION DECISION

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Abstract :

The administration's authority to revoke administrative delegation decisions is crucial for ensuring flexibility and efficiency in administrative performance within a modern state. Administrative delegation is a vital tool for distributing responsibilities and easing the burdens on senior officials, thereby contributing to improved workflow within public institutions. Through delegation, the administration can enhance new administrative competencies and develop future leaders' capabilities, thus boosting governmental performance. However, decisions issued by the delegated authority must be characterized by legitimacy and compliance with legal and regulatory frameworks.

This study aims to discuss and analyze the legality of the administration's authority to revoke both legitimate and illegitimate administrative delegation decisions

Keywords: *Administrative Delegation, Administrative, Authority, Cancellation, Administrative Decision*

INTRODUCTION

The authority of the administration to revoke administrative delegation decisions is one of the key aspects that ensures flexibility and efficiency in administrative performance within the modern state. Administrative delegation is a vital tool for distributing responsibilities and easing the burdens on senior officials, contributing to the improvement of workflow within public facilities and institutions. Through delegation, the administration can enhance new administrative competencies and develop the capacities of future leaders, thereby boosting governmental performance. However, delegation is considered an exception to the general rule that requires the person with the authority to directly perform their duties.

Despite the importance of delegation in improving administrative performance, decisions issued by the delegated authority must be characterized by legitimacy and compliance with legal and regulatory frameworks. Administrative jurisprudence and courts stipulate that administrative decisions must be issued by the body or individual legally entitled to do so and within their jurisdiction. Maintaining this principle without considering circumstances and changes could lead to negative administrative consequences, such as disrupting the regular workflow or delaying task completion, ultimately harming the public interest.

Therefore, the importance of the ability to revoke administrative delegation decisions arises when they become inappropriate or misaligned with legal developments or changes in the social and economic environment. Administrative revocation is a key mechanism that enables the administration to correct or adjust ineffective decisions or those incompatible with current work requirements. The revocation process is not merely a formal procedure but requires adherence to legal rules and specific procedures to ensure the achievement of public interest goals and compliance with prevailing laws. Through exercising this authority, the administration can maintain dynamic performance and effectively meet societal needs in a balanced manner.

This study aims to discuss and analyze the legality of the administration's authority to revoke both legitimate and illegitimate administrative delegation decisions. This objective can be achieved by



answering the following key question: To what extent can the administration revoke administrative delegation decisions while ensuring the preservation of legal positions and acquired rights?

Accordingly, the study is divided as follows:

1. Guidelines for Revoking Administrative Delegation Decisions.

2. Scope of the Administration's Authority to Revoke Delegation Decisions.

1. Guidelines for Revoking Administrative Delegation Decisions.

The administration enjoys broad discretionary power to revoke a delegation decision, but this must be done within a legal framework and in a manner that serves the public interest. It should be noted that delegation is a means of organizing administrative work, not an end in itself. Therefore, the administration's right to revoke the delegation remains intact if circumstances change or if the delegation no longer serves its intended purpose.

A. Conditions for the Administration to Revoke an Administrative Delegation Decision.

- **Future-Only Revocation:** The administrative delegation must be revoked only with respect to the future, without affecting the outcomes of the delegated powers exercised during the period of delegation before its revocation.
- **Compliance with Legal Principles:** The revocation of the delegation must comply with the legal principles and applicable laws, respecting the legal procedures related to delegation and revocation.
- **Necessity of Revocation:** There must be a necessity to revoke the delegation based on public interest or due to changes in the circumstances that initially warranted the delegation. (Baali, 2005, صفحة 130).
- **No Future Impact from the Previous Delegation:** If the delegation no longer meets the new requirements, the administration has the right to revoke it to ensure alignment between the delegation and the newly emerged circumstances.
- **Alignment with New Situations:** The revocation of the delegation should aim to achieve alignment between the delegated powers and the new circumstances or objectives, serving the public interest.
- **Restrictions on Revocation Authority:** The administration is restricted in using its revocation authority according to the limitations imposed by laws, such as distinguishing between the delegation of authority and the delegation of signature, while considering legal obligations (Aouabdi, 2009, صفحة 169).

