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# Scope of Jurisdiction of the Saudi Board of Grievances in Considering the Cancellation Action

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## Abstract

Administrative decisions are the important legal means the executive authority uses in practicing its activity and administrative function. These decisions are subject to the administrative judiciary control to balance public interest with individual interest and affirm the legitimacy principle. The cancellation action is the lawsuit monitoring legality of administrative decisions. Despite the provision on jurisdiction's generality for all final administrative decisions, the practical and legal reality shows some restrictions and exceptions about immunizing final administrative decisions against judicial appeal or compensation. This study intends to explore the nature of administrative decisions and their characteristics and distinction from other legal actions.

**Keywords:** Administrative decision; the principle of legitimacy; an act of sovereignty; quasi-judicial committees.

## 1. INTRODUCTION

All the acts of the executive authority, like all public authorities, shall be subject to the legitimacy principle. Since the executive authority is an important in the state, practicing multiple and various competencies and activities, it has many public powers and privileges. Administrative decisions represent important legal means used by the executive authority in exercising its activity and administrative function under its powers conferred upon it by law to achieve public interest. These decisions are subject to the administrative judiciary control to achieve a balance between public interest and individual interest by the legitimacy principle. The cancellation action is the lawsuit through which the legitimacy of administrative decisions is monitored.

The Board of Grievances has been the competent authority to consider cancellation actions since issuing the Board of Grievances law in 1402AH, Article 8, Section (B). The current Board of Grievances confirmed this competence issued by Royal Decree No M/78, dated 19/9/1428AH, where Article 13 confirms that "it shall be competent to revoke final administrative decisions to accurately define the description of appealable decisions before the Board of Grievances courts. The current text added that the appealable administrative decisions should be final, unlike the previous text.

The request to stop implementation of the contested decision on the grounds of the cancellation is the urgent requests submitted to the Saudi Board of Grievances to protect the interests of individuals such as employees from management decisions, the privileges, and powers granted to it from legal texts to achieve the public interest until the final decision is made in the annulment case. An exception to the general rule, because the implementation of administrative decisions has consequences that harm some individuals like employees to whom the decisions of the public administration address, they are entitled to an exception to submit a request to temporarily suspend their implementation.

In its judicial decision, the Board of Grievances emphasizes the temporary nature of the judicial decision issued in the request for a stay of execution, as is the case for summary judgments, in addition to that it is a final judgment that has the elements and characteristics of judgments, so it possesses the power of the thing judged in the order in which it was issued. Temporary judicial proceedings pending a decision on the annulment lawsuit, as it possesses relative authority due to its urgent nature.

Moreover, if the court ruling in the annulment case is rejected; the judgment issued for the stay of execution expires and becomes as if it was not issued, but if the judicial judgment is issued to cancel the administrative decision, this means the continued enforcement of the judgment of stay of execution.

From the literal meaning of the text, it seems that the generality of competence is intended in all final administrative decisions, excluding non-final decisions. However, the practical and legal reality shows that not all final administrative decisions are appealable. There are some restrictions and exceptions related to immunizing some administrative decisions against the judicial appeal.

## **2. RESEARCH SIGNIFICANCE**

The significance of raising and discussing such an issue lies in its practical importance. The provisions of Article 8 (B) of the Board of Grievances Law issued in 1402AH made the Board of Grievances competent to consider revocation of administrative decisions in general, but in practice, several judicial decisions were issued to reject many lawsuits due to incompetence either because the decisions subject of appeal is not final or because they fall outside the Board of Grievances jurisdiction scope. This justified the legal amendment of the Board of Grievances issued in 1428AH. Article 13 of the amendment came to confirm the competence of the Board of Grievances to consider cancellation actions of final administrative decisions. It added the attribute of finality to emphasize the exclusion of non-final administrative decisions from the scope of the cancellation action. However, there are still administrative decisions that fall outside the Board of Grievances jurisdiction scope in considering cancellation actions. It is very important to shed light on these decisions because of their significance.

### **2.1 Research Problem and Questions**

The research problem lies in the inaccuracy of the text of Article 13 (B) of the Board of Grievances Law issued in 1428AH. It was drafted in general wording that denotes the possibility of revoking all final administrative decisions. Although the text is general, many final administrative decisions that are still fall outside the Board of Grievances jurisdiction scope though they have the finality attribute. Then, what are these decisions that fall outside the jurisdiction scope of considering cancellation actions?

#### **Research Objectives**

The research aims are:

1. The administrative decisions are subject to cancellation action.
2. Necessary conditions that shall be fulfilled in the appealable decisions in cancellation actions.
3. The types of unappealable administrative decisions before the Board of Grievances courts.

#### **Research Methodology**

The study requires following the inductive and analytical approach to the statutory texts and judicial rulings issued by the Board of Grievances administrative courts to clarify what the administrative judiciary rulings have settled concerning the topic of research and to determine the unappealable administrative decisions.

