

## The Lawsuit for Annulment of Null Administrative Decisions

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### Abstract

*This research addresses the importance of lawsuits for the annulment of null administrative decisions in protecting individuals' rights and providing legal justice. The study aims to analyze three main demands: the challenge of annulment, the extent of adherence to the grievance condition, and the extent of adherence to the time limit condition. The research employs an analytical method to understand the impact of null decisions on individuals' rights and the means of protecting them, providing a comprehensive vision of legal concepts and their legal effects. The significance of the research lies in highlighting the individual's right to access justice without procedural barriers and providing practical guidance to enhance the protection of individuals' rights in the face of null decisions. The research discusses the findings and presents recommendations to enhance access to justice and strengthen individuals' rights through improving legal policies and practices.*

**Keywords:** *Annulment Lawsuit, Administrative Decisions, Null Decisions*

### INTRODUCTION

The effects of a null administrative decision are subject to the supervision of administrative judiciary; this is because the judge in administrative courts examines the challenged administrative decision and its surrounding circumstances, and then determines the status of this decision.

If the judge decides that the decision is null, it is as if it was considered non-existent in the legal reality from the start, which entails effects and rules that differ from those resulting from a decision flawed by a minor defect. This makes the lawsuit against a null decision of a special nature; because the judiciary aims to remove the pretense of the administrative decision. Therefore, it is within the right of the concerned party to file a lawsuit without being bound by the legally prescribed periods, and without lodging a complaint to the competent administration. To clarify this special nature, we will divide this topic into three demands, as follows:  
The first demand:

The challenge of annulment against null administrative decisions.

The second demand: The extent of adherence to the grievance condition against null administrative decisions.

The third demand: The extent of adherence to the time limit condition against null administrative decisions.

### Research Methodology

The methodology of writing in this research adopts a legal text analysis approach, where null administrative decisions are analyzed and legal judgments related to them are reviewed. This includes studying relevant legal texts, such as laws, regulations, and judicial rulings, and deriving conclusions and recommendations based on this analysis.

The methodology involves analyzing the concerned legal concepts and providing a comprehensive understanding of the subject, with a focus on the legal effects and practical outcomes of null decisions.

The First Issue: Challenging the Annulment of Nonexistent Administrative Decisions.

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The annulment of an administrative decision applies to decisions that exist within the legal framework and which enact their effects prior to being annulled. This type of decision does not apply to a nonexistent decision since it is not present within the legal reality; thus, there is no need to request the annulment of a nonexistent decision, as it is fundamentally impossible to annul something that does not exist (Al-Tamawi, 2013).

On the other hand, individuals may not be able to confront the administration in enforcing nonexistent decisions due to its authoritative and coercive power. Additionally, an ordinary individual may not distinguish between a nonexistent administrative decision and an invalid one.

Therefore, individuals may resort to the judiciary to declare this nonexistence and reveal it. Thus, when a judge decides that a decision is nonexistent, it is not that he creates this status but rather acknowledges and declares its nonexistence, aiming to protect the individual harmed by this nonexistent decision (Foda, 1996).

The Administrative Judiciary Board has confirmed in one of its rulings; the right of the individual harmed by a nonexistent decision to approach the administrative courts to file an annulment lawsuit. A ruling by the Administrative Appeal Court stated, "A nonexistent administrative decision is essentially just a material action that arranges several judgments, the most prominent of which is: it is possible to legally challenge a nonexistent decision..." (Administrative Judiciary Board, 2016).

Reinforcing the judiciary's right to expose the flaw of nonexistence, whether requested by the plaintiff or not, the administrative court, on its own accord, has ruled the annulment of the challenged administrative decision, basing this on its right to oversee administrative actions. The ruling stated, "The administrative judiciary, with its authority to supervise administrative decisions, verifies the outcome of the administrative decision and properly deduces it from material and legal bases" (Administrative Judiciary Board, 2015).

Moreover, as confirmed by the Administrative Court, "It is established in jurisprudence and judiciary that any flaw affecting the decision of the administrative entity, whether minor or significant, related to the element of jurisdiction that pertains to public order, necessitates the examination of the decision in question, whether challenged by stakeholders or not" (Administrative Judiciary Board, 2014).

Thus, the court ruled the nonexistence of decisions by the tax committees for overstepping judicial authority, and the court itself investigated and determined this flaw (Administrative Judiciary Board, 2015).

This affirms that the judiciary's role is to declare and uncover nonexistence, as stated in a ruling by the Administrative Court, "Given that the challenged decision, by encroaching on the jurisdiction of a judicial authority, is flawed with a serious lack of jurisdiction, thus considered a non-procedural action that does not produce any effect,... it is imperative for the court to declare its invalidity and order its annulment without considering the formal procedural requirements of the lawsuit" (Administrative Judiciary Board, 2014).

Therefore, an individual harmed by a nonexistent administrative decision has the right to file a lawsuit demanding the annulment of the nonexistent decision, especially if the administration has not, on its own accord, annulled or withdrawn its nonexistent decision.

