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ABBES LAGHROUR UNIVERSITY KHENCHELA

الجمهورية الجزائرية الديمقراطية الشعبية

وزارة التعليم العالي والبحث العلمي

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ABBES LAGHROUR UNIVERSITY KHENCHELA

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كلية الحقوق والعلوم السياسية

والبحث العلمي والعلاقات الخارجية

قسم الحقوق

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REVOKE AN ADMINISTRATIVE DELEGATION  
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# فهرس المجلة

Articles

**IMPLIKASI LAW OF AN OBJECT THAT IS NOT DESIGNATED AS CULTURAL HERITAGE IN LAW NUMBER 11 OF 2010 CONCERNING CULTURAL HERITAGE**

ALDY YOHANES MANUEKE, I NYOMAN NURJAYA , RACHMAD SAFA'AT, RACHMI SULISTYORINI ,

[PDF](#)

**COMPARATIVE ANALYSIS OF THE RULES REGARDING CHOICE OF LAW IN CONTRACTS PROVIDED IN PRIVATE INTERNATIONAL LAWS OF THE DPR KOREA, RUSSIA AND CHINA**

HUI-CHOL PAK, SON-GYONG JONG, HYE-RYON SON

[PDF](#)

**MANDATORY LEGAL MEASURES TO REMEDIATE ENVIRONMENTAL POLLUTION: A QUANTITATIVE STUDY FROM VIETNAM**

NGUYEN CHI HAI, DIEP MY NHAN, NGUYEN THI CAM HONG, TRAN THANH KHOE, NGUYEN THANH PHUONG

[PDF](#)

**CHALLENGES OF THE IMPLEMENTATION OF THE PRINCIPLE OF EXHAUSTION OF THE EXCLUSIVE RIGHT TO A TRADEMARK IN THE CONDITIONS OF PARALLEL IMPORT**

DARYA PROSKURINA

[PDF](#)

**ISSUES OF ARTIFICIAL INTELLIGENCE TECHNOLOGIESAPPLICATION: PROTECTION OF INTELLECTUAL PROPERTY RIGHTS ON MARKETPLACES**

ANNA POKROVSKAYA

[PDF](#)

**THOUGHTS ON LEGAL SUSTAINABILITY- 'NIHIL SUB SOLE NOVUM.'**

ORSOLYA FALUS

[PDF](#)

**ECONOMIC GROWTH BETWEEN INSTITUTIONAL QUALITY AND ENERGY TRANSITION: CASE OF MENA COUNTRIES**

ABDERRAOUF MTIRAOUI, ABDELMONEM SNOUSSI, HAMZA LHICHRI

[PDF](#)

**IMPACT OF IQ ON SOCIETY**

JULIO CESAR ROMERO PABÓN , HAROLD VALLE FUENTES , LÁCIDES ALFONSO BALETA PALOMINO

[PDF](#)

**TURKIYE'S NEW MULTI-DIMENSIONAL FOREIGN POLICY**

OZAN ÖRMECI

[PDF](#)

**ILLEGAL IMMIGRATION AND HUMAN TRAFFICKING: WHAT IS THE RELATIONSHIP?**

NAWEL LOUCIF

[PDF](#)

**LEGAL GUARANTEES FOR THE PROTECTION OF DIGITAL WORKS A STUDY IN LIGHT OF PUBLIC INTERNATIONAL LAW**

GHERBI IBRAHIM, KHELOUFI LAMIA

[PDF](#)

**PROTECTION OF THE CHILD OF UNKNOWN LINEAGE: THE CONVENTION ON THE RIGHTS OF THE CHILD AND ALGERIAN LEGISLATION**

FATMA AISSAOUI

[PDF](#)

**CYBERCRIME IN INDIA IN THE CONTEXT OF THE BANKING INDUSTRY: A CRITICAL ANALYSIS OF CUSTOMER PERCEPTION.**

KUKU RAM KANOJIA, RAJESH KUMAR SINGH

[PDF](#)

**THE ROLE OF THE FOOD INDUSTRY IN ACHIEVING FOOD SECURITY IN ALGERIA**

MOHAMED LEMAINI

[PDF](#)

**THE PRINCIPLE OF SPECIALTY IN EXTRADITION PROCESS: BALANCING THE RIGHTS OF THE EXTRADITED INDIVIDUAL AND THE STATE'S RIGHT TO PUNISH**

MAHFOUD ABDELKADER, KHELIL NABIL

[PDF](#)

**BLUE ECONOMY AND THE OPENING OF NEW PROSPECTS IN BANGLADESH**

MOHI UDDIN

[PDF](#)

**MIGRANT PUSHBACK OPERATIONS - A HUMANITARIAN APPROACH BASED ON A REPORT ON WAYS TO ADDRESS THE IMPACT OF MIGRANT PUSHBACK OPERATIONS BY LAND AND SEA ON HUMAN RIGHTS**