### **2.2 Research Plan**

1. The preliminary quest is the nature of administrative decisions and their characteristics, and how to distinguish them from other legal actions.
2. The first topic: the concept of administrative decisions subject to the cancellation action and the conditions that shall be fulfilled to make them appealable.
3. The second topic: the unappealable final administrative decisions.

#### **Preliminary Quest: The Nature of Administrative Decisions**

This quest requires discussing the nature, concept, and characteristics of administrative decisions and distinguishing them from other actions as follows.

#### ***First, the Concept of Administrative Decisions***

Administrative decisions are among the most important activities of the administrative authority and one of the manifestations and privileges of the public authority that it derives from rules of the public law. Through these decisions, the administration can unilaterally, contrary to the general rules in private law, create rights or impose obligations because the administration seeks to achieve public interest (Al-Zahir, 2011, p.196).

Explaining the concept of the administrative decision is critical to distinguish it from other legal actions such as material actions, legislative actions, and judicial actions (Shatnawi, 2014, p.281). Hence, it becomes important to define the administrative decision to specify the scope of judicial control over administrative actions as this control is limited to administrative actions and not others. The administrative legislator did not set a definition for the administrative decision (Kanaan, Administrative Law, 2005, p.237). So the jurisprudence and the administrative judiciary settled on defining the administrative decision as a final legal act issued by the single administration and binding the national public administration authority with its authority under laws and regulations in the form required by law with the intent of establishing, amending or canceling a specific legal right or obligation whenever possible or legally permissible and to achieve public interest (Al-Ajami, Thunibat, 2016, p.210). This is what was confirmed by the Saudi the Board of Grievances that the administrative decision is made as soon as the administration discloses its binding will and authority under the laws and regulations to create a permissible legal effect (the Board of Grievances judgment No.78/d/J15 of 1437AH in CaseNo.2090/1/J of 1427AH). According to this definition, the administrative decision is distinguished by several characteristics from other works and actions taken by the administration. We will explain those in the following sections.

### ***Second, the Administrative Decision is a Legal Action***

The administration uses the administrative decision to express its will with the intent of producing a legal effect by establishing, amending, or canceling an existing legal status (Shatnawi, 2014, p.296), the administrative decision can be distinguished from the material action which is always a material incident or a proven procedure thereof without intending to achieve certain legal effects. Thus, the Board of Grievances ruled that "what was issued by the secretariat is, in reality, nothing more than a material act to implement the decision issued by the governor of Jeddah and it is one of its effects" (Administrative Court (AC) Judgement in Case No.6433/2/J of 1436AH supported by Appeal Judgement (AJ) No.5591/2/A/ of 1437AH dated 11/27/1437AH, Collection of Rulings of 1437AH, Volume IV, p.231). The essential difference between material works and administrative decisions is the impossibility of filing a lawsuit to cancel the material work.

#### ***A Public Administrative Authority Issues the Administrative Decision According to Laws and Regulations***

For a decision to be considered as administrative, it shall be issued by a public administrative authority. Work or action exercised by a non-administrative public authority, such as the legislative authority or the judicial authority, in their natural jurisdiction scope, is not considered an administrative decision (Shatnawi, 2014, p.281). Legislative actions issued by the parliament while exercising its legislative powers are not considered administrative decisions.

The basic principle is that legislative actions with their two types are considered administrative decisions. Consequently, they fall outside the jurisdiction scope of the administrative judiciary either for cancellation or compensation. The same rule applies to the judicial decisions issued by the judicial authority. They are not considered administrative decisions. This is confirmed by the Board of Grievances, which ruled that "The judiciary has been established in the field of distinguishing between administrative decisions that are concerned with considering appeals against them and judicial decisions that fall outside its jurisdiction that the judicial decision is issued by a body empowered by law with the authority of the judiciary and it performs its judicial function." (AC Judgement No.36/d/a/15 of 1426AH in Case No.1059/3/J of 1425AH, Collection of Rulings of 1438AH, Volume V, p.284).

Actions issued by the executive authority as an administrative authority are considered administrative decisions. Furthermore, works and actions issued by civil authority or body such as private bodies of public interest or persons of private law are not considered administrative decisions because they are not issued by an administrative authority. It was ruled that "The ACs have jurisdiction to consider cases related to contracts to which the administration is a party. In addition, the telegram of His Royal Highness was issued emphasizing the independence of sports federations and not considering them as government agencies, the effect of which is that ACs have no jurisdiction

over the case." AC judgment in Case No.8553/1/J of 1438AH, supported by AJ No.5141/J of 1438AH issued on 12/9/1438AH, Collection of Rulings of 1439AH, Volume I, p.40).

### ***Third, Issuing the Administrative Decision by the Binding and Individual Will of the Administration***

The administrative decision is characterized as a legal action issued through the individual will of the administration, which distinguishes it from the administrative contract (Al-Ajami, Thunibat, 2016, p.208). The administrative contract is concluded by the convergence of the will of the administration and the will of the contracting party, and its legal effect is not arranged unless both wills converge. This was established by the Board of Grievances rulings that "the administrative contract as an agreement concluded by the administrative body with an individual in which the rights and obligations of each of the parties are determined by the provisions of the regulation" AC ruling in case No.5963/2/J of 1436 AH. Supported by AJ No.1565/2/A of 1438AH issued on 2/6/1438AH, Collection of Rulings of 1438AH, Volume V, p.212). This is contrary to the administrative decision whose legal effect is created without interference by individuals and with the will of the single administration alone without depending on the individuals' consent.

