

# THE ANNULMENT OF NEGATIVE ADMINISTRATIVE DECISIONS IN SAUDI ARABIA

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## ABSTRACT

*The Board of Grievances has jurisdiction over cancelling negative administrative decisions in Saudi Arabia, but there are few rules in the Law of the Board of Grievances and in the Law of Procedures before the Board of Grievances that regulate this subject. In this paper, various points relating to this issue are examined. Negative administrative decisions and the procedures followed, or should be followed; in Saudi Arabia to handle such decisions are explained. One significant issue investigated is the enforcement of judgments issued by the Board of Grievances relating to the annulment of negative administrative decisions, because at present, there is no published law that provides a defined approach to deal with such subject in Saudi Arabia. This study clearly demonstrates that there is an urgent need to enact rules to enforce judgments issued to annual negative administrative decisions in Saudi Arabia and some other issues relating to cancelling negative administrative decisions should be highlighted in the Law of Procedures before the Board of Grievances, in order to apply the laws and regulations correctly.*

**Keywords:** Negative Administrative Decisions, Annulling Administrative Decisions, The Board of Grievances, Enforcing an Administrative Court's Decision, Saudi Administrative Law.

## INTRODUCTION

In Saudi Arabia, the Board of Grievances is considered the Administrative Jurisdiction authorized to protect individuals from abuse by public authorities, a responsibility fulfilled by monitoring the legality of decisions issued by these authorities. This board has broad power over maintaining balance between the public and public bodies because public citizens are in a vulnerable position when they face government authorities in litigation situations. One way that the legality of the work of the authorities is monitored is by empowering the Board of Grievances to annul administrative decisions. Annulment proceedings are considered the most important proceedings that exist for the protection of individuals' rights and freedoms in contemporary states. In Saudi Arabia, litigation to annul an administrative decision is considered the most significant of the new capabilities granted to the Board of Grievances, which has authority over these issues according to the Law of the Board of Grievances issued in 1402 H (Saleh, 2001). Prior to that date and in accordance with its previous regulations, the Board of Grievance's authority on these issues was restricted to preparing a report on such issues and submitting appropriate suggestions for their resolution to the minister concerned. In cases where the minister had a different opinion relating to the issues, he or she was expected to refer it to the royal authority to decide on the appropriate course of action (Saleh, 2001). In 1989, the Law of

Procedures before the Board of Grievances has been issued and this Law provided special rules with defined procedures for litigating the annulment of administrative decisions. Despite these actions, legal provisions for handling annulment proceedings in Saudi Arabia have been found to be insufficient, because many rules and procedures relating to this subject are not covered by the Law of Procedures before the Board of Grievances (Saleh, 2001). An amended Law of the Board of Grievances went into effect on 01 October 2007, and the adjusted Law of Procedures before the Board of Grievances was presented by the Decree of the Council of Ministers No. 13 dated 12 November 2013 and by Royal Decree No. M/3 issued on 26 November 2013. However, neither one provides more regulations for the annulment of negative administrative decisions, with the exception of Article 32 of the Law of Procedures before the Board of Grievances, which implies that the judgments of annulment shall have erga omnes effects<sup>1</sup>.

Subsection 2 of Section 1 of Article 8 of the former Law of the Board of Grievances and Section 2 of Article 13 of the recent Law of the Board of Grievances assert that the Saudi Administrative Court can rule on final administrative decisions that has been brought by ‘persons concerned’; in addition, these rules document that ‘the administrative authority’s refusal or denial to make a decision required to be made by it in accordance with the laws and regulations’, which is legally referred to as a “*negative administration decision*” (Talbah, 1990; Abo-Aleneen, 1998; Shatnawi, 2004; Khaleefa, 2008), “*shall be deemed an administrative decision*”. Therefore, it can also be challenged before the Board of Grievances. The rationale for this is that, if such conduct is not subjected to any judicial authority or associated with any legal liabilities, that is, if it cannot be challenged before the competent forums, it might be regarded as a legal loophole that encourages administrative authorities not to issue orders in certain cases (Abdulwahab and Sharaf, 1988). On the other side, in spite of the importance of this subject, limited rules exist in the Law of Procedures before the Board of Grievances that legislate how such matters are handled, and many questions relating to the annulment of negative administrative decision should be answered in Saudi laws. In addition, many books written and academic studies conducted in the Saudi context have focused on the Saudi Administrative Law and the Administrative Jurisdiction, but the vast majority have described and analyzed the provisions legislated in the Saudi laws, while some books and academic materials have highlighted the rules and the stipulations of annulment proceedings raised before the Board of Grievances. Thus, an insufficiency of literature centered on the rules and principles of negative administrative decisions in the Saudi laws exists.