FATMA OUMAHNOUS,

[PDF](#)

**CHANGING THE ACTIVITY OF A LAWYER IN CIVIL PROCEDURE IN THE DIGITAL AGE**

EKATERINA RUSAKOVA, KIRILL SERGEEV

[PDF](#)

## CHANGING THE SYSTEM OF PRINCIPLES OF CIVIL PROCEDURE IN THE CONTEXT OF DIGITALIZATION

EKATERINA RUSAKOVA, KIRILL SERGEEV

PDF

## MODEL AND REGULATORY FRAMEWORK FOR SHARIA FINTECH PEER TO PEER (P2P) LENDING IN INDONESIA

PARAMITA PRANANINGTYAS, MOH. ASADULLAH HASAN AL ASY'ARIE, MOH. ASADULLAH HASAN AL ASY'ARIE

PDF

## THE ROLE OF PUBLIC LAW IN REGULATING PUBLIC SERVICES

WAHID ALI ABDI , AHMAD MUSTAFA ALI

PDF

## LAW IN THE MAJAPAHIT KINGDOM DURING THE REIGN OF KING HAYAM WURUK (1350-1389) AND ITS RELATION TO THE DEVELOPMENT OF NATIONAL LAW IN INDONESIA

SITI NURBAITI, RR. TRIWURJANI

PDF

## MEDINA CHARTER: EARLY WORLD MILESTONE IN THE HUMAN RIGHTS CONSTELLATION

MUSTAMAM, NASRULLAH

PDF

## LEGAL RECONSTRUCTION RELATED TO HANDLING GREENWASHING PRACTICES AS AN EFFORT FOR CUSTOMER PROTECTION IN INDONESIA

DODY W. LEONARD SILALAH, PUJIYONO, ASEP N. MULYANA

PDF

## EXPLORING THE OUTCOMES OF BANGLADESH'S MARITIME SETTLEMENTS WITH NEIGHBOURING NATIONS

MUHAMMAD FARHAD HOSEN

PDF

## RELATIVE PRINCIPLE OF PROHIBITING A COMPANY FROM SUBSCRIBING TO AND PURCHASING ITS OWN SHARES IN ALGERIAN LAW

HORIYA SOUIKI, MOHAMED BESSAS

PDF

## AN APPROACH BETWEEN ECONOMIC REGULATION IN ALGERIA AND THE PRINCIPLES OF GOVERNANCE (BETWEEN RESPONSE INDICATORS AND THEIR LIMITATIONS)

BENRAMDANE ABDELKRIM

PDF

## "THE NATIONAL AUTHORITY FOR THE PROTECTION OF PERSONAL DATA IN ALGERIA. GUARANTEE FOR THE PROTECTION OF THE RIGHT TO PRIVACY AND NATIONAL SECURITY".

SOLTANI LEILA FATIMA ZOHRA GHANIA

PDF

## DISCOURSE ETHICS ETHICAL DECISION-MAKING IN DELIBERATIVE DEMOCRACY

ALEXANDER SERAN

PDF

## TYOLOGY OF "DOORS" IN RESIDENTIAL AREAS OF KASHAN CITY (CENTRAL PART) FROM THE CULTURAL AND AESTHETIC PERSPECTIVE (QAJAR PERIOD TO PRESENT)

GHAZAL FALLAH MEHR

PDF

## "CANNABIS LEGALIZATION AND PUBLIC HEALTH: ASSESSING THE RISKS AND BENEFITS"

SHARDHA PANDEY , BALWINDER KAUR

PDF

## LABOR LAW ON UNDERAGE WORKERS IN VIETNAM – REALITY AND SOLUTIONS

NGUYEN THI CAM HONG, NGUYEN MONG CAM

PDF

Retracted

Retracted

## HISTORICAL DEVELOPMENT OF THE ROMAN-DUTCH LEGAL TRADITION IN SRI LANKA

SYED MUJTABA ATHAR

PDF

## COMPARATIVE ANALYSIS OF VAT ON DIGITAL SERVICES BETWEEN TWO EMERGING LATIN AMERICAN COUNTRIES

VERÓNICA PEÑA-ACUÑA, JAIRO DOTE-PARDO, ALEXANDER SOLÍS-MOYA, CARMEN GLORIA FIGUEROA-AEDO

PDF

## IMPACT OF FINANCIAL, HUMAN AND SOCIAL CAPITAL ON ENTREPRENEURIAL INTENTION OF EGYPTIAN LATE ENTREPRENEURS WITH MEDIATION ROLE OF INNOVATIVE IDEA AND MODERATING ROLE OF FEAR OF FAILURE