## **3. FIRST TOPIC, APPEALABLE ADMINISTRATIVE DECISIONS**

Not all final administrative decisions are appealable but are rather limited to a set of administrative decisions that shall fulfill specific conditions to be appealable. (Al-Osaimi, 2017, p.19). They shall be replaced by final administrative decisions issued by a national administrative authority and shall affect the appellant's status. We will come to explain these conditions that shall be fulfilled in the appealable administrative decisions as follows.

### ***First, the Decisions Shall Be Issued by A National Administrative Authority***

Appealable administrative decisions shall be issued by national administrative authorities that apply the state laws and derive their authority from them, not from a foreign authority or body. Thus, the Board of Grievances ruled that "and since this case is not filed against a national administrative body.... Therefore, the case falls outside the jurisdiction of the Courts of the Board." (AC Judgment No.230/1/J of 1439AH, supported by AJ No.2537 of 1439AH issued on 10/6/1439AH, Collection of Rulings, p.19). Whether that authority is within or outside the state borders and whether it is a central or a decentralized authority (Al-Ajimi, 2018, p.20). The administrative decision is considered to be issued by a national administrative authority if it is taken in the name and sovereignty of the state. The criterion for determining whether the issuing authority is national or foreign is by determining the source from which the jurisdiction to issue the decision is derived (Al-Osaimi, 2017, p.23). This authority shall derive its authority from the state law. Accordingly, embassies and consulates affiliated with the Kingdom have considered national administrative authorities issuing administrative decisions that may be appealed before the Board of Grievances as it derives its authority from the legal systems in the Kingdom.

### ***Second, the Administrative Decision Shall Be Final***

Final administrative decisions mean that the legally competent administrative authority issues the appealable administrative decision after exhausting all necessary stages for its issuance without needing ratification or cassation from a higher administrative authority (Abu Al-Hamad, 2017, p.59). This is confirmed by the Board of Grievances, which ruled that "it is established that one of the conditions of the administrative decision is that it shall be final and executive and have a legal effect that would harm the appellant's position" (AC Judgement in Case No.5499/1/s of 1439AH, supported by AJ No.6006/J/ of 1439AH issued on 10/25/1439AH, Collection of Rulings, p.120). This is what distinguishes administrative decisions from the preparatory or preliminary actions that precede the decision-making and that do not have a legal effect (Abu Al-Hamad, 2017, p.66). Hence, they may not be appealable.

In addition, actions after the issuance of administrative decisions that do not in themselves have a legal effect are not considered administrative decisions such as recommendations, suggestions, and opinions that clarify what is included in the decisions and indicate how to implement them, provided that they do not include new rules. Thus, the Board of Grievances ruled that "It is established that the purpose of what is issued by the defendant is a report on the reality of the situation accompanied by recommendations, which makes it unappealable as a result of its lack of direct influence on the legal and statutory status of the plaintiff" (AC Judgement in Case No.3789/10/J/ of 1438AH, supported by AJ No.5252/2/A of 1439AH issued on 6/9/1439AH, Collection of Rulings of 1439AH, volume I,

***Third, the Decision Shall Have an Impact on the Appellant's Status***

Appealable decisions shall have an impact on the claimant's legal status. (Al-Tahrawi, 2017, p.176). If they do not, the lawsuit shall not be accepted, which is called the condition of interest. This was confirmed by the Board of Grievances, which ruled that "It is established that the decision in question was not final and enforceable. Moreover, it did not have any effect on the status of the appellant. Therefore, it cannot be appealable before the judiciary because there is no litigation element" (AC Judgement in Case No.5499/1/J of 1439AH, supported by AJ No.6006/A of 1439AH issued on 25/10/1439AH, Collection of Rulings, p.120). The one who has the right to appeal the case shall have an interest that they seek to achieve through appealing the decision. It is also required for this interest to continue until the date of the issuance of the judgment. Otherwise, the judiciary will decide not to accept the case. This is what the rulings of the Board of Grievances have settled on; the cancellation action shall not be accepted unless the appellant has an interest. (Auditing Board Judgement No.75/2/J of 1427AH, Collection of Rulings of 1427AH, Volume I, p.310). Furthermore, the administrative decisions that were withdrawn before filing the cancellation action are unappealable because of the lack of legal effect for the future, not to mention the demise of interest. (Al-Qaisi, General Administrative Law, 2007, p.279).