Based on these circumstances, the annulment of negative administrative decisions in Saudi Arabia is a significant topic to be explored, justifying this study, which was undertaken to measure the level of authority possessed by administrative judges relating to negative administrative decisions and to identify, in general, how Saudi law should address the issue. Moreover, it aimed to contribute to Saudi laws regarding the annulment of negative administrative decisions and to highlight if there are any gaps and weaknesses in current regulations that needed to be amended and enhanced.

In this study, the general rules and principles relating to negative administrative decisions are examined and highlighted in order to illustrate how Saudi laws handle, or should deal with, this subject. To reach an accurate conclusion, this paper was designed to identify the extent of the court’s authority toward these decisions and how the relevant governmental body should proceed when the Administrative Court decides to annul its negative order. The other aim of this study was to identify the effects of court judgments to cancel negative administrative decisions.

Also, the rules and procedures that should guide and relating to enforcement of the judgment of annulment in Saudi Arabia are highlighted. This paper concludes with the noteworthy findings and recommendations for future research.

### **The Definition of Negative Administrative Decisions**

The term “*negative administrative decision*” is used to refer to situations in which an administrative authority refuses or fails to make a final determination on a matter that it has a legal obligation to issue in accordance with the rules and regulations (Abdulwahab and Sharaf, 1988; Talbah, 1990; Abo-Aleneen, 1998; Kanan, 2002; Shatnawi, 2004; Khaleefa, 2008). Based on this reference, the administration authority must be obliged by national regulations and laws to issue the decision concerned in order to regard its denial or refusal to do so as a negative administrative decision; therefore, if the authority is not legally obliged to issue an order, the law shall not consider the refusal to issue that order as a negative administrative decision, even if issuing the decision concerned is optional rather than mandatory (Abo-Aleneen, 1998; Khaleefa, 2008; Emran, 2016). The Supreme Administrative Court in Egypt applied this concept when it held that, in cases where the administration refuses to issue a decision because it is not obliged legally to do so, this refusal shall not be regarded as a negative administrative order, and therefore, if the person interested raises the issue before the competent forum in order to annul that refusal, it will be absolutely rejected. For this reason, the court ruled that the denial of an appointment on a lecture at a university did not constitute a negative administrative decision (Khaleefa, 2008). Furthermore, it is not stipulated that the administration must explicitly refuse to issue the decision it is required to make in order for the matter to be classified as a negative administrative decision: the determination of a negative administrative decision is applied in cases where the administrative authority does not respond to a submitted application within a specific period of time, even if the authority has not explicitly communicated a refusal to issue a decision (Khaleefa, 2008; Shatnawi, 2004).

### **Jurisdiction over Negative Administrative Decisions in Saudi Arabia**

In Saudi Arabia, the Board of Grievances maintains jurisdiction over the determination of such disputes on the basis of Section 2 of Article 13 of the Law of the Board of Grievances, which states that the Board of Grievances shall have authority to rule on

*“Cases for revoke of final administrative decisions’ brought ‘by persons concerned when the appeal is based on grounds of lack of jurisdiction, defect in form or cause, violation of laws and regulations, error in application or interpretation thereof, [or] abuse of power”.*

It also provides that;

*“The administrative authority’s refusal or denial to make a decision required to be made by it in accordance with the laws and regulations shall be deemed an administrative decision”.*

In practice, the Administrative Court confirmed this concept in judgment No. 83/D/F/7 in 1426 H pertaining to case No. 1815/1/Q in 1425 H, when it stated that it has jurisdiction over the annulment of negative administrative decisions according to Subsection 2 of Section 1 of Article

8 of the Law of the Board of Grievances issued by Royal Decree No. M/51 dated 21 May 1982 (The Collection of Administrative Judgments and Principles of the Board of Grievances). This Article found the same principle in Section 2 of Article 13 of the amended Law of the Board of Grievances declared by the Decree of the Council of Ministers No. 303 dated 01 October 2007 and Royal Decree No. M/78 dated 01 October 2007. In addition, the Administrative Forum pointed out, on 5 May 2016 in case No. 3392/2/s in 1437 H, that the Board of Grievances shall have jurisdiction to determine challenges against negative administrative decisions on the basis of Section 2 of Article 13 of the Law of the Board of Grievances (Collection of Administrative Judgments and Principles, the Board of Grievances). Thus, the Board of Grievances has authority to decide the issue of annulling administrative decisions, including negative administrative decisions, in Saudi Arabia.

