



## Research Article

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# Controls on Establishing Private Universities and Colleges in the Saudi Legal System: Legal Descriptive Analytical Study

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## Abstract

*Education at all levels (general/university) aims to develop plans worldwide, whether in the governmental and private sectors. It is the same as what we will find in the Saudi Arabia, which has paid great attention to the education sector. Due to the importance of the private university's role, we aim to present the regulating provisions of establishing private universities and colleges considering the most crucial objective and formal controls mentioned in the relevant laws and regulations. We also present some judicial applications issued by the competent judiciary. Our research scope is limited to the legal provisions in force of the Saudi legal system. It is strongly recommended to launch unified provisions for establishing private universities and colleges in the Saudi legal system.*

**Keywords:** Universities; Private universities; Private colleges; The Saudi legal system

## 1. Introduction

Countries build their future and elevate their status through education. They have realized that their children's minds are the most important and valuable resource on Earth. The Kingdom of Saudi Arabia has admitted that education is an essential pillar for building modern countries. It has become part of its past and current (Vision 2030) development plans to face the future. So the public education has been developed, higher education is promoted, and scholarships are sent to all countries of the world to acquire knowledge from its most advanced and distinguished resources. Due to the importance of private higher education as a primary supporter of government higher education, the state has allowed private colleges and universities to open up to accommodate the Kingdom's children and others who wish to pursue knowledge locally without the hassle of traveling. Many private university facilities have been spread in all categories and specializations in most Kingdom's central regions.

The reason for choosing the research topic is the absence of previous studies on the subject despite its importance in the present time. Mainly, it has amplified with the increasing interest in the private education sector in the Kingdom and its developments Kingdom in various fields, especially in university education and its governing legislation. The researcher hopes that the research will begin with other legal analysis that deals with more depth. To achieve the purpose of the study, it is divided into four sections. In these sections, the study tries to explain the meaning of the terms:

universities, private universities, and private colleges. It elaborates on the rules and regulations governing the establishment of private universities and colleges. It highlights the ordinary judiciary or the administrative judiciary's jurisdiction over disputes that may arise if private universities and colleges violate their established rules.

## 2. The Research Methodology

We use the research descriptive and analytical methods. The descriptive method presents a description of the laws and regulations governing the establishment of private universities and colleges in the Saudi legal system. We also use the analytical method to analyze the judicial provisions (applications). We present these to extract the essential things that the Saudi administrative judiciary has agreed concerning administrative disputes between the administrative authorities concerned with licensing the establishment of these private colleges and its administration.

### 2.1 Research division

This research is divided into:

1. The Basic Laws Governing the University Education Sector in the Saudi system.
2. Controls on Establishing Private Universities in Private Universities Regulation
3. Controls on Establishing Private Colleges in Private College's Regulation
4. Judicial applications.
5. Conclusions and Recommendations.

### 2.2 Collection of the scientific data

Concerning the scientific data collection, we faced difficulties in collecting the scientific data for this research. Especially, this research does not have previous studies in Saudi law and even at the level of the Gulf Cooperation Council countries. Hence, we reviewed the rules of Saudi libraries and the Gulf countries through the Saudi Digital Library. So, we have mainly relied on official government websites that publish the regulations and lists of public and private universities. We have also used some references of the Saudi administrative judiciary.

## 3. First Section: The Basic Laws Governing the University Education Sector in the Saudi Legal System

The system of the Higher Education and Universities Council (old) was issued according to Royal Decree No. M/8 dated 4/6/1414 AH (The law of the Higher Education and Universities Council). It has defined the universities as "the scientific and cultural institutions working on Islamic law guidance. They implement educational policies by providing university education and postgraduate studies. They advance scientific research, authoring, translating, publishing, and serving the community within the scope of their specialization." Article (3) of the system has stated that "universities and other higher education institutions shall have a council called the Higher Education Council. Every university shall have a council called the University Council." Article (15) of the system has enumerated the competencies of the Higher Education Council. Accordingly, it is mentioned that the council is concerned with the supreme authority responsible for education affairs above the secondary level, its supervision, and coordination between its institutions except for military education. It is involved with approving the rules governing the establishment, licensing, and control of private institutions for post-secondary education.