MOHAMED ELRACHIDY, MOHAMED ABDEL-SALAM RAGHEB, FAHD A. HEMEIDA, MOHAMED YEHIA EL MOKADEM,

PDF

## TRENDS AND RESEARCH LINES ON TRIPLE BOTTOM LINE: A BIBLIOMETRIC ANALYSIS OF THE MANAGEMENT AND BUSINESS AMBIT

JAIRO DOTE-PARDO, PAULINA CEBALLOS-GARRIDO

PDF

## THE ROLE OF THE COUNCIL OF STATE IN ACHIEVING THE BALANCE BETWEEN THE PROTECTION OF RIGHTS AND THE PRESERVATION OF PUBLIC ORDER IN MATTER OF POLITICAL PARTIES DISPUTES

AFIF BAHIA

PDF

## THE IMPACT OF STATE TERRORISM ON REGIONAL SECURITY: ( THE SYRIAN REGIME POST-2010 AS A CASE STUDY).

SHAMAL HUSAIN MUSTAFA.

PDF

## CHALLENGES ENCOUNTERING IMPLEMENTATION OF ELECTRONIC MANAGEMENT IN HUMAN RESOURCE

AMINA DRICI

PDF

## THE ALGERIAN ADMINISTRATIVE JUSTICE SYSTEM AND ITS PROCEDURES ACCORDING TO THE LATEST AMENDMENTS TO THE CIVIL AND ADMINISTRATIVE PROCEDURE LAW 22/11

DOUA ASSIA

PDF

## RULES FOR THE PROTECTION OF UNDISCLOSED INFORMATION AND ITS RELATIONSHIP TO THE PHARMACEUTICAL INDUSTRY

KHADIDJA ABDELLAOUI

PDF

## RECONSTRUCTION OF CRIME PREVENTION POLICIES THROUGH RESTORATIVE JUSTICE THAT IS EQUITABLE AND WITH LEGAL CERTAINTY (STUDY OF CRIME PREVENTION IN THE NATIONAL POLICE OF THE REPUBLIC OF INDONESIA)

SOFYAN NUGROHO, PUJIYONO, BAMBANG JOYO SUPENO

PDF

## JURIDICAL STUDY OF SETTLEMENT OF NON-PERFORMING LOAN BY DIGITAL BANK IN CONTINUATION FINANCING COOPERATION (CHANNELING) TO FINANCIAL TECHNOLOGY PEER-TO-PEER LENDING IN INDONESIA

TEGAR AJI PAYOGA, PUJIYONO SUWADI

PDF

## LEGAL PROTECTION OF PUBLIC ENDOWMENT IN ALGERIA

SAMIA ABDELLAOUI,TAHAR ZOUAGRI

PDF

## ARBITRATION AND INTERNATIONAL COMMERCIAL ARBITRATION IN THE UNITED ARAB EMIRATES: EMERGENCE, ESTABLISHMENT, REFORMS IN THE CONTEXT OF DIGITALISATION

GRONIC IRINA,ZORIN DMITRY OLEGOVICH

PDF

## LIMITATION OF NOTIFICATION LETTER FOR THE COMMENCEMENT OF INVESTIGATION AS A REACTUALIZATION OF HUMAN RIGHTS IN PRE-PROSECUTION

ARIE PURNOMO, HIBNU NUGROHO, KUAT PUJI PRAYITNO

PDF

## ASPIRING TO WORLD CLASS EDUCATION: CHALLENGES FOR THAI UNIVERSITIES TRYING TO COMPETE IN WORLD RANKINGS

PAUL CORNELIUS,DOUGLAS LEE RHEIN, WILLIAM J. JONES

PDF

Retracted

Retracted

## THE LEGAL SYSTEM OF ELECTRONIC BILL OF EXCHANGE

DJELDJEL MAHFOUD REDA

PDF

## THE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS IN CYBERSPACE: A CRITICAL STUDY WITH SPECIAL REFERENCE TO INDIAN LEGAL FRAMEWORK

SUNIL DESHTA, KESHVA NAND

PDF

## PUBLIC SERVICE BROADCASTING IN THE AUDIOVISUAL SECTOR: LEGAL FRAMEWORK AND PRACTICAL IMPLEMENTATION IN ALGERIA

SAKINA ASFOUR, MALIKA ATOUI

PDF

## ILLEGAL IMMIGRATION BETWEEN LEGAL CRIMINALIZATION AND THE PROBLEM OF LINGUISTIC COMMUNICATION

CHITER MOHAMED BOUZIDI , ZITOUNI MERZAKA, SATA NEDJIM, ABDERRAZAK BENDAHMANE

554 - 571

PDF

## THE LEGAL FRAMEWORK OF THE CONCEPT OF CORPORATE GROUPINGS: A STUDY OF THE DE FACTO GROUPING AS A MODEL

RIMA BELLEBBA

PDF

## THE SPECIFICITY OF INTERNATIONAL HUMANITARIAN INTERVENTION IN THE LIGHT OF CURRENT INTERNATIONAL TRANSFORMATIONS

LAKSACI SIDAHMED, BEN ABDELKABIR HASSEN

PDF

## INTEGRATING THE CONCEPTS OF DIGITAL TRANSFORMATION IN THE FIELD OF HUMAN RIGHTS: DIGITIZATION AND ARTIFICIAL INTELLIGENCE