**4. SECOND TOPIC, FINAL ADMINISTRATIVE DECISIONS OUTSIDE THE BOARD OF GRIEVANCES JURISDICTION SCOPE**

Some may think that the exceptions that exclude some administrative decisions from the cancellation action scope are limited only to administrative decisions related to acts of sovereignty. However, the practical and legal reality confirms that many administrative decisions cannot be appealed on the grounds of cancellation and are outside the jurisdiction of the cancellation judge even if the final status applies to them (Al-Dugaither, 1992, p.45). We will explain this in the following sections.

***First, Administrative Decisions Related to Acts of Sovereignty***

The basic rule is that all the actions of the executive authority are subject to judicial oversight to preserve the rights of individuals, but in some cases, it requires mitigating the severity of this principle for considerations related to the acts of sovereignty. There is a group of actions that fall outside the oversight of the administrative judiciary or traditional judiciary (Shatnawy, Encyclopedia of Administrative Judiciary, 2014, p.76). These are called governmental actions or acts of sovereignty (Saad, the General Administrative Law, 2006, p.135). Decisions issued by the executive authority as a ruling authority are unappealable before the administrative judiciary (Shatnawi, 2014, p.87). The Board of Grievances courts may not consider cases related to acts of sovereignty (the AC ruling in Case No.959/13/J of 1437AH, supported by AJ No.609/5/A of 1438AH issued on 24/10/1438AH, Collection of Rulings, p.126).

Regulations differ in terms of expansion or narrowing of their scope. The Saudi legislator, like other legal systems, removed the acts of sovereignty from the jurisdiction of the administrative judiciary. Article 14 of the Board of Grievances Law states: "The Board of Grievances courts may not consider cases related to acts of sovereignty or objections to the rulings issued by courts that are not under this system within their jurisdiction or the decisions issued by the Supreme Judicial Council, the Administrative Judiciary Council and the Public Prosecution Council. Although the Saudi legislator stipulates that the acts of sovereignty shall be outside the jurisdiction of the administrative judiciary, he did not give a definition or limitation of those actions, leaving the matter to the discretion of the administrative judiciary (Bouزيد, 2016, p. 129). The administrative judge is the competent person to determine the nature of the administrative act that he is concerned with, considering it as one of the administrative decisions that he is competent to consider or an act of sovereignty.

It is noted that the administrative judiciary in the Kingdom has not settled on a specific definition of the acts of sovereignty. The administrative judiciary rulings have settled on limiting some acts that are considered acts of sovereignty, which is called the judicial list that limited most of the acts of sovereignty (Shatnawi, 2014, p.87), which comes out of the Board of Grievances jurisdiction and may not be appealed. Other acts are left to the discretion of the administrative judge in deciding the legal description of the activities presented to him.

### ***Second, Decisions Issued by Judicial Courts and Councils***

They mean the decisions that are issued by the judicial courts, the Administrative Judiciary Council, and the Supreme Judicial Council in their jurisdiction scope. According to the provisions of Article 14 of the current the Board of Grievances Law, the decisions issued by the judicial councils in the area of their competence are considered outside the Board of Grievances jurisdiction. They are unappealable such as the decisions issued by the Supreme Judicial Council and the Administrative Judiciary Council, such as decisions to form or restructure judicial courts or establish judicial departments. It is noted that the statutory text came absolutely to include all decisions issued by judicial councils without differentiating between decisions related to the organization and structuring of judicial courts such as the establishment, abolition, or merging of courts or departments or the distribution of qualitative and geographic jurisdiction among them, and the decisions related to the functional affairs of judges such as their appointment, promotion, delegation, transferring and disciplining (Al-Tahrawi, 2017, p.151).

It is worth mentioning that Article 14 of the Board of Grievances' current law limits the prohibition to objections against rulings issued by courts that are not under this law and within the jurisdiction of these courts. Therefore, decisions issued by judicially competent committees became appealable before the Board of Grievances courts except those excluded by special text. Rulings and decisions issued by judicial courts may be appealable and fall outside the Board of Grievances jurisdiction. In light of the generality of the text, the Board of Grievances may not consider decisions related to the judges' functional affairs because they are issued by the Administrative Judicial Council, though they are administrative decisions related to the affairs of public officials, the apparent meaning of the text states that these decisions may not be appealable. (Makhlouf, 2013, p.293).

### ***Third, Decisions Issued by Some Quasi-Judicial Committees***

The quasi-judicial committees, which exceed one hundred committees, are one of the most prominent features of the Saudi judicial system. They settle some disputes and apply the penalties stipulated in the systems they are established for. In principle, all decisions of the quasi-judicial committees are appealable before the Board of Grievances in the application of the provisions of Article (13) of the Board of Grievances Law. However, there are some committees whose decisions are unappealable before the Board of Grievances courts and are thus considered exempted committees (Al-Khouli, Shadow Judiciary, 2018, pg.7). Therefore, it is necessary to refer to the system under which the relevant committee was established to ascertain the extent to which its decisions are appealable and to verify the deadlines for appeal. We will discuss these committees in the following sections.