Some executive regulations and rules have been issued that regulate private universities and colleges under this law. The law has been abolished by the Higher Education Council and replaced by

the University Affairs Council under the new university law (The New University Law), which was issued according to Royal Decree M/27 dated 2/3/1442 AH. It will gradually replace the old system until it is fully implemented. The University Affairs Council exercises its duties and powers stipulated in the law from its publication in the Official Journals. It determines (three) university stages (first stage-at most) to apply the system after its implementation. Then gradually, it uses it to other universities by the Prime Minister's order based on a proposal from the Council of Universities Affairs. The Council submits a report to the highest authority every (two years) on the results of implementing the law, and the positives or difficulties it contains, or others, if any. It is currently provided with the Higher Education Council and Universities System's laws and regulations issued by Royal Decree No. (Article/8) dated 4/6/1414 AH. It continues to be applied to universities not included in the law's application until they are included. The Council of Universities Affairs exercises the Higher Education Council's powers (canceled) contained in the law of the Council of Higher Education and Universities issued by Royal Decree No. (Article/8) dated 4/6/1414 AH, on the universities that will continue to apply the law. The law will be applied to the universities in the first place by Article (3) of this decree. It has granted a transitional period (one year) from the date of entry into force of the law. The current university regulations will continue to work until the University Affairs Council issues the financial, administrative, and academic regulations for universities to comply with the law's provisions. It does not prejudice to boards of trustees' authority in supervising universities. The University Affairs Council may increase the transitional period for those universities or some of them, provided that the extension does not exceed (three) years from the date of the end of the transitional period specified by (one year).

The new university law was defined in Article (3) as "a public, academic institution with a corporate personality that is financially and administratively independent. It contributes to implementing the state's educational policy following the law's provisions and does not aim for profit." The law defines the University Affairs Council's purviews in Article (7) as it approves and supervises regulations for universities, private colleges, and branches of foreign universities. It recommends establishing universities and their associates, private colleges, and branches of foreign universities, their cancellation and merger, and their submission to the Council of Ministers for approval. Article (4/1) of the law has specified universities' establishment, as "the establishment of universities and their branches shall be by a decision of the Ministers Council based on the recommendation of the Council of Universities Affairs." At present, the executive regulations and regulations governing the establishment of private universities and colleges in the Saudi law will remain in effect as long as they do not conflict with the new university law unless the new University Affairs Council issues new regulations.

#### **4. Second Section: Controls on Establishing Private Universities in Private Universities Regulation**

The regulation of private universities (The Private Universities Regulation) was issued according to Ministry of Education Resolution 1424 AH approved by the Royal Decree dated 9/29/1424 AH. It has defined a private university as "a non-governmental educational institution. It operates under Islamic law guidance with a legal personality and enjoys financial and administrative independence. Accordingly, it does not conflict with regulations and instructions." Article (4) of the regulation has clarified the objectives of private universities as "it provides educational and training programs (above the secondary level). It contributes to raising the level of education and scientific research and provides appropriate scientific specializations within the Kingdom educational policy."

Concerning the establishment of private universities, there are specific rules and conditions. The university's establishment is licensed by a council's decision based on the charitable institution's request or the company and the ministry's endorsement of establishing the university Article (2). A draft statute must not contradict this regulation and is approved by the ministry Article (6). Charitable institutions or companies whose partners are not less than five persons may establish a

private university following these regulations' provisions. The partners may sell their shares if the number of partners in all cases is not less than five Article (5). The university shall consist of at least three colleges in one location upon establishment. The establishment of colleges is subject to what is included in Article (6) of the Private Colleges Regulations issued by Cabinet Resolution No. (212) dated 9/1/1421 AH (Article 7). According to the labor market's specializations and fulfill development requirements Article, the university's programs shall be according to the labor market's specializations and fulfill development requirements Article (8).