SELMA MECHRI

PDF

## THE ELECTRONIC MONITORING SYSTEM USING THE ELECTRONIC BRACELET IN LIGHT OF LAW 18-01

SAIDA BOUGUENDOUL

PDF

## THE CRIMINAL LIABILITY OF THE DOCTOR FOR ISSUING A FALSE MEDICAL CERTIFICATE FOR FAVORITISM IN ALGERIAN LEGISLATION

SELKH MOHAMMED LAMINE, ATMANE HOUIDEG

PDF

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author

RETRACT

author

## EPISTEMOLOGICAL FOUNDATIONS OF EXPLANATION JIHAD BASED ON NAHJ AL-BALAGHA IN ORDER TO DETERMINE THE ROLE OF THE EDUCATION SYSTEM IN ITS REALIZATION

EBRAHIM NAJMI, MOHSEN FARMAHINI FARAHANI, MOHAMMAD HASSAN MIRZAMOHAMMADI

PDF

## REVIEWING JUSTICE: CHALLENGES IN IMPLEMENTING THE JOB COPYRIGHT LAW IN NORTH SUMATRA

TETI, TARMIZI, AZHARUDDIN, WILLY TANJAYA, KARTINA PAKPAHAN

[PDF](#)

Retracted

## FAMILY OWNERSHIP AS A MEANS TO PRESERVE THE INVESTMENT VALUE OF INHERITED ASSETS

ELHAMAL HAMZA, EDABER ABDELKADER, BENFARHAT MOULAY LAHCEN

689 - 703

[PDF](#)

## THE EXTENT OF INTERVENTION BY THE CRIMINAL JUDGE WITHIN THE SCOPE OF APPLYING THE PRINCIPLE OF LEGITIMACY OF CRIMES AND PENALTIES

TEBBOUNE Abdelkrim

704 - 711

[PDF](#)

## INTERNATIONAL LEGAL FRAMEWORK FOR PREVENTION OF MARINE POLLUTION FROM DEEP-SEA MINING

SHUVARIKOVA ELENA ALEXANDROVNA

[PDF](#)

## THE MANIFESTATIONS OF THE RETREAT OF ADMINISTRATIVE LAW IN FAVOR OF COMPETITION LAW RULES IN ALGERIAN LAW

IMAD ADJABI

[PDF](#)

## PROFESSIONAL CONDUCT GUIDELINES FOR PUBLIC EMPLOYEES WITHIN THE FRAMEWORK OF THE NATIONAL EDUCATION SECTOR'S CODE OF ETHICS IN ALGERIA

ABDELGHANI BRAHMIA

[PDF](#)

## CONSTITUTIONAL PROTECTION OF CHILDREN IN ALGERIA

AKECHICHE ZOHRA

[PDF](#)

## IMPLEMENTATION OF THE SACHA INCHI AGRIBUSINESS (*Plukenetia volubilis*) AS A STRATEGY FOR THE GENERATION OF DECENT WORK AND PRODUCTIVE SKILLS IN RURAL WOMEN PRODUCERS

CARLOS GUTIERREZ DE PIÑERES, CARLOS RAMÓN. VIDAL TOVAR, HERMES IZQUIERDO TORRES, YIMY GORDON HERNANDEZ

[PDF](#)

## THE SUPREME AUTHORITY FOR TRANSPARENCY, PREVENTION AND COMBATING CORRUPTION - AN INSTITUTIONAL MECHANISM FOR CURBING CORRUPTION (A CRITICAL ANALYTICAL STUDY)

DAHMA MAROUANE , SADOK MEHD

[PDF](#)

## THE LEGAL REGULATION OF BURIAL, FUNERAL, TRANSPORTATION AND REBURIAL OF CORPSES IN ALGERIA.

DOCTOR. BOUSSELAMA MAACHOU, SOHBI MOHAMED AMINE

[PDF](#)

## INTERNATIONAL NORMATIVE PRINCIPLES GOVERNING DEMOCRATIC ELECTIONS

MOSBAH RACHIDA, MOUZAOUI AQILA

[PDF](#)

## EXPLORING THE FACTORS RELATED TO THE YIELD OF SUNFLOWER CROP: AN APPLICATION OF ROBUST AND RIDGE REGRESSION ANALYSIS

IQRA GULSHAN , ANAM JAVAID ,ZAINAB JAVED , SHAHBAZ NAWAZ

[PDF](#)

## HOW DID THE EGYPTIAN LOBBY'S AGENDA DEVELOP IN WASHINGTON AFTER THE JANUARY 2011 REVOLUTION?

ALSHAYMAA ABDELKHALEK HASSAN

[PDF](#)