Procedures for raising a dispute on the annulment of administrative decision before the Board of Grievances are referenced in Section 4 of Article 8 of the Law of Procedures before the Board of Grievances, which establishes a general principle relating to the annulment of administrative decisions. This legislation requires the plaintiff, prior to bringing the issue before the Board of Grievances, to submit a complaint to the relevant governmental body or to the administrative authority that issued the grieved decision “*within sixty days from the date of knowledge thereof*”. This provision is considered an important step in the process because the administration concerned might reconsider the order and withdraw or amend that decision (Abdulwahab and Sharaf, 1988; Saleh, 2001). In such circumstances and according to Section 4 of Article 8 of the Law of Procedures before the Board of Grievances, the administrative agency concerned is obliged to rule on the grievance within sixty days from the date the complaint is submitted. If it decides to reject such a grievance, the justifications for the rejection must be stated, but, in cases where the sixty days following the date of filing that grievance have lapsed without issuing any decision relating to that grievance, it shall be regarded “*as though a decision has been made to reject the grievance*”. Hence, the normal procedural requirement is that the plaintiff must object to the decision grieved to the administrative authority concerned within sixty days from the date of knowledge thereof and the authority has sixty days within which to respond; otherwise, the grievance is considered rejected.

Contrary to what has been concluded above, the rules of procedure relating to the annulment of negative administrative decisions are slightly different, as the plaintiff is allowed to submit an objection to the administration authority concerned at any time and, thus, is not restricted to submit that objection within ‘sixty days from the date of knowledge thereof’. Neither the Law of the Board of Grievances nor the Law of Procedures before the Board of Grievances articulates this exception. Nonetheless, the Board of Grievances affirmed this provision on 5 May 2016 in case No. 3392/2/S in 1437 H, when it stated that the claimant is legally authorized to appeal this type of order at any time and is not restricted to challenging it within a specific period of time as legislated in the Law of Procedures before the Board of Grievances (Collection of Administrative Judgments and Principles, the Board of Grievances). This principle was also applied by the Primary Administrative Court when it issued decision No. 83/D/F/7 in 1426 H on case No. 1815/1/Q in 1425 H indicating that the principle established in the Board of Grievances is that the period of time defined within which to challenge the administrative order mentioned in the Law of Procedures before the Board of Grievances shall not be applied in cases where the subject of the case is to cancel a negative administrative decision (The Collection of Administrative Judgments and Principles of the Board of Grievance).

The reason behind this rule is that the refusal or failure to issue the decision required remains in effect (Abo-Aleneen, 1998; Shatnawi, 2004). In this context, the Supreme Court of Justice in Egypt confirmed this justification, concluding that a negative administrative order can be challenged at any time as long as the refusal of the administration to issue the decision required continues (Shatnawi, 2004). In fact, this ruling is very useful for a plaintiff who wants to challenge a negative administrative decision because applying the normal standard means that if the issue is brought before the competent court outside of or without respect to that stipulation, it will be absolutely dismissed (Talbah, 1990). In such situations, the plaintiff might then not be able to initiate litigation again for the same cause of action against the same defendant because this ground for rejecting the litigation cannot be corrected (Shatnawi, 2004). Hence, the plaintiff is allowed legally to object to the grieved decision at any time as long as the administration authority still refuses to issue the order required.

### **The Limits of the Court's Authority on the Issue**

The fixed rule in the Administrative Jurisdiction is that when litigation is brought before the competent forum to annul an administrative decision, its authorities are restricted to revoke the decision concerned (Talbah, 1990; Alabadi, 1995; Abdulaleem, 2007; Emran, 2016). In cases where the trial judge concludes that the administrative decision was legitimate and consistent with the laws, the judge shall reject the proceedings (Emran, 2016). At the endorsement stage, the administration concerned can enforce the judgment that rejects the plaintiff's demand to annul its order, because this kind of judgment, which confirms the legitimacy of the administrative decision, does not require taking any further action for enforcement (Abdualwahed, 1984). Hence, the competent court might reject the proceeding for the annulment of a negative administrative decision in cases where it concludes that the grieved decision is consistent with the regulations.