The regulation has defined a private organization as "a corporate entity whose primary purpose is to provide an educational service above the secondary level without aiming to achieve material profit. Its establishment and growth depend on continuous self-financing" (The executive Rules for the Establishment and Licensing of Private Charitable Institutions for Educational Purposes above the Secondary Level). The regulation has clarified that an individual, group of individuals, a person, or several legal persons establish the charitable institution. There are specific conditions for the establishment of a charitable institution. The applicant or applicants for the license must be Saudi nationals and fully qualified. They should prepare Articles (3/4) of association for the institution to be licensed. According to Article (5), the license applicant must fill out the license form and submit it to the Ministry. A copy of the license applicant's ID card must accompany it, whether he is an individual or more, a copy of the license or commercial register if he is a legal person, a copy of the institution statute, and a statement of the funds and endowments that will be allocated to the Foundation to help it achieve its goals.

Article (6) has required including the fundamental law of the institution-specific requirements. It consists of the institution's name, its headquarters, its address, the founders' names, their ages, professions, the place of residence of each of them, and their signatures. There are membership conditions for the types, rights, and duties of members. It requires the rules relating to their management and representation, identifying the bodies responsible for their affairs, and each's competencies. According to Article (7), a private charitable organization's licensing shall be according to a Minister's decision to approve the corporate establishment's initial approval. Simultaneously, an administrative council's election is required according to Article (8) of the regulation. It is also needed to provide the ministry with administrative council members, the president, the vice president, and the general secretary. It is required to recognize the council treasurer's duties and identify the bank or banks that the corporation wishes to deal with for financial matters. The minister issued a decision regarding the institution's final licensing after submitting the documents supporting the funds and endowments allocated for the institution's benefit according to Paragraph (c) of Article (5).

Concerning the rights and duties of private universities, the university shall adhere to the recognized scientific standards in its educational and technical programs and plans related to the curriculum, the faculty members, technicians, and other qualification levels Article (9). The university has the right to conduct its internal educational, financial, and administrative affairs that do not contradict these regulations' provisions and the scientific principles and norms Article (10). For admission to the university, it is required to obtain a high school diploma or its equivalent from inside or outside the Kingdom after fulfilling the admission criteria according to the rules and instructions issued in this regard Article (11). It is not permissible for the university to change what is included in the regulations, procedures, data, programs, curricula, study plans, and academic degrees for which the licensing certificate is issued except by the Minister's decision following these regulations (32). The university must apply the undergraduate study and examination rules and the unified rules for graduate studies in universities issued by the council Article (34). Arabic is the language of instruction at the university, and it is permissible to teach in another language by a decision of the Minister Article (35).

Article (28) of the regulation has come to affirm the private university's subordination to the Education Ministry's supervision in implementing this regulation's provisions. It approves the university law, study plans, scientific programs, certificates, and degrees it awards. It issues the rules

that guarantee the appropriate academic level for the quality of educational programs, curricula, and research centers. It ensures that the university's programs and curricula are conducted concerning the goals and purposes set for them related to the educational policy of the Kingdom. It reviews its periodic review of performance through reports and field visits. Article (33) of the regulation has given the Higher Education Council (currently the Supreme Council of Universities) the right to take all decisions and measures necessary to address this in cases where the university's activity is faltering or in violation of its establishment decision or the provisions regulating it. Articles (29/30) of the regulation specify the universities' revenue sources. As for the provisions regulating the private university authorities, Article (12) has defined the university authorities: Trustees Council, University Council, and University President. Articles (13-16) have dealt with the formation and purviews for the Trustees Council and its convening controls. Articles (17-19) of the regulation have dealt with the formation, purviews, and controls for convening the University Council. Articles (20-22) have dealt with appointing the University President and his specializations. Article (23) has explained to appoint university Vice Presidents. As for the rest of the university's bodies (colleges and scientific departments), the provisions are regulated by Articles (27/26/25/24/7).