## PROXIMITY BETWEEN WORLD CRIMINAL PROCEDURE MODELS AND VIETNAM'S MODERN CRIMINAL PROCEDURE MODEL

HUYNH TRUNG TRUC, NGUYEN VINH HUNG

[PDF](#)

Retracted

[PDF](#)

## CRIMES OF ECONOMIC OPERATORS IN THE FIELD OF PUBLIC CONTRACTS: INFLUENCE PEDDLING AND BRIBERY

HAJAR MAMI , FATEH MEZITI

[PDF](#)

## PARLIAMENTARY INTERROGATION IN LIGHT OF THE ALGERIAN CONSTITUTIONAL AMENDMENT OF 2020- A COMPARATIVE STUDY-

TOUNSIR BRAHIM

887 - 896

[PDF](#)

## THE PUNISHMENT FOR RECIDIVISM BETWEEN THEORY AND PRACTICCE (ALGERIAN LEGISLATION AS A MODEL)

FARID ATHAMNIA

897 - 904

[PDF](#)

## COMPARATIVE INSIGHT INTO INTERNATIONAL COMMERCIAL ARBITRATION LAWS OF THE DPR KOREA, CHINA AND RUSSIA: FOCUSING ON ARBITRATION AGREEMENTS

HUI-CHOL PAK, UN-NAM KIM, HYE-RYON SON, SON-GYONG JONG

905 - 920

[PDF](#)

### IS AN ASEAN IDENTITY POSSIBLE?

WILLIAM J JONES

934 - 944

[PDF](#)

### CHINLONE – AN ANCIENT ASIAN GAME OR INTANGIBLE CULTURAL HERITAGE?

AGUSTIN ADOLFO MEDINA-HARDINA, WILLIAM J. JONES

945 - 958

[PDF](#)

### ASEAN CENTRALITY: HISTORY AND INSTITUTIONAL ANCHORING OF RELATIONS

WILLIAM J. JONES

959 - 965

[PDF](#)

Retracted

Retracted

### INFLUENCE OF MEDIA ON RISK PERCEPTION DURING THE COVID 19 PANDEMIC: EVIDENCE FROM THAILAND

CHANYA SUPAKUL, WILLIAM J. JONES

980 - 1003

[PDF](#)

### LEGAL PROVISIONS FOR COMBATING ELECTRONIC HATE SPEECH

FADHILA AININE

[PDF](#)

### ELECTRONIC MEDIATION AS AN ALTERNATIVE PATH FOR RESOLVING E-COMMERCE DISPUTES

WASSILA REZIG

[PDF](#)

### AN ANALYTICAL STUDY OF ALGERIAN LAW NO. 24-01 INCLUDES SPECIAL MEASURES FOR OBTAINING ALIMONY

ROUMAÏSSA HOUHOU

[PDF](#)

### HEARING A CHILD VICTIM OF SEXUAL ASSAULT CRIMES ACCORDING TO LAW NO. 15-12 CONCERNING THE PROTECTION OF THE CHILD

CHERFEDDINE WARDA, MOKRANI NOURREDINEZ

[PDF](#)

### LEGAL LIABILITY RESULTING FROM MEDICAL ERRORS IN HUMAN ORGAN TRANSPLANTATION

AZIZ MOKHTARI

[PDF](#)

### CRIMINAL LIABILITY FOR CRIMES OF TRESPASSING ON STATE LANDS A STUDY IN LIGHT OF LAW No. 23-18 DATED NOVEMBER 28

BENSALEM DJOUDI

[PDF](#)

### CONCEPTUALIZATION OF SYMBOLIC SECURITY STRATEGIES OF AMERICAN CYBER DIPLOMACY

Hazhir Azarshab, Reza\_Majdi

1071 - 1088

[PDF](#)

### ALGERIAN ELECTRONIC COMMERCE LAW: AN ANALYTICAL STUDY

ALLAOUI ABDELLATIF

[PDF](#)

### UNAUTHORIZED ACCESS TO COMPUTER INFORMATION: THE EMPIRICAL STUDY OF CHARACTERISTICS OF VICTIMS AND THEIR VICTIMIZATION

ILYA MOSECHKIN

[PDF](#)

### CRITICIZING THE EPISTEMOLOGICAL FOUNDATIONS OF NEOLIBERALISM IN ONLINE HIGHER EDUCATION FROM AYATOLLAH JAVADI AMOLI'S POINT OF VIEW TO PROVIDE A FRAMEWORK

Zahra Ghasemabadi Karami Ranjbar

[PDF](#)

### IMPACT OF CLIMATE CHANGE ON THE ACTUAL ENJOYMENT OF THE RIGHT TO WATER

ZOHRA GUIDOUM

[PDF](#)