#### ***1. The Committee for the Settlement of Banking Disputes***

The Banking Disputes Committee was established by Royal Decree No. (37441) dated 11/8/1433AH to amend the name of the Banking Disputes Settlement Committee to become the Banking Disputes Committee. It is competent to adjudicate original and subordinate banking disputes. (Al-Khouli, 2018, p.76). Its decisions are issued unanimously and are appealable before the Appeal Committee within thirty days. Otherwise, the decision becomes unappealable. (Al-Jarbou', 2017, p.176). Objections to its decisions are considered by an appeal committee that issues final decisions or rulings. Clause (4) of Royal Decree No. (37441) dated 08/11/1433AH provided for the establishment of an Appeal Committee for Banking Disputes and Violations. It is concerned with considering the objections submitted against the decisions of the Banking Disputes Committee and examining the objections submitted against the decisions of the Committee for the Settlement of Violations of the Banking Control Law (Al-Khouli, 2018, p77). Its decisions are unappealable before any other party. This was also confirmed by the Board of Grievances, which ruled that "The competent authority to look into banking disputes is the Banking Disputes Committee by the supreme order issued in this regard as the mentioned committee is a quasi-judicial committee whose decisions are unappealable before any other judicial body, the effect of which is ACs lack of jurisdiction to consider the case." Judgment issued in Case No.9625/1/J of 1437AH, supported by AJ No.555/J of 1437AH issued on 26/5/1437AH, Collection of Rulings of 1437AH, Volume I, p.44) .

#### ***2. Committees for The Settlement of Disputes and Violations Of The Customs Law***

The preliminary customs committees were formed following the provisions of Article 162 of the Customs Law issued by Royal Decree No. (425) dated 5/3/1372 AH. These committees exercise their powers following the

provisions provided for in Articles 162 and 163 of the Common Customs Law of the Gulf Cooperation Council countries issued by Royal Decree No. (M/41) dated 3/11/1423AH. It is concerned with looking into violations committed in violation of the unified customs law for the Gulf Cooperation Council countries (Al-Jarbou', 2017, p.178). The preliminary committee shall include its decision which means that any of the parties to the case may request to appeal the decision during this period before the Appeal Committee (Al-Khouli, 2018, p.92). The decisions of the appellate customs committees are final and unappealable before any party. This was confirmed by the Board of Grievances, which ruled that "The issue of jurisdiction is one of the primary issues that the department shall examine first as one of the issues of public order. The unified customs law includes that it is the jurisdiction of the customs courts (customs committees) to consider the objections to the collection decisions, and their rulings have a peremptory character, the effect of which is ACs lack of jurisdiction over the case." Judgment issued in Case No.7655/1/J of 1437AH, supported by AJ No.6738/J of 1437AH issued on 17/4/1438AH, Collection of Rulings of 1439AH, Volume I, p.15).

### *3. Committees for The Settlement Of Disputes And Violations Of The Financial Market Law*

This committee was established according to Article 25 of the Capital Market Law issued by Royal Decree No.M/30 dated 2/6/1424 AH. The committee is composed of one or more departments and is specialized in adjudicating disputes that fall within the provisions of the Capital Market Law and its implementing regulations and the regulations of the Saudi Capital Market Authority and the Saudi Stock Exchange (Al-Khouli, 2018, p.181). Its decisions may be appealed to the Securities Disputes Appeal Committee, which is concerned with considering objections to the decisions of the Securities Disputes Committee (Al-Jarbou, 2017, p.176). Its decisions are final and unappealable before any other party. This is what the AC of the Board of Grievances ruled "the plaintiff's request to cancel the decision of the Appeal Committee in Securities Disputes. According to the regulation, the decisions of the Appeal Committee in Securities Disputes are final, and therefore it is not permissible to appeal them before the courts. The effect of that is ACs lack of jurisdiction over the case" (Judgment issued in Case No.10501/1/J of 1438AH, supported by AJ No.728 of 1439AH issued on 14/4/1439AH, Collection of Rulings of 1439AH, Volume I, p. 9).

### *4. Committees for The Settlement of Financing Disputes and Violations*

Royal Decree No.M/51 dated 13/8/1433AH was issued approving the Finance Companies Control Law, which included the formation of the Committee for the Settlement of Financing Disputes and Violations to adjudicate violations, disputes, and public and private right claims arising from the application of the provisions of the Finance Companies Control Law and the provisions of the financing lease law. It is a single committee at the level of the Kingdom (Al-Khouli, 2018, pg. 79). Its decisions are issued unanimously and may be objected to within thirty days from the date of notification. The fifth clause of the Royal Decree No. (259) dated 12/8/1433AH provided that an appellate committee is formed and consists of one or more departments. Each department consists of three members and a fourth specialized member (Al-Jarbou', 2017, p.173). It is responsible for adjudicating the objections submitted against decisions of the Committee for the Settlement of Financing Violations and Disputes so that its decisions are unanimous, final, and unappealable. This is what the AC of the Board of Grievances ruled that "The private right cases arising from the application of the two laws of control of finance companies and the provisions of the financial lease law were excluded by a royal decree from the jurisdiction of the Board of Grievances and assigned to the Committee for the Settlement of Financing Violations and Disputes" (Judgment issued in Case No.5/9/1438AH, Collection of Rulings of 1438AH, Volume I, p.33).