### 5. Third Section: Controls on Establishing Private Colleges in Private College's Regulation

The regulation of private colleges was issued according to Cabinet Resolution 1421 AH. The Prime Minister approves it under the honorable guidance of 1421 AH (The Regulation of Private Colleges). The regulation has defined private colleges as "non-governmental educational institutions with legal personality. It is aimed to provide educational and training programs (above secondary level) and contributes to raising the level of education and scientific research. It provides appropriate scientific specializations within the Kingdom educational policy" (The Regulation of Executive Rules, Administrative, and Technical Procedures for the Private Colleges). Private college means, "It consists of more than one scientific department. The study duration is not less than four years or equivalent to granting the first university degree (bachelor's). The college may grant a diploma in the licensed specializations at the bachelor's level or other related specializations needed at the Labor market. The Saudi legislator has permitted in Article (3) of the private colleges' regulation for charitable institutions or companies whose partners are not less than five persons to establish private colleges according to these regulations' provisions by the Minister's decision. According to (Article/2/a), "the charitable institutions have established the executive rules to establish private charities for educational purposes above the secondary level, and other licensed charitable institutions."

Article (2/b) has stipulated, "Upon establishing a company to establish a private college, it is necessary to obtain the initial license to establish the college from the Ministry of Higher Education." The company should be a joint liability company or a company with limited liability. It specifies the name and head office, the partners' names and their place of residence, their professions, nationalities, and the company's capital. It is not permissible to enter new partners and sell or assign his share in the company to one of the partners or a new partner without the Ministry of Higher Education's approval. Each partner's share must be a certain amount of cash or a sample valued at fair value by specialists determined by the Ministry of Higher Education. The partners shall set aside 10% of the net profits every year to form the statutory reserve. This retention may be stopped whenever the statutory reserve reaches half of the capital. Suppose the company is liquidated or the purpose of its establishment is not achieved. In that case, all subsidies, endowments, gifts, wills, etc., shall be devolved to the Ministry of Higher Education in coordination with the Islamic Affairs Ministry.

Article (3) of the Executive Rules Regulations has stated that to obtain the initial license to establish a college, an application is submitted in the name of the Minister signed by the founder. It must be accompanied by the college's economic feasibility study, which must be approved by a licensed consultant office in the Kingdom. Besides, it must contain the college mission and objectives in line with the general policy of higher education in the Kingdom. Article (4) has clarified that the papers and data must be included in applying to the Higher Education Minister to obtain a general

accreditation license to establish the college. The application must contain a copy of the initial license, names of candidates for the Trustees Council, the name of the proposed college dean, the deed of ownership of the land that is allocated for the establishment of the college, building permit for the college project, and architectural drawings of buildings showing the numbers of all facilities as well as their designs. The college shall have a scientific organizational structure represented in Trustees Council, College Council, Dean of the College, Vice-Dean of the College, Department Council, Head of the Scientific Department, and faculty members. It also includes the rules governing the teaching shares of faculty members and contracting methods (Executive Rules and Administrative and Technical Procedures for the Regulation of Private Colleges on the Agency for Private University Education).

The license shall be granted according to Article (6) of the regulation to establish the college. First, the Initial license is granted. Which does General Accreditation follow? It is considered a preliminary license that is generally qualified after fulfilling the technical, constructional, and organizational specifications and standards. Then Special Accreditation is granted, which is considered as a preliminary license. It qualifies to teach a specific specialty after meeting the ministry's standards. The final license allows the accredited college to start its activities. Article (5/7) of the executive regulating rules has obligated the founder that after obtaining the initial license, he must prove that the general accreditation standards have begun to be completed in a maximum period of two years. Otherwise, the initial license becomes permanently canceled. As for obtaining special accreditation procedures, Article (6/8) has specified to apply in the Ministry of Higher Education to get a special accreditation license. A copy of the initial license and general accreditation must be attached with the application and an acceptable bank guarantee equivalent to five thousand riyals per student for one time during the study period.