Conversely, the competent court might decide to annul the negative administrative decision. For example, the Court of Appeal in the Board of Grievances issued judgment No. 423/T/6 in 1427 H dated 01 August 2006, which confirmed the ruling of the Court of First Instance No. 83/D/F/7 in 1426 H, and concluded that the administrative authority had refused to form a committee to consider the possibility of compensating the plaintiff for alleged damage due to the establishment of a motorway, although it was obliged to do so according to Article 7 of the Act on the Expropriation of Immovable Property for Public Utility. For this reason, the ruling was that the authority's refusal to address the situation be considered a negative administrative order and be annulled (The Collection of Administrative Judgments and Principles of the Board of Grievances). This example highlights the need to determine the consequences of a judgment issued to revoke a negative administration decision.

### **The Legal Effects of Annulling Negative Administrative Decisions**

Article 32 of the Law of Procedures before the Board of Grievances establishes the principle that the judgments of annulment shall have *erga omnes* effects. The implication of this well-known rule is that the benefit and burden of this type of judgment is applied broadly to the entire population (Talbah, 1990; Shatnawi, 2004; Abdulaleem, 2007; Emran, 2016), regardless of whether they participated in the original litigation brought before the court that issued that

judgment. This is one of the established legal principles that have been agreed upon in jurisprudence and justice (Shatnawi, 2004). The Supreme Court of Justice in Jordan affirmed this rule when it concluded that a judgment of this type issued by the Supreme Court of Justice must have *erga omnes* effects for all courts and administrative authorities (Shatnawi, 2004). Hence, the judgment issued to invalidate an administrative decision shall have *erga omnes* effects.

On the other hand, it has been said that the general rule of the Administration Jurisdiction is that the judgment of annulment should have a retroactive effect extending back to the date on which the order was issued, and the relating circumstances should be considered as if no such order had been made (Abdualwahed, 1984; Shatnawi, 2004; Abdulaleem, 2007; Emran, 2016). The intention of the retroactive effect of the annulment is for the administration to restore the legal position to that which existed before the grieved decision was issued (Abdualwahed, 1984). It is also obliged to remove all procedures and rules that were based on the decision annulled. The Supreme Court of Justice confirmed this concept in stating that all legal and administrative transactions and procedures undertaken by an annulled administration decision must be cancelled from the date the court's judgment was issued (Shatnawi, 2004). Consequently, cancelling an administration decision means that all other orders based on the decision cancelled should be regarded as annulled as well.

The effects of invalidating an individual negative decision were also assessed in this study. Based on the findings of the research, it appears logical that if an individual managerial decision is annulled, that order cannot be reconsidered or litigated again, whether by the same or any other plaintiff, due to the claimant's lack of interest and the absence of contested decision in the second litigation (Shatnawi, 2004). Therefore, because the final judgment issued to annul an administrative order has *erga omnes* effects and because the court's final judgment relates to public policy, the competent court should not reconsider or hear any case raised to annul the same administrative order, in order to stabilize the legal situation (Al-Dhaher, 2009). Hence, the administrative decision that has been annulled by the competent court cannot be reconsidered.

However, the question raised here is whether the annulment of an individual negative managerial decision has a legal impact on similar or parallel negative administrative decisions. To answer this question, various principles and concepts must be considered. Firstly, the fixed standard established by law is that the principle of *res judicata* pertaining to the judgment of annulment is restricted to the subjects discussed before the court that issued the judgment. Based on this provision, cancelling an individual administrative decision should not have any effect on similar or identical administration orders that have been raised and discussed before other forums (Shatnawi, 2004). The second rule relating to this issue is that cancelling a regulatory decision affected more than one person means that it can no longer be relied upon (Abdualwahed, 1984). Furthermore, it has been confirmed that the rule of the Administration Jurisdiction is that, in cases where the administration issues identical decisions for more than one person and the competent court annuls one of them, the other orders must be cancelled as well. This is justified on the basis that identical administrative decisions are based on the same legal grounds, and as such, annulling one of them indicates that all were based on unlawful grounds, and therefore, the other orders must be treated in the same manner in order to avoid the risk of misapplication of law (Shatnawi, 2004). In addition, when a competent forum cancels a negative administrative order, that action signifies that the refusal to decide was not in compliance with accepted legal rules (Shatnawi, 2004). On the other side, the general rule in Saudi law is that similar and identical cases should follow and have the same judicial principle. This provision stems from