### THE REAL ESTATE REGISTER AS A DOCUMENT FOR REAL ESTATE OWNERSHIP IN ALGERIAN LEGISLATION

YAHIA ABDELHAI

[PDF](#)

### THE LEGAL FRAMEWORK OF ENVIRONMENTAL PROTECTION FROM THE RISKS OF GENETICALLY MODIFIED ORGANISMS (GMOS)

SADIKA BESSOUF, ABDERZAG SAHRAOUI

[PDF](#)

### CONDITIONS FOR THE USE OF ECONOMIC REAL ESTATE IN INVESTMENT PROJECTS UNDER THE PROVISIONS OF ALGERIAN LAW, 23/17 OF 15/11/2023

ZERBANI MOHAMED MUSTAFA

[PDF](#)

### AUDITOR AND LEGAL INCOMPATIBILITY CASES

BOUZIDI ILIYES

[PDF](#)

## LEGAL MECHANISMS FOR THE PROTECTION OF CHILDREN FROM DOMESTIC VIOLENCE IN ALGERIAN LAW

Sana AMMARI1, Latifa BAHA

PDF

## ISLAMIC FINANCIAL DEVELOPMENT, FDI AND ECONOMIC GROWTH IN MENA AND EAST ASIA AND THE PACIFIC: THEORETICAL ANALYSIS AND EMPIRICAL STUDY

ABDERRAOUF MTIRAOU, NADIA SLIMENE, MEKKI HAMDAR

PDF

## OBSTACLES IN IMPLEMENTING ISLAMIC BANKING OPERATIONS FOR FINANCING OFF-PLAN SALE PROJECTS IN ALGERIA.

BOUMARAF LARBI

PDF

## THE POSITION OF SPECIAL LAWS (LEX SPECIALIS) WITHIN THE INDONESIAN LEGAL SYSTEM

M. SYUIB, FAISAL A. RANI, ISKANDAR A. GANI, ILYAS

1202 - 1209

PDF

## THE LEGAL PROTECTION OF THE ENVIRONMENT IN INTERNATIONAL INSTRUMENTS

BENHAMMOUDA MOKHTAR

PDF

## THE LEGAL SYSTEM FOR ENVIRONMENTAL PROTECTION AS A PREREQUISITE FOR ACHIEVING SUSTAINABLE DEVELOPMENT

ZOUAOUIA LAROU

1225 - 1236

PDF

## METaverse TECHNOLOGY AND THE LEGAL IMPLICATIONS OF ITS EMERGENCE

FATIHA BENAOUZ

1237 - 1244

PDF

## INNOVATIVE ASSESSMENT TECHNIQUES IN TESOL: EVALUATING THE EFFICACY OF PORTFOLIO-BASED AND DYNAMIC ASSESSMENTS FOR COMPREHENSIVE LANGUAGE LEARNER EVALUATION

REBER SALEEM ABDULLAH, MOHAMMED RAOUF MUSTAFA, SHERWAN TAHA AMEEN

PDF

## HEALTH CARE SYSTEMS IN THE SCHOOL ENVIRONMENT - THE ALGERIAN EXPERIENCE AS A MODEL -

SAID HERZI

1255 - 1266

PDF

## SUSTAINABILITY PERSPECTIVE AND LEGAL POLICY FOR LAND ACQUISITION AND MANAGEMENT IN THE TANJUNG KELAYANG SPECIAL ECONOMIC ZONE

IGA GANGGA SANTI DEWI, BAMBANG EKO TURISNO, AGUNG BASUKI PRASETYO, YULI PRASETYO ADHI

PDF

## THE POLLUTER-PAYER DOCTRINE: A NEW BASIS FOR CIVIL LIABILITY

FERRAH RABIAA, FELKAOU, MERIEM

1277 - 1286

PDF

## THE LEGAL FRAMEWORK FOR THE AUTOMOBILE COMMERCIAL CONCESSION IN ALGERIA

ZOUINA BENZIDANE

1287 - 1297

PDF

## THE LIMITS OF PROTECTION ESTABLISHED FOR THE RIGHT TO THE ENVIRONMENT IN ALGERIAN LEGISLATION

KAMEL LATRAOUI, SADIKA BESSOUF

1298 - 1314

PDF

## CONTESTING ADMINISTRATIVE URGENCY ORDERS UNDER THE ALGERIAN CIVIL AND ADMINISTRATIVE PROCEDURES LAW

AMINA CHENIKHAR, ZOUHOUR KOURDA

PDF

## THE LEGAL NATURE OF SIMULATED INCITEMENT AS A MEANS OF INVESTIGATION AND INQUIRY IN CRIMES ACCORDING TO LEGISLATIVE AND JUDICIAL PROVISIONS

ISSAM HUSNI ALATRASH

PDF

## LEGAL AND PRACTICAL PROBLEMS OF THE TRADE NAME OF THE COMMERCIAL COMPANY

HIFRI NASSIMA AMAL

PDF

## A REVIEW OF THE APPLICATION OF THE GC-MS ANALYTICAL TECHNIQUE IN DETERMINING TRACE POLYAROMATIC HYDROCARBONS (PAHS) IN DIFFERENT FIRE RESIDUE SAMPLES.