### *5. Committees for The Settlement Of Tax Disputes And Violations*

The Preliminary Committee for the settlement of tax disputes and violations was formed according to Article 67 of the income tax law issued by Royal Decree No.1 dated 15/1/1425AH, amended by Royal Decree No.A/97 dated 17/3/1438AH (Al-Jarbou', 2017, p.180). Its decisions can be appealed to the Appellate Committee of Tax Violations and Disputes. Royal Decree No M/13 dated 2/11/1438AH was issued requiring to consider the decisions of the Appellate Committee of Tax Violations and Disputes as final (Al-Khouli, 2018, p.88) and unappealable before any other party. This is what was confirmed by the Board of Grievances, which ruled that "As for the claim of the plaintiff to cancel the decision of the Appellate Tax Committee against him, the decisions of the Appellate Tax Committee are unappealable before judicial bodies according to the law, the effect of which

is ACs' lack of jurisdiction to consider the case." Judgment issued in case no. 1202/5/J of 1439AH, supported by AJ No.2204/5/A of 1439 issued on 15/9/1439AH, Collection of Rulings of 1439, Volume I, p.12).

#### *6. Committees for Considering Violations Of Printing And Publishing*

Royal Decree No.A/93 dated 25/5/1432AH was issued to amend some articles of the Printing and Publishing Law issued by Royal Decree No.M/32 dated 3/9/1421AH, which formed two committees, one of which is primary and another is appellate, to adjudicate violations of the printing and publishing law and violations of the audio-visual media law and implementing penalties included therein (Al-Khouli, 2018, p.154). Decisions issued by the Preliminary Committee can be objected to before the Appellate Committee. Its decisions are unanimous, final, and unappealable before any other party. (Al-Jarbou', 2017, p.172).

#### *7. Committees for The Settlement of The Disputes Of Insurance Company Control Law*

Article (20) of the Cooperative Insurance Companies Control Law, issued by Royal Decree No. (M/32) dated (02/06/1424 AH), amended by Royal Decree No. (M/30) dated (27/05/1434 AH), provided for forming the preliminary committees for the settlement of insurance disputes and violations (Al-Jarbou', 2017, p.171). Their decisions may be appealed to the Appellate Committee, are final and unappealable before any other party. This was confirmed by the Board of Grievances, which ruled that "Insurance disputes are civil actions because the emergence of the right on which the plaintiff relies is not a commercial transaction but is decided by the committee included in Article 20 of the Insurance Companies Control Law, the effect of which is the Board of Grievances' lack of jurisdiction to consider the case." Judgment issued in case No.3623/3/J of 1435AH, supported by AJ No.842/J of 1436AH issued on 7/4/1436AH, Collection of Rulings of 1436AH).

### **Fourth, Decisions Issued by Public Benefits Associations and Not Related to Their Public Activities**

Public benefit associations mean those associations that are established by individuals without aiming to gain profit but to serve the public interest. They work for humanitarian, social, cultural, professional, and scientific purposes. (Al-Zahir, 2011, p.195).

The basic principle is that public benefits associations are civil associations whose decisions do not have the administrative character as a public utility. Therefore, in principle, their decisions are not considered administrative decisions in terms of the formal criterion because they are issued by a non-administrative authority. However, with the issuance of the new the Board of Grievances Law of 1428AH, Article (13) added the possibility of appealing the decisions of public benefits associations related to their activities, but this was limited to decisions related to the general activity of these associations. The Saudi legislator has taken into account the goal of the public interest for these associations as they do not aim to make a profit. Therefore, their decisions related to their general activities can be appealed before the Board of Grievances, but those not related to their activities fall outside the Board of Grievances jurisdiction, which ruled that "The jurisdiction of the Board of Grievances is limited to the decisions that are issued regarding public benefits associations and are related to their activities. The plaintiff's claim is not related to a decision connected to the defendant's activity, the effect of which is ACs lack of jurisdiction over the case." (AC judgment in Case No.61/9/J 1438AH, Collection of Rulings of 1439AH, Volume I, p.34).

### **Fifth, Decisions Related To Criminal Investigation Procedures**

Criminal investigation procedures are considered a set of actions and decisions carried out by criminal investigation authorities such as the Public Prosecution, police agencies, investigation departments, drug control, and other authorities that aim to search for and apprehend perpetrators of crimes. Sometimes these procedures may lead to disputes and compensation claims. The issue of the competent authority to consider these disputes has raised a conflict of jurisdiction between the administrative judiciary and the public judiciary.

Due to this difference in the judicial rulings of the Board of Grievances courts, the Audit Board jointly intervened to put an end to this conflict in the judgments through issuing Resolution No.87 of 1432AH issued on 19/12/1432AH (Joint Decisions of the Audit Committee, Office of Technical Affairs at the Board of Grievances, 1435AH, p.302), which requires reversing the jurisprudence previously adopted by some the Board of Grievances



courts by deciding its competence to an administrative, judicial body to consider appealable and compensable cases related to criminal investigation work.