The college's special accreditation requirements include certain essential aspects. It imposes the acquisition and development of collections from various sources of information at a rate of (10) addresses for each student as a minimum, provided that the number of addresses in the library is not less than ten thousand titles upon the establishment and that at least two copies are available. A library needs to subscribe to five titles from the current periodicals in each specialty accredited in the college for general accreditation in any of its various forms (paper, mini- pen, CD-ROM). It is mandatory to provide essential references necessary for research and study. These include linguistic dictionaries (Dictionaries), knowledge circles (Encyclopedias), biographical dictionaries, manuals, and secondary books, atlases, bibliographies, etc., in Arabic and foreign languages, provided that the percentage of reference materials is not less than (5%) of the total library holdings.

The regulation has also specified controls related to the educational equipment and means. These include personal computers at a rate of at least one device for every ten faculty members, transparent display devices at the rate of one device per classroom, and a slide show at one device per academic department. It has also specified some controls related to records and files. It includes documents, files, and cards for students about their admission, graduation, behavior, exams, grades, etc. It requires a statement of laboratory equipment, laboratories, workshops, ceremonies, and educational aids. Besides, it demands a statement of the names, academic qualifications, and experiences of faculty members. Furthermore, it requires the study plan of each academic program and degree written in Arabic and English.

There are some general provisions that private colleges are bound to organize by the executive regulating. Particular accreditation standards are applied when adding a major or specialization Article (9). It is not permissible to advertise the college or its programs before getting the final license and prior permission from the ministry Article (10). The initial license, general accreditation, special accreditation, and final license are issued by the Minister of Higher Education's decisions Article (11). It is not permissible for the college to change its name, address, degrees it awards, study programs it offers, study laws, or sites in which studies are conducted without the approval of the Ministry of Higher Education Article (12). The college submits an annual report to the Ministry of Higher Education, including the academic, financial, and administrative status Article (13). The college is

evaluated periodically by specialized committees in the ministry to determine the extent to which it has achieved general accreditation standards. The report is submitted to the General Committee for Licensing and Accreditation Article (14). Article (15) of the executive regulating rules stipulates that "when the college violates the private colleges' regulation, or the executive and procedural rules of the private colleges' regulation, or submits false data and information, it is warned in written to remove the violation within a period specified in the warning. Suppose the violation continues after the period specified in the warning. In that case, it is authorized to stop admission in one or more majors for one or more academic years, suspend admission to the college for one academic year or more, or close the college, withdraw the license, and take the necessary actions.

## 6. Fourth Section: Judicial Applications

Administrative Appeals Court Ruling No. 18/2 of 1434 AH, the session's date, 1/4/1434 AH:

The plaintiff's attorney has filed his claim to the Administrative Court in Riyadh. He has claimed that on 2/6/1429 AH, the Ministry of Higher Education has issued his client's license with the number to establish colleges (Article medicine College, Nursing College, College of Science, Computer Engineering, and Communications). The Ministry has notified his client on 7/15/1433 AH, that she had to fulfill some of the requirements and gave her two months from the previous date, which ends on 9/15/1433 AH. The Ministry has appointed a Trustee's council in violation of the regulations governing private colleges. On 8/4/1433 AH, that is, before the deadline mentioned in Paragraph No. (2), the ministry has issued its decision No. "... " by canceling the licenses granted to its client's colleges and seizing the financial guarantee provided by the founders. His client has objected to the ministerial decision to cancel licenses. He has also explained that the colleges represent a tributary of the educational law in the Kingdom and meet education needs in their fields. According to scientifically advanced curricula, the colleges teach that differ from traditional education methods and include qualified faculty members. His client has concluded contractual relations with major educational hospitals to apply field training in advanced hospitals in America and home. The plaintiff has added that his client has requested an urgent temporary order to stop the decision. He has explained the reasons for her request that the decision carries a risk that cannot be paid, which is the lapse of one to two years of educational achievement for a large segment. In addition to the absence of an alternative college similar in the curricula, disrupting faculty members' interest, administrative and technical apparatus is a waste of their rights, including buildings, equipment, and laboratories.