SHADUNG J MOJA, HLAKO J CHOMA, DUDU S MOJA

PDF

## THE TARGETED ASSASSINATIONS OF JOURNALISTS AMIDST THE PANDEMIC'S REIGN OF TERROR\*

SUBHA SATTWA BANDYOPADHYAY, KABITA CHAKRABORTY

PDF

## PUBLIC SCHOOL TEACHERS' ATTITUDES TOWARDS INCLUSIVE EDUCATION DURING THE COVID-19 PANDEMIC

GENGEN G. PADILLO, MARIA FE C. GONZAGA-TIRO, LORIEMAR B. VILLARIZA, MARYGOLD J. BAGUIO, RAMIL P. MANGUILIMOTAN, REYLAN G. CAPUNO, RAYMOND C. ESPINA

PDF

## LEGAL STATUS OF AUTONOMOUS WEAPONS IN INTERNATIONAL HUMANITARIAN LAW

GOUASMIA SIHAM

[PDF](#)

## THE INFLUENCE OF PERMANENT MEMBERS OF THE SECURITY COUNCIL ON INTERNATIONAL PEACE AND SECURITY: THE NECESSITY FOR STRUCTURAL REFORMS IN LIGHT OF THE GAZA CRISIS

AHMED KHALDI , ABBAS HAMZA

[PDF](#)

## THE IMPORTANCE OF SAFE ZONES IN PROTECTING CIVILIANS DURING INTERNATIONAL AND NON-INTERNATIONAL ARMED CONFLICTS

BOULIFA TOUFIK

[PDF](#)

## A READING IN THE CONCEPTS AND PILLARS OF THE LEGAL SECURITY

GHEDAMSI MOUSSA

[PDF](#)

## THE ROLE OF LEGISLATIVE ENACTMENT OF INTERNATIONAL ARBITRATION IN ENSURING INVESTMENT

AMAR ZEGHOUDI , SOUFIANE GOUG

[PDF](#)

## DIGITISATION OF THE JUSTICE SECTOR IN ALGERIA: REALITY AND CHALLENGES

BOUDEBZA DJAHIDA

[PDF](#)

## METHODS OF APPEALING THE ARBITRATION DECISION IN INTERNATIONAL ADMINISTRATIVE CONTRACTS

SOLTANE MOHAMED CHAKER, NASREDDINE ACHOUR , ZEID DJABER,

[PDF](#)

## LEGITIMACY OF BUILDING DAMS ON INTERNATIONAL WATERWAYS WITH A FOCUS ON THE SOUTHEAST ANATOLIA DAM PROJECT (GAP PROJECT)

FATEME GHAEMINASAB

[PDF](#)

## EFFECTIVIDAD DEL PROCESO DE COENSEÑANZA Y COPLANIFICACION EN LA ENSEÑANZA DEL INGLES COMO LENGUA EXTRANJERA.

RINA PAOLA ROYERO THOMAS, YESSICA MARÍA GIL VILLA, DIANA MARCELA GUERRA PALACIO

1481 - 1486

[PDF](#)

## THE ERHORUS CONVENTION AND ENVIRONMENTAL PROTECTION

BELACEL BENT NEBI YASMINE, LAMRI HAKIM, MENAD ICHERAK

[PDF](#)

## HOW TO CREATE BANKS AND FINANCIAL INSTITUTIONS UNDER ALGERIA'S NEW MONETARY AND BANKING LAW NO. 23-09

KASDI FAIZA, ALAOUI TAYEB, BELFEDEL MOHAMED

[PDF](#)

## EMERGING INSTITUTIONS IN ALGERIA: AN ANALYTICAL STUDY OF LEGAL FRAMEWORKS

ZIOUCHE ABDERAOUF, MOUNIR BENZAOUG , YOUCEFI ALAEDDINE

[PDF](#)

## EFFECTIVENESS OF THE CO-TEACHING AND CO-PLANNING PROCESS IN THE TEACHING ENGLISH AS FOREIGN LANGUAGE.

RINA PAOLA ROYERO THOMAS, YESSICA MARÍA GIL VILLA, DIANA MARCELA GUERRA PALACIO

[PDF](#)

## ASSESSING THE ANALYTICAL FACTORS THAT WOULD IMPROVE THE ADMISSIBILITY OF TRACE EVIDENCE IN COURT

SHADUNG J MOJA, HLAKO J CHOMA, HUGONETTE RICHTER, NOZIPHO P MOJA

[PDF](#)