The Board of Grievances judiciary has established that objecting to the decisions of the criminal investigation authorities or requesting compensation for their actions or decisions fall within the competence of the general judge who considers the origin of the case, given that the branch follows the origin (Shafiq, 2001, p.48). This is what was decided by many judicial rulings issued by the Board of Grievances after the issuance of the joint decision of the Board of Audit, which ruled that "...it is decided that the defendant is in the performance of the work entrusted to her based on the regulations that authorized her arrest and detention, which are part of the criminal investigation procedures and which fall outside ACs jurisdiction based on the findings of the Joint Audit Board." (AC Judgement in Case No.11730/1/J of 1434AH, supported by AJ No.763/J/1437AH, dated 21/2/1437AH, Collection of Rulings of 1437AH, Volume I, p.3). It was also ruled that "There is a difference between the actions of the criminal investigation and the actions of administrative control, which results in the Board of Grievances not having jurisdiction over the cases related to criminal investigation actions" (AC Judgement in Case No.3344/10/ J of 1439AH, supported by AJ No.5017/2/A/ 1439AH, dated 8/9/1439AH, Collection of Rulings of 1439AH, Volume I, p.3).

#### **Seventh, Decisions Related To The Application Of The Traffic Law**

The jurisdiction of the administrative judge is limited to considering cases arising from violations provided for in the traffic law issued according to Royal Order No.M/85, dated 26/10/1428AH, either by cancellation or compensation even if the plaintiff or the defendant is an administrative body. The basic principle is that these decisions fall within the Board of Grievances jurisdiction in terms of the formal criterion as they are administrative decisions issued by an administrative body, but according to the provisions of Article (31) of Legal Procedures Law issued in 1435AH, which states that "The general courts have jurisdiction to consider all actions, cases, final evidence among others, that fall outside the jurisdiction of other courts, notaries of justice and the Board of Grievances. They are competent to consider the following in particular "cases arising from traffic accidents and the violations provided for in the Traffic Law and its Implementing Regulations, "under this statutory text, the jurisdiction, in that case, has become the jurisdiction of the general courts, even if one of the parties to the dispute is an administrative body. Cases related to traffic violations and what arises from them fall within the jurisdiction of the general courts in the implementation of the rule of the branch follows the original, and then they come out of ACs jurisdiction, and all decisions related to traffic violations are unappealable. This was confirmed by the Board of Grievances, which judged that "According to law, the jurisdiction of the general courts to consider cases arising from traffic violations, the effect of which is ACs lack of jurisdiction to consider the case" (AC Judgement in Case No.2381/5/J of 1439AH, Collection of Rulings of 1439AH, volume I, p.29).

#### **Eighth, Administrative Decisions Related To Government And Public Institution Workers**

The rule is that government and public institution workers are subject to the civil service system because they work in administrative government agencies, but they belong to the wage-item employees who are subject to the work system because of their contractual work relationship that is governed by the concluded contract. This was confirmed by the Board of Grievances in some of its rulings (AC Judgement No.77/d/a/33 of 1430AH in Case No.801/7/J of 1429AH, Collection of Rulings, 1430AH, p.19), and also the disputes arising from the application of the social insurance system from the jurisdictional competence of the Board of Grievances courts in favor of the Labor Committees and the Settlement of Labor Disputes (AC Judgment No.18/d/f/7 of 1430AH in Case No.1/8469/s of 1429AH, Collection of Rulings, 1431AH, p. 24), According to Article 5 of the labor law issued by Royal Decree No.M/51 dated 23/8/1426AH, the provisions of this law apply to the following "2- Government and public institution workers including those who work in pastures or farming according to Article (34) of the Law of Legal Pleadings which states that 'labor courts have jurisdiction to consider the following f- Disputes related to workers subject to the provisions of the Labor Law, including government workers.

Consequently, decisions related to government and public institution workers such as appointment, promotion discipline, and similar decisions, even if they are administrative decisions in origin according to the formal criterion, they fall outside the Board of Grievances courts' jurisdiction. Rather, they fall within the jurisdiction of the labor courts, and the Labor Law is applied in their regard. This is what the Board of Grievances judiciary ruled that "the plaintiff claims to cancel the decision of the Supreme Commission for the Settlement of Labor

Disputes which includes the settlement of his entitlements related to the end-of-service gratuity with a company. The executive work mechanism of the judicial system ensures that the primary and higher bodies for settling labor disputes will continue to consider labor cases until the establishment of labor courts, the effect of which is ACs lack of jurisdiction over the case" (AC Judgement in Case No.16853/3/J of 1437AH, supported by AJ No.454/J of 1438AH, Collection of Rulings of 1439AH, Volume I, p.24).