The defendant's representative has responded to the plaintiff's request regarding the issuance of an urgent decision in the lawsuit with a memorandum. He has said that "the ministry has formed committees and work teams of faculty members and administrators to receive all students to the college and meet their choices through (10) government universities in addition to external scholarships. Ministry has finished distributing students to those universities. The decision to withdraw the plaintiff's license is a measure to preserve male and female students' interests. It aims to control higher education outputs due to the academic environment weakness and the lack of equipment, especially in laboratories. There has been a shortage of technicians and employees, problems related to clinical training, the National Commission for Academic Accreditation report, and the college's low level of education that cannot be accepted. Furthermore, the college has obtained a license for general accreditation and not the final license. There is no longer justification for the plaintiff's request to stop the implementation of the decision. The defendant's representative has concluded a request to reject the case with its urgent part for the reasons referred to above.

The National Commission issues a report for Academic Accreditation and Assessment on the plaintiff's academic performance level. It includes its recommendations to close the colleges with effect from the end of the second semester of the current academic year 1432/1433 AH and permanently withdraw her license. It is stipulated in the articles from the private colleges' regulations that "if the faculties' activity falters and contravenes the decision to establish them and the provisions regulating them, the minister has the right to take all necessary procedures and measures." Besides, it

is proven from the lawsuit papers that all students have been transferred to government colleges, and no student has submitted an objection to this decision. The Court has recognized its state jurisdiction to hear the case because the contested decision is an administrative decision. It has also acknowledged the acceptance of the case in terms of form and accepted the consideration of the urgent request according to its competence according to the law. That is why it supports the administrative Court's ruling, which rejects the urgent application submitted by the company "... to stop the decision No. ..." issued by the Ministry of Higher Education on 4/8/1433 AH.

Administrative Appeals Court Ruling No. 6395/s for the year 1438 AH, the session's date, 19/1/1438 AH:

The attorney of the plaintiff has filed a lawsuit. He has stated that the decision of the party against whom the subject of appeal has been issued. It includes first, suspending admission starting from the second semester of the current year 1437 AH in the college or transferring to it in a human medicine program for at least two academic years. Second, to reopen admission, the ministry must evaluate the college's status during the next two years through periodic visits to ensure that all basic standards ensure the college educational process's quality is applied. Third, it is required to appoint a full-time dean with academic and administrative experience, a college vice president, head of the basic sciences department, head of the clinical sciences department, and a full-time supervisor of female student affairs. Fourth, it must contract with full-time faculty members in various basic and clinical sciences and partially qualified faculty members formally and regularly. Fifth, the university must contract with a private and governmental college to teach the practical part, use the morgue urgently, activate the laboratories, and appoint technicians to supervise them to ensure the process's optimal progress. Sixth, differences in male and female students' academic records due to changing the study plan must be addressed. Seventh, it is mandatory to provide additional courses to address the deficiencies that arose in the past and fixing schedules permanently. Eighth, it is required to contract with an advanced hospital regarding beds, number of patients, and sick cases to ensure the student's clinical training. Ninth, there is a need to improve the communication mechanism between students, the college, and the university administration and ensure that male and female students' rights are protected. Tenth, it is mandatory to implement what is mentioned in the recommendations within a period not exceeding one month from receiving the notes. He has stated that his client, as a private university, is subjected to private universities' regulations. Article (33) of it has stated that "if the university's activity is faltering or in violation of the decision to establish it or the provisions regulating it, the Higher Education Council shall have the right to take all necessary decisions and measures to address this."