## THE ROLE OF DIGITALIZATION AND AI USE IN MANAGING UNCERTAIN SUPPLY CHAIN MANAGEMENT IN WAR ZONES & CONFLICT AREAS

SAJID ULLAH KHAN, NAVEED SAIF

[PDF](#)

## SPECIFICITY OF THE PLASTIC SURGEON'S COMMITMENT

KHALOUI NACERA

[PDF](#)

## THE LEGAL REGULATION OF ELECTRONIC COMMERCIAL ADVERTISING

MAHAMMEDI ABDELKHALAK, BOUDJERADA NAZIHA, SAIED ZOHRA

[PDF](#)

## ACCESS TO JUSTICE THROUGH PRO-BONO LEGAL SERVICES: PAVING THE GATEWAY FOR MARGINALIZED INDIANS

Karavi Barman,

[PDF](#)

## COMPREHENSIVE STRATEGIES FOR EFFECTIVE CRISIS MANAGEMENT: FRAMEWORKS AND TECHNIQUES

OUAZANI djAMILA

[PDF](#)

## INTERNATIONAL EMPLOYEE MOBILITY: THE IMPACT OF BILATERAL TAX TREATIES ON TERRITORIAL TAXATION

DIB ABDELHAFID HIKMET

[PDF](#)

## THE APPLICATION OF ADMINISTRATIVE LAW AND THE JURISDICTION OF ADMINISTRATIVE COURTS BASED ON THE CRITERION OF PUBLIC UTILITY IN ALGERIA.

NOUIRI SAMIA

[PDF](#)

## THE REALITY OF FINANCIAL AND ADMINISTRATIVE CORRUPTION IN ALGERIA AND WAYS TO COMBAT IT

ZERGUINI RADIA

1611 - 1622

PDF

## BITCOIN PRICE PREDICTION BY BOX-JENKINS MODEL

ABDERRAOUF MTIRAOU, NADIA SLIMENE, AYSHAH KHALAF ALMUTIAIRI

PDF

## CONSTITUTIONAL COURT SUPERVISION OF REGULATIONS IN LIGHT OF THE 2020 CONSTITUTIONAL AMENDMENT: ENSHRINING CONSTITUTIONAL LEGITIMACY

BAKHTA DANDENE

PDF

## THE INDEPENDENCE OF THE SJC IN THE LIGHT OF THE CONSTITUTIONAL REFORM OF 2020

BOUTELHA HAMMOU, YAMA BRAHIM

PDF

## THE ROLE OF CIVIL LIABILITY IN PROTECTING DIGITAL RIGHTS

AMANI KHADIDJA1

PDF

## RECONSTRUCTING LEGAL INFORMATION OPENNESS THROUGH THE LEGAL DOCUMENTATION AND INFORMATION NETWORK SYSTEM, UNIVERSITAS NEGERI SEMARANG

CAHYA WULANDARI, SUGIYANTO, ANGGYI TRISNAWAN, ZIDNEY ILMA FAZAADA EMHA, MUHAMAD SAYUTI HASSAN

PDF

## TOWARDS A LEGAL REGULATION OF THE EXCLUSIVE EMPLOYMENT CLAUSE IN UAE LABOR LAW

OMAR FARES

PDF

## ADMINISTRATIVE LAW IN CRISIS: NAVIGATING RESPONSES TO PUBLIC HEALTH EMERGENCIES AND NATIONAL SECURITY THREATS

HASHEM BAKER ALI ALSHAIKH

PDF

## THE FIFTH GENERATION WARFARE AND SOFT WARFARE :WHAT'S THE CONNECTION?

MENAD ICHERAK , HAKIM BELIL

PDF

## THE AUTHORITY OF THE ADMINISTRATION TO REVOKE AN ADMINISTRATIVE DELEGATION DECISION

ZERDOUM ABDERRAOUF , ,NABIL MALKIA

PDF

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Editorial Board

Peer Review

Publishing Ethics

# نص المقال

# 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(130 صفحة، 2005 .

– **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(169 صفحة، 2009 .

**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(136 صفحة، 2010 .

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(، صفحة 141، 2012 .،

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(، صفحة 25، 2004 .،

– **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.

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On behalf of Editorial Team of the “Russian Law journal (RLJ)”, we are pleased to inform you that your manuscript has been accepted publication in Current Issue of 2023 as per the recommendations given by the peer review group of experts.

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S.N.	JUDGMENT CRITERIA	COMMENT
1.	Originality	72%
2.	Scope of the Article	82%
3.	Content writing of the article	Satisfactory
4.	Clearly and concisely written of the article	Satisfactory
5.	Are the presentation, organization and length satisfactory?	yes
6.	Are the illustrations and tables necessary and acceptable?	Yes
7.	Are the interpretations and conclusions sound and justified by the data?	Yes
8.	Are the references Cited Properly	Yes

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