B. Authority Competent to Revoke Administrative Delegation.

Revoking administrative delegation is a legal procedure that involves terminating delegated powers for the future only, without affecting the rights or results that occurred during the period of delegation. The authority that granted the delegation typically holds the primary power to revoke it, and this authority can be defined as follows:

- a. **Revocation by the Issuing Authority:** The administrative authority that granted the delegation is usually the one competent to revoke it, based on the principle of "parallelism of forms"—a fundamental legal principle in administrative work. This principle requires that the authority which issued the delegation decision also has the power to revoke it (Achchi, 2010, صفحة 136).

For example, a director of an administrative institution can revoke a delegation granted to a subordinate if it serves the public interest or if the circumstances that led to the delegation have changed. This revocation usually follows specific procedures and legal conditions that ensure its legitimacy and fairness, such as those stipulated by relevant legislation.

This type of revocation includes automatic procedures based on the discovery of errors or defects in the original delegation, as well as revocations made at the request of the delegated person or due to changed circumstances that initially necessitated the delegation.

B. Revocation by a Superior Authority: In some cases, a superior authority may have the power to revoke a delegation granted by its subordinates, even if it was not the issuing authority. This



typically occurs within the framework of the supervisory and directive powers held by higher administrative bodies over the decisions of their subordinates)Kanaan, No Publication Date, صفحة 302.

For example, a minister may revoke a delegation granted by a general manager to an employee if it is determined that the delegation no longer aligns with the public interest or if it is found that the decision violates the law. This exception allows superior authorities to intervene in delegated decisions when necessary. However, there is debate about the extent of the superior authority's power to revoke delegation, especially when it concerns delegations that have resulted in vested rights. Some legal scholars argue that granting this power to the administrative superior may violate the principle of stability in administrative decisions.

c. Revocation by the Supervisory Authority: In some administrative systems, the supervisory authority may be granted the power to revoke delegation decisions issued by subordinate bodies to ensure the legality and appropriateness of the decisions made. For example, supervisory bodies such as governors or provincial administrators may have the authority to revoke delegations granted by local administrations if they violate laws or are not in line with the public interest)Halifa, 2012, صفحة 141.

This power is considered part of oversight mechanisms aimed at enhancing the quality of administration and ensuring compliance with laws, thus maintaining transparency and accountability in administrative work.

C. Forms of Revoking Administrative Delegation Decisions.

Revoking administrative delegation can occur in two main ways: explicit revocation and implicit revocation)Ismail, 2004, صفحة 25.:

– **Explicit Revocation of Administrative Delegation Decisions:** Explicit revocation occurs when the administrative authority issues a clear and specific decision to revoke the previous delegation decision. In this case, the administration explicitly announces the termination of the delegation and clarifies that the new decision replaces it.

Explicit revocation requires the administration to issue a new decision that clearly states the end of the delegation, with the new decision taking effect from the date of its publication. It is important to understand that this revocation does not impact actions or decisions made in the past under the revoked delegation; the revocation applies only to future actions.

Egyptian jurisprudence has affirmed the administration's right to amend or revoke delegation decisions if it deems it to be in the public interest, provided that the revocation or amendment is effective from the date of the new decision. This principle enhances legal stability and protects the rights of parties affected by the previous delegation.

– **Implicit Revocation of Administrative Delegation Decisions:** Implicit revocation occurs when a new law or decision is issued that conflicts with previous provisions or decisions, leading to their indirect revocation without the need for an explicit decision. In other words, implicit revocation arises when new legal texts contradict the previous delegation, resulting in its automatic cancellation. For implicit revocation to be valid, the new legal instrument conflicting with the old delegation must have equal or higher authority than the instrument through which the original delegation was issued. This ensures legal hierarchy and maintains the balance between different legal texts.

French jurisprudence has recognized implicit revocation in several rulings. In these rulings, judges have determined that a new legal system can implicitly revoke the old one if there is a fundamental conflict between them. In other words, when a conflict arises between the new law and the old delegation, the previous delegation is presumed to be implicitly revoked.

The difference between explicit and implicit revocation lies in how the revocation is announced. In explicit revocation, the administration clearly announces the cancellation and specifies a set date for its implementation. In contrast, implicit revocation occurs automatically as a result of the conflict between new legal texts and the previous delegation, without the need for a direct announcement.



2. Scope of the Administration's Authority to Revoke Delegation Decisions.

The authority of the administration to revoke delegation decisions is one of the most crucial tools available to administrative bodies for correcting errors or modifying decisions that may be inappropriate or ineffective in achieving the intended objectives. This authority is a fundamental component of the administrative delegation system, which aims to enhance the flexibility and efficiency of administrative performance.

