

# **Republic of Yemen**

**Ministry of Higher Education**

**And Scientific Research**

**Sana'a University**

**Faculty of Islamic Sharia & Law**

**Department of General Law**



## **Revocation of the Administrative Decision**

**( A Comparative Study between Egypt and Yemen)**

*A study submitted to meet the requirements of obtaining MA  
degree in General Law*

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## Abstract

Judicial oversight over the public administration actions is considered one of the strongest types of oversight, as it aims to determine the extent of its suitability and application of the principle of legality in the decisions issued by the administration. Judicial oversight constitutes a deterrent from the administrative arbitrariness.

The revocation lawsuit is filed to the judiciary through a statement or a request that includes a set of facts, in which the nature of the decision to be revoked and the aspects or reasons for the revocation are specified. Then the judge's role comes to examine the decision (subject of the dispute) and verify its legality or not.

The role of the judge in revocation is limited to revoke the administrative decision that violates the law, and if he finds the decision legitimate, he judges to reject the case, and his authority does not extend beyond amending the decision or replacing it with another one, because these powers and authorities are within the administration's jurisdiction, and it contradicts the principle of separation of powers and makes the judge the head of the administrative body issuing the decision.

The study included an introduction and two chapters: The introduction included: What is revocation, in two sections, the first included: Definition of revocation and its characteristics, and the second section included: Conditions for accepting revocation, then two chapters followed: The first included: The authority to revoke the administrative decision, in two sections: The first included : Explaining the judge's authority to revoke the decision for formal defects. The second section included explaining the judge's authority to revoke the decision for substantive defects. The second chapter was allocated for the revocation judgment, in two sections: The first included an explanation and clarification of the request to stop the implementation of the administrative decision. The second section included an explanation of the revocation judgment of the administrative decision.

The study relied on the methods of analysis, comparison and judicial applications of Yemeni court judgments, comparing them to the applications of the Egyptian administrative judiciary and benefiting from all studies related to the subject of the study.

The study concluded with the results of the study and a number of recommendations, the most important of which are as follows:

- The study calls on the Yemeni legislator, judiciary and jurisprudence to set a comprehensive definition of the administrative decisions.
- The study calls on the Yemeni legislator to promptly issue a law regulating the delegation of competencies similar to Egyptian legislation, due to its importance in issuing administrative decisions.
- The study calls on the Yemeni legislator to promptly replace the text of Article (239) of the current Code of Civil Procedure and Implementation so that its text is as follows: *(Urgent judiciary in administrative, civil, commercial, personal status, and other disputes of a temporary nature shall rest with the trial judge.)*