Section 4 of Article 10 of the Law of the Board of Grievances, which establishes the useful concept that ‘if a high administrative court panel, when reviewing an appeal, decides to depart from a precedent established in a previous judgment rendered by it or by another court panel, it shall bring the appeal before the chairman of the court to refer it to the general panel of the court to decide it’. Thus, it can be said that, according to the general rules in Saudi laws, it is not acceptable to set aside judicial principles issued by national forums. Therefore, in cases where an administrative court reviews an issue and decides to annul a negative administrative decision because the refusal or failure to issue the order concerned was illegal, other judicial authorities discussing similar or identical decisions are obliged to consider the judgment that was issued to annul the identical or similar orders, in order to avoid the risk of misapplication of law. Consequently, it is logical to say that because the administration authority is obliged to work with and serve the public in good faith, it should not continue to refuse to issue similar orders for identical cases, but in cases when the competent court annuls a negative administrative decision, all identical and similar administrative orders should have the same judicial ruling if they are based on the same legal grounds. Hence, the rule in Saudi law is that similar and identical cases should follow the same judicial principles.

In the matter of collective administration decisions, which apply to an order issued against a defined group, such as an order issued regarding retirement for a specific group of employees (Shatnawi, 2004), it has been concluded that if all interested persons challenge the order in separate cases and one of them obtains a favorable decision, the others can rely on and invoke the judgment of annulment issued by the judicial authority. However, if one of the interested persons does not sue the administration concerned to annul the order, that individual cannot take advantage of the judgment of revocation, unless the court dismisses the legal grounds on which the decision to annul was based (Shatnawi, 2004). Another approach upholds that in such circumstances; because the judgment was issued to annul the order, all interested persons have the right to benefit from that judgment, including those who have not litigated that decision before the court (Shatnawi, 2004). Hence, this is a controversial issue, as annulling a collective administrative decision may or may not affect interested persons who do not challenge the grieved order.

The most appropriate approach that should be incorporated into Saudi law relating to annulling a negative administrative decision is that in cases where an administration refuses to issue an order on behalf of a defined group of persons, such as refusing to issue an order to deliver municipal services to separate homes on the same street, and when one of persons interested challenges this negative administrative order before a competent forum which annuls the decision, the judgment of revocation shall affect all parties concerned, including those who do not challenge the decision. The rationale behind this is that this approach is consistent with the provision enacted in Article 32 of the Law of Procedures before the Board of Grievances, which indicates that the judgments of annulment shall have erga omnes effects. Moreover, the annulment of a negative administrative decision does not mean that the administration concerned is obliged to issue the order demanded by the applicant, and it is allowed legally to re-refuse to issue the order required based on legal grounds, such as failure to meet one of the mandatory conditions for issuing the order, as will be demonstrated in a subsequent section. Therefore, it is suitable for Saudi law to dictate that cancelling a collective administrative decision affects all interested persons, even if one of them does not challenge the decision concerned.

## **The Enforcement of the court's Judgment Issued to Annul Negative Administrative Decisions**

When a trial judge decides to annul an administrative decision, that judge is not allowed to issue specific instructions to the administration authority regarding how to enforce the judgment of annulment (Alsarokh, 2001; Shatnawi, 2004; Emran, 2016) because enforcing this judgment is the responsibility of the administrative authority, not the judge (Abdualwahed, 1984). The Board of Grievances experienced this principle when a claimant raised an issue before the court claiming that the defendant did not deliver electricity service to his home, although all the mandatory stipulations for service delivery had been met. The Forum of Appeal in the Board of Grievances confirmed the ruling of the Court of First Instance and concluded, in case No. 3392/2/S dated 05 May 2016, to annul the negative decision on the denial of electric service delivery to the plaintiff's home (Collection of Administrative Judgments and Principles, the Board of Grievances). In this case, the court did not oblige the administration authority to follow specific procedures to enforce the judgment of annulment; all it did was annulling the negative administrative decision. The Court of Administrative Justice in Egypt confirmed this concept when it concluded to annul an order to retire an officer. In this case, the court stated that it was not authorized to issue an administration decision or to oblige the administration to reinstate the staff member to work until the age of retirement, although the reinstatement was the logical outcome of cancelling the decision on the retirement, which had to be respected by the administration concerned (Abdualwahed, 1984). Hence, the authorities of the administrative forum are restricted only to annulling, or to confirming the legitimacy of, the grieved order.