### **Ninth, Decisions Related to Administrative Contracts**

Administrative contracts are complex legal processes that pass through several stages before they are concluded, when they are implemented, and even after their completion. These complex processes result in the issuance of many administrative decisions, including those related to the contract itself in terms of its implementation, the powers of the administrative authority to amend it, imposing sanctions against its contracting parties, or its termination. (Al-Khouli, 2017, p.116), and others that are not related to the contract, such as the procedures before its signing such as announcing the tender, receiving offers, forming inspection committees, deciding on offers, awarding, and others. These decisions are called decisions that are separate from the contract. They contribute to the formation of the administrative contract and aim to complete it but they are separated from it (Al-Borini, 2013, p.500) and they differ in their nature, which made them appealable, unlike the second category of decisions that are related to the administrative contract and its implementation. Therefore, the jurisdiction to consider them belongs to the contract judge according to Article 13 of the Board of Grievances Law, not to the cancellation judge (Al-Borini, 2013, p.507). They include the decision to withdraw work from the contractor with a given entity, the decision issued to seize the final guarantee, or the decision issued to terminate the contract itself or amend its clauses. (Al-Borini, 2013, p.507).

Therefore, administrative decisions related to administrative contracts are unappealable. This was confirmed by the Board of Grievances, which ruled that "the decision subject to appeal is considered one of the decisions related to the contract and therefore falls under the provisions of contracts to which the administration is a party" (Judgment issued in Case No.3624/2/J of 1434AH, supported by AJ No.265/3/A of 1435AH, Collection of Rulings of 1435AH, p.2438).

### **Tenth, Disciplinary Decisions Related to The Termination of The Service of Senior Officials**

In principle, disciplinary decisions are subject to the Board of Grievances jurisdiction in appealing. However, some disciplinary decisions fall outside the consideration of the administrative judge, although Article 13 of the Board of Grievances Law emphasized that it is ACs jurisdiction to consider cancellation actions of the disciplinary councils' decisions because they do not become final unless approved by the competent person and because the approval of the disciplinary committees' decisions related to the termination of the service of senior state officials is an established authority for His Majesty the King whether for civil servants such as ministers and their deputies, judges, and heads of independent agencies, or military personnel such as officers. The Board of Grievances judiciary has settled on considering royal orders as acts of sovereignty that the Board of Grievances is prohibited to consider according to Article 14 of its Law (Shatnay, Encyclopedia of Administrative Judiciary, 2014, p.91).

The Board of Grievances courts may not consider these decisions even after having the final status to immunize all royal orders against appeal before the general administrative judiciary. Therefore, disciplinary decisions related to the termination of service of senior officials are among unappealable decisions according to the Board of Grievances, which ruled that "The essence of the plaintiff's claim revolves around the royal order related to his retirement. The Board of Grievances judiciary has settled on considering royal orders as sovereign acts, and its court may not consider the appeals addressed to them or seek compensation for it, the effect of which is that it is not permissible to consider the case." (AC judgment in case No.959/13/J of 1437AH, supported by AJ No.609/5/A of 1438AH issued on 24/10/1438AH, Collection of Rulings of 1439AH, Volume I, p.126).

## **5. CONCLUSION**

In this study, we discussed two topics preceded by a preliminary quest in which we touched on the explanation of the nature and characteristics of administrative decisions and distinguishing them from other legal actions. In the first topic, we dealt with the appealable administrative decisions and the conditions for accepting the cancellation action. Then, in the second topic, we presented the unappealable and compensable administrative decisions either

because those decisions are issued by sovereign, regulatory or judicial authorities such as acts of sovereignty or what is issued by the courts and the Judicial Council, or because of immunizing them under regulations issued by the regulatory authority such as decisions of some quasi-judicial committees, decisions issued by public benefits associations and similar decisions that are not related to their activities, criminal investigation decisions, decisions related to traffic accidents and decisions related to the termination of the service of senior public and military officials and decisions related to administrative contracts. We have concluded several recommendations that we summarize as follows.

1. The necessity of respecting the principle of legality by all authorities in the state as it is the safety valve for individuals against arbitrary administration.
2. The necessity of not expanding restrictions on the cancellation action to extend the oversight of the Board of Grievances over the work of the administrative authority and to achieve the effectiveness of its control over administrative decisions and to preserve the principle of legality.
3. Considering the establishment and restructuring of quasi-judicial committees in implementation of Article 10 of the Executive Work Mechanism of the Judicial Law and the Board of Grievances Law issued in 1428AH.
4. The necessity of extending the oversight of the Board of Grievances over the work of quasi-judicial committees and limiting the finality of their decisions within the narrowest limits.
5. Emphasizing on not registering the cancellation action from the beginning with the Board of Grievances courts if the subject of the appeal is a decision that falls outside the Board of Grievances jurisdiction to reduce the burden placed on the litigants and not to waste the time of the judiciary.
6. The necessity of knowing the appealable administrative decisions and the final decisions that fall outside ACs jurisdiction of the Board of Grievances administrative courts to reduce cases of rejection of the cancellation action.

## CONFLICT OF INTEREST

I'm the author of this paper, earnestly declare that there is no conflict of interest or relationship, financial or otherwise (between me and any individual, organization or a group of people) that might be perceived as influencing our objectivity.

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