The Second Issue: The Extent of Compliance with the Obligation to Appeal Against Nonexistent Administrative Decisions.

As previously mentioned, the litigation system before the Board of Grievances stipulates the necessity of appealing to the administrative entity that issued the decision before filing an annulment lawsuit at the Board of Grievances. Although this provision does not distinguish between the necessity of appealing in cases of nullity and nonexistence, appealing is not mandatory for a nonexistent decision; because it presupposes nonexistence, it is merely a material obstacle preventing individuals from their rights. Therefore, the reason for appealing to the board is to remove such obstacles (Shafiq, 1998; El Dessouky, 2023).

For decisions flawed by minor issues, they continue to produce their legal effects unless annulled by the judiciary or the administration itself. Therefore, mandatory appealing applies to decisions that inherently exist, which does not apply to a nonexistent decision that lacks administrative characteristics fundamentally, let alone its inability to secure individuals' legal rights (Jamal Al-Din, 2004).

The administrative judiciary has supported this direction in many rulings, including one by the Administrative Court, where it decided and affirmed; due to the administration's encroachment on the jurisdiction of the general judiciary, this solidarity was afflicted with severe lack of jurisdiction (usurpation of power). The court, after declaring the decision's nonexistence, added: "The challenge against it does not adhere to the procedural requirements specified in the litigation and procedure rules before the board; hence, it is incumbent upon the division to reveal its invalidity and rule its annulment without considering the lawsuit's compliance with its formal procedural conditions" (Board of Grievances, 2015).

Unquestionably, among the formal procedures and rules specified in the litigation system is the mandatory appeal; indicating that it is not necessary for the concerned individual to file a mandatory appeal before submitting their case to the board.

In another ruling, the Administrative Court explained the reason for not delving into the formal aspect; because the challenged decision is deemed non-existent in effect and existence, due to the decision-maker, the Ministry of Health at that time, overstepping its jurisdiction, which led the court to decide on its nonexistence due to a significant flaw represented in the usurpation of power (Board of Grievances, 2015).

The Third Issue: The Extent of Adherence to the Time Limit Condition for Nonexistent Administrative Decisions.

Examining the judgments of the Board of Grievances, it becomes clear that it has aligned with what most legal scholars (Al-Shaer, 2012) have determined; a nonexistent administrative decision is not bound by any specific duration, regardless of the length of time. This was decided by the Audit Bureau collectively in its decision No. (84) for the year 1429 AH, where it considered that the principle is the protection of flawed decisions, except for several decisions unworthy of protection; including the nonexistent decisions. The Bureau explained that the reason for the nonexistent decisions' lack of protection is due to their excessive flaw in seriousness and their deprivation of the administrative characteristic, thus they do not acquire legal immunity (Audit Bureau, 1997).

On this principle, the Board of Grievances has based many of its judgments. Among these judgments, the Administrative Court decided not to examine the formal acceptance of the case presented to it; because the decision under appeal is considered nonexistent due to a serious lack of jurisdiction (Board of Grievances, 2015).

From recent rulings, a judgment by the Administrative Court stated that legal doctrine and administrative judiciary have settled on the permissibility of challenging administrative decisions flawed with a serious lack of jurisdiction and nonexistent without adhering to the formal statutory periods (Board of Grievances, 2018).

This confirms that the Board of Grievances has determined in all its judgments that a nonexistent decision is not protected by the passage of statutory periods, resulting in the right of the individual harmed by this nonexistent decision to file a lawsuit for declaring the decision nonexistent and its annulment before the Board of Grievances at any time without being bound by formal aspects and matters related to administrative appeal or the periods stipulated by law.

## **RESULTS**

Highlighting the importance of the role of administrative judiciary in identifying nonexistent decisions and removing doubts related to them, contributing to the reinforcement of the rule of law and ensuring the application of legal justice.

Directing legislation and legal policies towards improving mechanisms of investigation and legal monitoring of administrative decisions, with the goal of preventing the recurrence of nonexistent decisions and protecting citizens' rights.

Emphasizing the need to develop laws and legal systems to provide more effective mechanisms for challenging nonexistent decisions and addressing administrative overreach.

Supporting the need to enhance legal awareness among citizens about their rights in the face of nonexistent administrative decisions and encouraging the use of legal avenues to protect those rights.

#### Recommendations:

Based on the results derived from the study of the annulment of nonexistent administrative decisions, the following recommendations can be made:

Enhancing auditing and monitoring mechanisms within administrative agencies to ensure that decisions are made according to the law and proper procedures, with activating legal mechanisms for punishing those responsible for nonexistent decisions.

Strengthening the training and qualification of judges and legal investigators to enhance their ability to effectively detect and analyze nonexistent decisions, in addition to developing legal mechanisms that contribute to expediting appeal and auditing procedures.

Encouraging communication and interaction between citizens and judicial authorities through providing information and legal guidance transparently and clearly, enabling citizens to exercise their rights efficiently and confidently in the justice system.

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