In cases where the competent forum issues a judgment to cancel a negative administrative decision, the judgment creditor does not directly obtain any advantage that the administration refused to render to him or her, but the administrative authority should issue an order to give him or her that advantage (Abdualwahed, 1984). For instance, if the administration refused to issue a building permit and the competent court annuls that refusal, the plaintiff does not automatically obtain that license, but the administration concerned must issue an order to grant the permit to him or her. In such cases, the authorized administration is obliged to enforce the forum's judgment, and under these circumstances, there is no choice other than to issue the order required, according to the specifications of the court's decision, because if the order concerned is not issued, the judgment of revocation is useless (Shatnawi, 2004). The Supreme Court of Justice in Jordan has reemphasized that the administration should not refuse to enforce the judgment on the argument that it has financial difficulties (Shatnawi, 2004; Kanan; 2002). Hence, the administration is obliged to enforce the court's judgment and to issue the order concerned.

However, the administration concerned may not issue the decision that it had refused to issue previously under certain circumstances. Such exceptions are allowed because when the competent court annuls a negative administrative order, the situation must be re-established to the status that existed before the annulled order was, or should have been, issued. In accordance with that status, there was no refusal or granting of an order, and therefore, the authorized administration could refuse again to issue the order based on legal grounds (Abdualwahed, 1984; Khaleefa, 2008). For example, if the administration refuses to grant a driver's license, and the competent forum decides to annul this refusal, the administration concerned is allowed legally to re-refuse to grant the license if one of the mandatory conditions of granting such license is not met after the court's judgment has been issued. In this context, it has been concluded that in



cases where the order is cancelled because it is illegal due to lack of justification or motivation, or because of misconduct relating to applying to the authority, the administration is authorized to issue the same annulled decision again after correcting the mistake and avoiding the violation of legitimacy (Abdualwahed, 1984; Shatnawi, 2004). Hence, the administration may re-deny issuing an order concerned if, for example, legal requirements for issuing that decision have not been met.

Several factors must be considered when considering the enforcement of a court's judgment that annuls a negative administrative decision. Firstly, the government body that must enforce the court's judgment is the agency against which the judgment has been rendered because, at the enforcement stage, the situation must be evaluated in order to issue a proper administrative order (Abdualwahed, 1984). In such situations, the refusal to enforce the forum's decision can create chaos and risk a lack of confidence in the laws (Khaleefa, 2008; Abdulaleem, 2007). At the same time, the administrative authority has the right to enforce the court's judgment in due course, provided it does not delay the enforcement any longer than reasonable, as doing so would render the judgment useless (Alabadi, 1995; Abdulatiff, 2002; Khaleefa, 2008). Secondly, the fixed principle in the Administrative Jurisdiction is that when the competent forum rules to annul an administrative order, the administration authority should enforce the judgment of revocation on its own initiative or at the request of those concerned (Abdualwahed, 1984). Thirdly, the court's judgment must not be enforced insufficiently (Khaleefa, 2008), and the administration should enforce the judgment of annulment in good faith and take all necessary positive actions and steps to enforce this judgment properly (Abdualwahed, 1984; Alsarokh, 2001). For this reason, it has been emphasized that the administration concerned should not issue any decision in order to circumvent the enforcement of the court's judgment (Khaleefa, 2008). Fourthly, when the administration decides to enforce the judgment annulled its previous individual order by issuing an administrative order, the new decision must be issued in accordance with the laws and the regulations that applied at the time when the annulled decision was, or should have been, issued (Abdualwahed, 1984). Hence, the administration that is responsible to enforce the judgment of the annulment must enforce it properly and in good faith.

Another issue investigated in this study was the procedures that must be followed to enforce the judgment of annulment in cases where the administration concerned does not enforce it. In such situations, the approach followed in Saudi law to enforce the judgment issued by the Board of Grievances is contained in Article 2 of the Saudi Enforcement Law, which clearly establishes that the enforcement judge does not have authority to enforce decisions and judgments issued in administrative and criminal litigations. Applying this rule does not mean that the administration is not obliged to enforce such administrative judgments because Section 2 of the Declaration of Saudi Prime Minister No. 9624/M B dated 10 November 2009 emphasized that all government agencies must take immediate actions to enforce judicial judgments issued against them as soon as these decisions become final and enforceable. In such situations, they must coordinate with the Ministry of Finance if it is necessary.