It is assumed that the College of Medicine has stumbled or violated the decision to establish it or the provisions regulating it, with no acknowledgment of this at all. Then the matter must be presented to the Higher Education Council. The committee formed on 9/12/1436 AH oversees exercising the Higher Education Council's powers previously issued the high directives to cancel it. Accordingly, the issuance of the defendant's decision is subjected to an appeal that is considered defective by the defect of lack of specialization, defect of form, and violation of regulations and rules. It is based on his client's preceding's submission to the private universities' regulation. Therefore, it is subjected to the private universities' executive rules and is not subjected to private colleges' executive regulations. Article (36) of the Private Universities Regulations states that "the minister issues the executive rules for this regulation and the necessary administrative and technical procedures." The executive rules for this regulation and the administrative and technical procedures necessary to deal with such a matter have not been issued. Suppose it was assumed that colleges' executive rules are applied to private universities by analogy with what was mentioned in Article (14) of private colleges' executive rules. In that case, it was necessary to warn his client in writing to address the observations within a period specified in the warning, which has never been fulfilled. The college has enough faculty members and programs, the same approved and applicable program in major public universities in the Kingdom. It is arbitrated by King Saud University and approved by the Ministry of Education. The college has committed itself and does not make any changes to it. It is ended up



calling for the cancellation of the whole decision paragraphs of the defendant for the reasons presented above.

The representative of the defendant has replied that the ministry is the value of the education facility. He has added that many students have submitted several complaints to the Ministry, including their constant suffering from the apparent defect in the university's entire educational, academic, and administrative process. These include low academic level, weak laboratory equipment, and morgue, the absence of specialized technicians, lack of faculty members with inadequate scientific qualifications, lack of qualified and regular faculty dean, and the constant threat to students if they complained to the Ministry or requested a transfer to other colleges. He added that on 26/1/1437 AH, the ministry had formed an administrative committee to verify the complaint validity. It has become clear during its report that there were many problems in the College of Medicine. He has also added that the ministry has formed a special committee from professors of medicine in public universities and the Ministry of Health on 3/3/1437 AH. It has been revealed through their report that there is a real problem in the academic and educational process, which is summarized already. It must be emphasized here that the observations made by the specialized committees, who have visited the university on the ground and have discussed the complaints submitted by students with the Chairman of the Trustees Council. Despite this, the university has not responded and modified the notes that have been made, and end with the rejection of the case.

Based on the texts of Articles (33/28) of the Private Universities Regulation, the Court has concluded the integrity of what the defendant has concluded. As the Private Education Undersecretary has issued it, issuing such a decision is indeed the prerogative University Education Council's prerogative. The organizer has been assigned the task of deciding if the university's activity falters or violates the determination of its establishment or the provisions regulating it. Considering Higher Education Council formed by Royal Order No. 61568 dated 6/9/1436 AH, it has become clear that the defendant implicitly admits that the decision subject to an appeal is issued with a defect. It invalidates it and takes the initiative to conclude the temporary committee on 3/8/1437 AH to implement the law. To achieve the decisions changed interest, the defendant's procedure remains valid according to the law. It was ended by the verdict upholding the preliminary judgment rejecting the case.

## 7. Commentary on the Two Judicial Applications

The two judgments have emphasized the Saudi administrative judiciary's competence to hear cases related to the cancellation appeal against the Ministry of Education's administrative decisions and its agencies and branches (Al-Ruby, 2018 AD). It has also stressed the adaptation of decisions issued regarding private universities and colleges by the Ministry of Education and the Agency for Private University Education as administrative decisions in the strict technical sense. It has emphasized the Saudi administrative judiciary's jurisdiction nature to consider the lawsuit of canceling administrative decisions (Al-Khudair, 2019 AD). It has been noted that the aspects of appeals against the cancellation of administrative decisions in the two judgments include the jurisdiction defect, the reason defect, the defect in violation of the law, and the defect of the form (Khattab, 1438 AH). Based on judicial rulings published on the Board of Grievances website (Saudi Administrative Judiciary) (Blogs of Judgments Issued by the Saudi Board of Grievances), it is commented to help specialists arise from disputes related to the topic of research in the future.