Revoking delegation allows the administration to achieve the necessary balance in distributing powers and responsibilities between the delegating authorities and the delegated entities. This ensures transparency and fairness in the application of administrative procedures. Additionally, the revocation of delegation enhances the administration's ability to adapt to emerging changes and consider the public interest, whether due to changing circumstances or the discovery of defects that affect the soundness of the decision.

However, the authority to revoke delegation must be exercised within a specific legal framework that ensures the protection of acquired rights for parties affected by the delegation. The revocation must be justified and based on clear legal grounds to prevent it from being used arbitrarily, which could harm the interests of individuals or violate the principle of legality.

A. Timeframe for Administrative Revocation of Delegation Decisions.

Judicial precedent has established that the administration's power to revoke or withdraw a defective delegation decision is limited by the timeframes for judicial appeals. Once these timeframes expire, the delegation gains immunity from any revocation or withdrawal, preventing it from being annulled after that period. This limitation is rooted in the principle of stabilizing the legal effects resulting from the delegation, aiming to ensure the stability of legal situations within the scope of public administration. This restriction is particularly relevant to delegations that establish rights for individuals as a result of their exercise (Hamid, 2020, صفحة 278).

This was highlighted by the scholar **Rome**, who stated, "The revocation of a delegation decision should be limited to the future only, except in cases where the defective delegation is withdrawn within the periods allowed for judicial annulment appeals. This period begins from the date of publication of the delegation decision or before a judicial ruling on it. If this period lapses without the administration withdrawing or appealing it, the delegation becomes immune and cannot be revoked."

In Egyptian administrative law, it is an established rule that the administration's power to revoke delegation decisions is confined to the timeframes for judicial appeals. However, some rulings of the Administrative Court have deviated from this principle, granting the administration the freedom to revoke defective delegation decisions at any time. In a ruling issued on February 27, 1973, the court stated that "the request to revoke a defective delegation is not bound by a timeframe, considering that delegation is, substantively, a legal act with effects that renew each time it is applied."

This approach aligns with the modern trend in legislation and the judiciary, allowing defective delegation decisions to be challenged at any time, particularly if those decisions constitute a blatant violation of the law, rendering them legally void (Al-Jarf, Administrative Law, صفحة 35, 1963).

In this context, the Supreme Administrative Court ruled that if a delegation decision is marred by a serious defect that makes its illegality apparent, this defect reduces the decision to the level of nullity, meaning it can be challenged at any time without being bound by the judicial appeal period.

As for Egyptian jurisprudence, there has been a divergence of opinion on the timeframe for revoking defective delegation decisions. Some scholars argue that the administrative power to revoke a defective delegation is not absolute but must be exercised within the period allowed for judicial appeal. If this period passes without an appeal, the delegation becomes immune from revocation, whether judicial or administrative, and becomes a legal source of acquired rights,



thereby depriving the administration of the power to revoke it after the deadline)Hamid, Hosni Darwish Abdel(278 صفحة، 2020 .

Other legal scholars emphasize that the administrative power to revoke is not absolute, and the administration must exercise it within the timeframe specified for filing an annulment lawsuit. Once this period expires, the delegation decision is presumed to be lawful and becomes a source of acquired rights.

B. Authority of the Administration to Revoke a Lawful Delegation Decision.

The scholar Isaac argues that administrative delegation decisions should align with new circumstances and necessities, and the administration has the right to intervene to amend or revoke delegation decisions to adapt to new changes. Affected parties have the right to challenge the administration's revocation of its delegation decisions, and the State Council can annul the decision if the reasons for the revocation are no longer valid. In such cases, the decision may be considered flawed due to exceeding authority.

However, if a delegation decision has granted an individual a specific right or benefit, the competent administrative authority cannot withdraw or revoke this decision unless a legal provision specifies retroactive cancellation. The limitation governing the revocation of a delegation decision is the principle of not affecting acquired individual positions, meaning that revocation is permissible only as long as it does not conflict with the principle of not affecting acquired individual positions.

From the above, it is clear that the administration has the authority to revoke administrative delegation decisions at any time. However, must the administration follow the same procedures used when issuing the decision, or are there different procedures for revocation? This will be clarified through the following points)Baali(133 صفحة، 2005 .:

– **Principle of Corresponding Competencies:** The general rule is that the revocation of a delegation decision should be carried out by the authority that issued it or by a higher authority, as stipulated by law or regulations. This obligation applies to all concerned administrative bodies. According to some scholars, the principle of corresponding formalities may not strictly apply to the revocation of administrative delegation decisions if the revocation is governed by specific legal or regulatory provisions.