In fact, Saudi law does not outline what should be done if the administration does not enforce the judgment of annulment. The Court of Appeal in the Board of Grievances did not provide a clear approach for how to handle this issue either, although it has met with refusal to enforce its judgments annulled administrative decisions. For instance, the Court of Appeal in the Board of Grievances issued judgment, on 16 February 2016 on case No. 1443/Q in 1437 H, that

confirmed the principle that the Board of Grievances does not have jurisdiction to enforce the judgment issued by the Board of Grievances (Collection of Administrative Judgments and Principles, the Board of Grievances). The Court of Appeal in the Board of Grievances affirmed this provision in judgment issued on 07 July 2015 on case No. 3950/2/S in 1436 H stating that the ministers and the chairpersons of autonomous government agencies are responsible for enforcing final administrative judgments issued against these government agencies (Collection of Administrative Judgments and Principles, the Board of Grievances). However, on 01 September 2019, it was announced that the Board of Grievances prepared a draft bill on enforcing administrative judgments in Saudi Arabia, and the urgent need to fill the regulatory vacuum regarding this subject in Saudi laws was confirmed. In this law it has been suggested that not enforcing a judgment issued by the Board of Grievances could be considered a criminal offense in certain situations and the injured party is entitled to demand a fair compensation (Alshabrawi, 2019). Hence, in cases where an administration authority refuses to enforce a judgment issued to annul a negative administration decision, at present, there is no separate law to regulate the subject of enforcing final administrative court's judgments issued by the Board of Grievances in Saudi Arabia.

On the other hand, it has been concluded that if the administration concerned does not enforce the judgment of annulment, it shall be regarded as a negative administrative order, and the judgment creditor is allowed to raise an action before the court to cancel the administration decision or to demand fair compensation for damages sustained (Abdulatif, 2002). The Supreme Court of Justice in Jordan upheld that the administration authority is obliged to enforce the forum's judgment and the refusal to do so will be considered a negative administration decision that can be challenged before the competent court (Shatnawi, 2004). Therefore, in general terms, the administration will be responsible if it does not enforce the judgment of revocation within a reasonable amount of time, (Abdulatif, 2002; Shatnawi, 2004; Abdulaleem, 2007; Khaleefa, 2008), but the administration may not be liable if the enforcement is delayed for necessary reasons or due to unforeseen circumstances (Abdulaleem, 2007; Khaleefa, 2008). Based on these facts, in Saudi Arabia, if the judgment creditor has been affected negatively because of the failure to enforce the judgment of annulment, he or she should have the full right to sue the administration authority before the competent forum and to demand fair financial compensation. Section 3 of Article 13 of the Law of the Board of Grievances might be used as a legal ground for such demand. This Article asserts that the Board of Grievances has authority over disputes relating to compensation that is 'initiated by the persons concerned against the administrative authority's decisions or actions'. Hence, the denial to enforce the judgment of revocation will be considered as a negative administrative order, and the person interested can demand that this decision be cancelled before the competent forum or file a claim for financial compensation for damages incurred.

In addition, the fixed principle in the laws of some countries calls for the failure or refusal to enforce the final court's judgment to be considered a criminal offense in certain situations. For instance, Article 100 of Egypt's Constitution outlines that the refusal or delay in the enforcement of courts' judgments by such competent public servants is regarded in the law as a criminal offence and the judgment creditor has the right to raise criminal proceedings before the competent forums. Article 123 of the Egyptian Criminal Code defines two types of crimes relating to the lack of enforcement of the court's judgment that may be committed by a public official: the crime of abuse of employment power to prevent enforcement of a judgment and the

crime of the deliberate refusal of a public official to enforce the court's decision in cases where he or she is responsible to enforce that judgment. The penalties established for these crimes are imprisonment and removal from office. In addition, Article 182 of the Jordanian Criminal Code includes a similar concept: it establishes the rule that 'any public official who uses his/her office powers directly or indirectly in order to obstruct or delay...the execution of judicial decisions or any order issued by a competent authority, shall be punished by imprisonment from one month to two years' and 'if the person who used his/her power and authority is not a public official, he/she shall be punished by imprisonment from one week to one year'. Hence, not enforcing a judgment of annulment could be considered a criminal offense in certain circumstances.

## CONCLUSION

In conclusion, this manuscript examined and evaluated the rules relating to revoking negative administrative decisions in Saudi Arabia. The main aim of this paper was to reveal how Saudi law handles this issue and the most effective method through which Saudi law could address this subject. Various points were investigated within this study in order to achieve those goals. Firstly, the extent of the authority of competent courts toward negative administrative decisions was explained. Secondly, the effects of the judgments of annulment were revealed, and the actions the administration concerned should take regarding these judgments were described. Thirdly, the principles that should control the procedures for the enforcement of the judgments of annulment in Saudi Arabia were highlighted. During this research, several significant findings were extracted, which are highlighted in the following paragraphs, followed by suggestions for future studies.