We mentioned in the introduction that the research topic has not been covered by any research before, but we would like to discuss the points that we reached in commenting on the two judicial applications in comparison with one of the researches on the claim of annulment of administrative decisions and the jurisdiction of the Saudi administrative judiciary to decide on them, which is (the lawsuit to cancel administrative decisions and their applications In the Saudi Administrative Court - Dr. Fahad Ibrahim Al-Dowian - Published in the Journal of Legal and Economic Research at the Faculty of Law, Menoufia University - Issue 49 of 2019, Pages 47/75). Both researches are similar in

that both of them deal with the cancellation appeal before the Saudi administrative court in flawed administrative decisions.

It is also similar in that both of them acknowledge the competence of the Grievances Board to examine the defects of the administrative decision.

However, they differ in the study. Our research presented only two judicial applications of the administrative decisions' cancellation related to the establishment of private universities and colleges in the Kingdom. The compared study presents the lawsuits to cancel administrative decisions in general as long as the subject matter of the lawsuit is related to an administrative decision, i.e. the administrative authority that issued it.

In general, the compared study topic ended its results by the jurisdiction determination of the Saudi administrative judiciary to consider the cancellation of the defective administrative decisions issued by the various administrative authorities in the country, and this is the same as what we concluded in the comment on the two judicial applications.

## 8. Conclusions and Recommendations

The laws and regulations governing the establishment of universities and private colleges and some of the Saudi administrative judiciary's judicial applications are reviewed in this study. It is concluded that there are more than one law and regulations governing the provisions for establishing private universities and colleges in the Saudi law. Private universities and colleges are subjected to the supervision and control of the Education Ministry and its various agencies. The diversity of substantive and formal controls must meet to establish private universities and colleges in the Saudi system. Furthermore, the Saudi administrative judiciary's competence considers the disputes between universities or private colleges and the Ministry of Education. There is a dire need for unified provisions for establishing private universities and colleges in the Saudi system. It is necessary to define the formations, terms of reference, and the nature of the committees' decisions charged with overseeing the work and activities of private universities and colleges in law. It is essential to include legal texts defining jurisdiction in disputes between universities or private colleges and the Ministry of Education.

And because we did not find similar previous researches dealing with our research topic in the Saudi legal system or even in the Gulf Cooperation countries Council, we found it appropriate to discuss the research results with one of the researches that we found on the Internet which is: (The legal framework for establishing private universities in Swaziland - C.V. Mbanze and S.A. Coetzee - Africa Education Review 11 (3)- pp. 475 - 490).

The Research Summary: This article draws on a doctoral study that investigated the legal and management frameworks required for establishing private universities in Swaziland. The focus is particularly on the legal framework for establishing the Southern Africa Nazarene University (SANU). Managers involved in establishing SANU encountered a lack of both specific legislation dealing with private higher education and existing legislation regulating higher education in Swaziland in general. These managers disagreed on whether the legality of a private university derives from a private Act of Parliament or a Certificate of Registration. The researcher designed the study as action research and acted, as one of the managers, as an insider researcher.

Both researches are similar in that they presented the laws and regulations of the two countries that governing the establishment of private universities. Our research dealt with the legal situation in general, while the compared research dealt with the topic by applying to (SANU) University.

As for the differences between the results of both researches, they are represented in: Our research revealed in the results the existence of more than one law and regulation governing the establishment of the private universities and colleges, and the multiplicity of objective and formal controls that must be met to establish private universities and colleges in the Saudi system. While other research has shown that there is a dearth of the legal framework within which private universities should be established. Likewise, there are no specific legal procedures for the private

sector to establish higher education institutions in Swaziland.

Both researches also differed in the recommendations that they concluded, so our research recommended unifying the laws and regulations of private higher education and the controls for establishing private universities, and the need to include legal texts defining jurisdiction in disputes that may arise between the administrative authorities and private universities and colleges. While the compared research recommended the necessity of issuing a law for private universities, and it is also recommended that directors, currently in the stage of establishing private universities in Swaziland, follow the Higher Education law 2010. It also recommended that the legislature institution should include the dealing section with the legal status of private universities in which these Institutions are located and declared that they are legal persons.

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