– **Principle of Corresponding Procedures:** This principle means that the administration must adhere to the rules of form and procedure when revoking an administrative delegation decision, as stipulated by law or regulations. Delegation decisions remain legally valid as long as they have not been revoked correctly according to the procedures specified at the time of issuance. Egyptian jurisprudence has established that the administrative body can amend or revoke delegation decisions in accordance with the public interest, provided that the new amendments are effective from the date of issuance.

C. Administrative Revocation of an Unlawful Delegation Decision.

When revoking an unlawful administrative delegation decision, the revocation does not affect the individual decisions made based on that delegated decision. These individual decisions remain in effect and continue to produce their effects according to the principle of non-retroactivity of administrative decisions)Basset(457 صفحة، 2005 .

The general rule is that the revocation or modification of an administrative delegation decision should be carried out by the same authority that issued the original decision, using the same procedures, unless there is a legal or regulatory provision to the contrary. This applies to the administrative action taken to revoke or amend a previous delegation decision. For example, if a specific authority was delegated by a ministerial decision, the revocation of this delegation must also be done by a ministerial decision, adhering to the applicable form and procedures to ensure compliance with other rules such as jurisdiction and administrative integrity)Al-Jarf (Administrative Law(35 صفحة، 1963 .



CONCLUSION

In conclusion to our research on the authority of the administration to revoke administrative delegation decisions, it is evident that administrative delegation is an effective tool that contributes to improving administrative performance by distributing powers and tasks among different levels of management. However, exercising this authority requires adherence to strict legal controls to ensure the legality of decisions made under delegation and to avoid judicial challenges such as annulment actions or legality reviews.

Administrative revocation, whether explicit or implicit, is considered a means to correct errors that may arise from delegation or to keep up with legal and social developments. The administration must handle this procedure with caution, as revocation focuses on correcting the legal status for the future without affecting the effects that arose in the past due to the decision's implementation. In other words, administrative revocation aims to correct individual and organizational decisions only from the date of revocation without impacting acquired rights or legal statuses established prior to the revocation.

It is worth noting that administrative delegation is characterized by flexibility but is also temporary and subject to various methods of termination such as revocation or withdrawal, or as defined by law or administrative judiciary. This impact reflects the interaction between administrative change and the preservation of legal stability. Therefore, the development of administration and its commitment to improving its methods requires efforts to enhance delegation practices and expand their scope, while respecting legal rules and encouraging administrative leaders to use them effectively.

Improving administrative delegation requires removing obstacles and enhancing administrative leaders' understanding of the benefits of this method and how to use it optimally. A modern state that meets the needs of individuals necessitates directing efforts towards developing management methods to enhance transparency and efficiency, while simultaneously ensuring the preservation of individual rights and transaction stability.

Thus, it can be said that effective administration requires a delicate balance between modernization and development and adherence to legal controls, which strengthens confidence in the administrative system and enhances its ability to achieve the public interest without infringing upon acquired rights.

REFERENCES

- [1] Baali, M. E.-S. (2005). **Administrative Decisions**. Algeria: Publishing and Distribution House, First Edition.
- [2] Aouabdi, A. (2009). **The Theory of Administrative Decisions Between Public Administration and Administrative Law**. Algeria: Houma Publishing House, First Edition.
- [3] Achchi, A. E.-D. (2010). **Introduction to Administrative Law**. Algeria: Al-Huda Printing and Publishing House, Vol. 2.
- [4] Kanaan, N. (n.d.). **Administrative Law**. Jordan: Dar Al-Thaqafa Publishing and Distribution, Book 01, First Edition.
- [5] Halifa, A. A. A. M. (2012). **The General Principles of Administrative Decisions**. Alexandria: National Library and Archives, First Edition.
- [6] Ismail, A. (2004). **The Impact of Changing Legal and Factual Conditions on Administrative Decisions**. Damascus University Journal of Economic and Legal Sciences, 01(20)
- [7] Hamid, H. D. A. (2020). **The Termination of the Administrative Decision**. Kuwait: New Kuwait House, First Edition.
- [8] Al-Jarf, T. (1963). **Administrative Law**. Cairo: Modern Cairo Library.