A negative administrative decision results from an administration's refusal or failure to issue an order that it is obliged legally to issue. In such situations, the persons impacted by the administration's failure to make a decision are entitled to sue the administration before the Board of Grievances in Saudi Arabia in order to annul this negative decision, according to Section 2 of Article 13 of the Law of the Board of Grievances. However, before raising the issue in front of the administrative court, the plaintiff is obliged to submit an objection to the relevant governmental body or to the administration, which should issue the order required. The plaintiff is not legally bound to submit this complaint within sixty days 'from the date of knowledge thereof'; instead, the plaintiff may legally file a complaint regarding the refusal at any time as long as the refusal continues. After submitting the objection, if the administration concerned rejects it or does not respond to the complaint within sixty days from the date the grievance is submitted, the plaintiff can bring the issue before the administrative court, which could reject the proceedings if it concludes that the administrative decision concerned was legitimate and consistent with existing regulations. In such situations, there are no obstacles to or actions required to enforce the court's judgment.

The competent forum may decide to annul the negative administrative decision if, for example, it finds that the refusal to issue the order concerned was illegal. In this situation, the administration concerned should not continue to refuse to issue the same order for similar or identical cases, but if there is a refusal to issue the same order for similar and identical cases that are based on the same legal grounds and have been brought before the competent courts; they should follow and have the same judicial principle, in order to apply the law correctly.

Because the trial judge's authority is limited to whether to reject the proceedings or to annul the decision concerned, the obligation to enforce the judgment of revocation is the task of the administration against which the judgment is issued. In such circumstances, it should enforce the judgment in good faith and within a reasonable period of time. At the same time, the administration must not take any action that is incompatible with the judgment of revocation because, if the judgment of annulment has not been enforced, confidence in the rule of laws can be undermined and there is a risk of a miscarriage of justice. The administrative decision issued in execution of the judgment of the revocation must be retroactive to the date of the denial and based on the laws and regulations that existed at the time when the refused decision should have been issued.

In certain circumstances, the administration concerned may decide to re-refuse issuing the decision required, although the competent forum ruled previously to annul its negative administrative decision. Such cases can occur if, for example, one of the mandatory stipulations to issue that order is not met, after the judgment of annulment is issued.

The rule in Saudi law is that the enforcement judge does not have jurisdiction to oblige the administration to enforce the judgments of annulment, but pursuant to the Declaration of Saudi Prime Minister No. 9624/M B dated 10 November 2009, the administration against which the judgment of revocation has been rendered is encouraged to coordinate with the Ministry of Finance, if necessary, and to enforce the judgment as soon as it becomes final and enforceable. It seems that at present, Saudi law does not directly regulate the subject of enforcing the final administrative judgments issued by the Board of Grievances, but a law has been proposed by the Board of Grievances to enforce these judgments in Saudi Arabia. This proposed regulation intends to establish that in cases where the relevant administrative body refuses to enforce the final administrative judgment, the injured party is allowed to sue the administration before the Board of Grievances and to demand fair financial compensation for damages sustained. Actually, he or she might also rely on Section 3 of Article 13 of the Law of the Board of Grievances to demand a fair compensation, because it states that administrative courts shall have authority to rule on claims for compensation "*initiated by the persons concerned against the administrative authority's decisions or actions*". Also, the failure to enforce the final judgment of annulment should be regarded as a criminal offense, and criminal sanctions should be defined by Saudi legislators for these offenses.

Future research is needed relating to which stipulations should be required to remove and invalidate orders that have been issued based on an administrative decision annulled by the Board of Grievances. Future research should also examine whether plaintiff demands for the competent forum to remove these orders should be addressed through a separate litigation. The party responsible for compensating the judgment creditor in cases where the judgment is not enforced should also be researched, as should the possibility of raising a compensation claim against the government officer responsible for this duty. Furthermore, the issue of granting authority to a trial judge who issues a judgment of revocation to enforce that judgment, or at least to issue instructions to the administration authority to execute the judgment, should receive scholarly attention.

## ENDNOTES

1. Section 2 of article 13 of the recent Law of the Board of Grievances has also added that the Board of Grievances shall have jurisdiction over litigations for revoke of final administrative decisions...including disciplinary decisions and decisions issued by quasi-judicial committees and disciplinary boards as well as decisions issued by public benefit associations—and the like—relating to their activities.

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