

## Outline of the Court System and Jurisdiction of the Courts

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## Overview

The law of the judiciary in the Kingdom of Saudi Arabia (KSA) is administered by the Ministry of Justice (MoJ) in accordance with the directives of the government relating to the development of the judiciary. The judicial system is based on Islamic law (Sharia) for both criminal and civil cases.

The Saudi court system was restructured in 2007 following the promulgation of Saudi Arabia Royal Decree No. M78/1428 Saudi Arabian Law of the Judiciary and the Law of the Board of Grievances (Saudi Arabia Cabinet Decision No. 303/1428 Approving the Law of the Judiciary and the Law of the Board of Grievances) superseding Saudi Arabia Royal Decree No. M64/1395 Related to the Approving the Law of the Judiciary and the Law of the Board of Grievances. The decree defined the courts' jurisdictions more clearly stipulating the Saudi judicial system was divided into three hierarchical levels: Courts of First Instance, Courts of Appeal, and the Supreme Court. It also limited the Board of Grievances' jurisdiction.

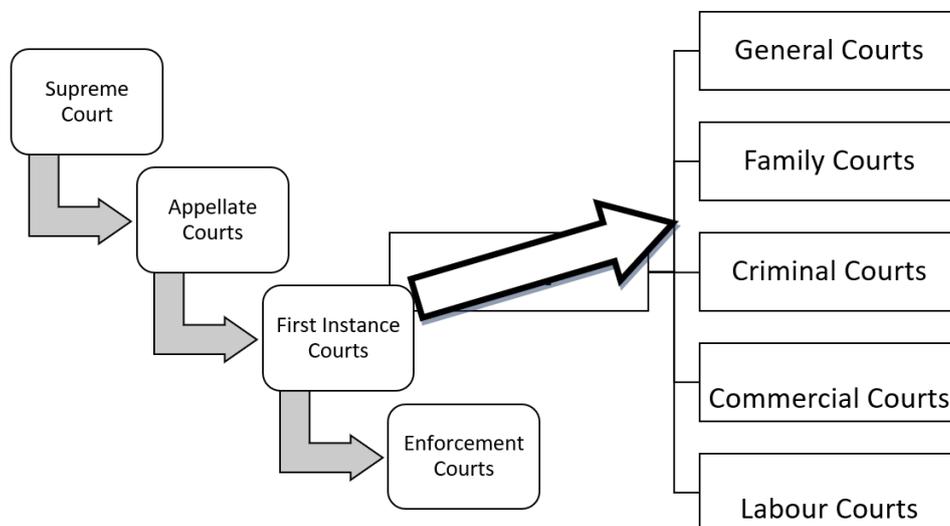
Prior to Saudi Arabia Royal Decree No. M78/1428 (Saudi Arabia Cabinet Decision No. 303/1428), Saudi courts were comprised of the general courts and their appellate courts, the Board of Grievances, and the Supreme Judicial Council. The King of Saudi Arabia in addition acts as the final court of appeal and as a source of pardon.

## Definitions

- *Board of Grievances*: “An independent administrative judicial body reporting directly to the King and its seat shall be the City of Riyadh”, as defined in Saudi Arabia Royal Decree No. M78/1428 (Saudi Arabia Cabinet Decision No. 303/1428).
- *Administrative Judicial Council*: Administrative judiciary council is formed pursuant to article 4 of [Saudi Arabia Royal Decree No. A/144/1435](#)<sup>[1 p.9]</sup> dated 20/07/1435H and it is currently presided by Dr. Khaled Mohammed AlYousef as of 2023. It performs administrative functions parallel to the Supreme Judicial Council in the Sharia courts, as per articles 4 and 5 of Saudi Arabia Royal Decree No. M78/1428 (article 4 and 5 of Saudi Arabia Cabinet Decision No. 303/1428).
- *Sharia Courts*: Refers to all courts established by Saudi Arabia Royal Decree No. M78/1428 (Saudi Arabia Cabinet Decision No. 303/1428), excluding the Board of Grievances.

## Practical Guidance

### Levels of adjudication



The Judicial System in the Kingdom of Saudi Arabia consists of the Supreme Court, Appellate Court, First Instant Court, and Enforcement Court.

### Supreme Court

The Supreme Court is classified as the highest court of the country.

The jurisdiction of the Supreme Court is limited to four types of matters:

1. Reviewing Hudud cases such as murder, amputation, stoning, or legal retribution. The Court, in this case, works as a subject court and not a court of enforcing regulations. It reviews the decisions in terms of the correct application of the Islamic Law (Sharia) rules and regulations and their interpretation, as well as the procedures followed in the trial. Its role is not to review the merits of the decisions.
2. Overseeing judgments issued by the Appellate Courts regarding:

- i. any violations of the provisions of Islamic Law (Sharia);
  - ii. any decisions that may have been issued where the court was not properly formed, in accordance with the provisions of the Saudi law; and
  - iii. any alleged errors in the understanding of the case. In this case, the Supreme Court is a court of application, not a trial court.
3. Examining requests to resume the litigation after cancelling the case for the second time after the plaintiff's absence from the hearings, and the excuse has been accepted.
4. Reviewing requests for reconsideration of judgments issued by it.

## Appellate Courts

The Courts of Appeal, as established under article 16 of Saudi Arabia Royal Decree No. M78/1428 (article 16 of Saudi Arabia Cabinet Decision No. 303/1428) review the judgments issued by the courts of First instance, after hearing the litigants' statements, in accordance with Saudi Arabia Royal Decree No. M2/1435 on the Approval of the Criminal Procedure Law (Saudi Arabia Cabinet Decision No. 12/1435 on the Approval of the Criminal Procedure Law) and procedural rules in Islamic Law (Sharia). Each panel consists of three judges. This is with the exception of the criminal panel, which consists of five judges and hears a range of cases, including but not limited to cases regarding execution, amputation, stoning, and Qisas for homicide.

## First Instant Courts

The Courts of First Instant are, as reorganized under Saudi Arabia Royal Decree No. M78/1428 (Saudi Arabia Cabinet Decision No. 303/1428) as follows:

### *General Courts*

These courts have jurisdiction over all cases not under the specialized courts, Board of Grievances, or under the jurisdiction of a notary public:

- disputes relating to real property, and the ownership of property;
- disputes relating to traffic incidents as per article 19 and 31 of Saudi Arabia Royal Decree No. M1/1435 (article 19 and 31 of Saudi Arabia Cabinet Decision No. 11/1435); and
- all types of lawsuits in cities and counties where there are no specialized courts, as per article 32 of Saudi Arabia Royal Decree No. M1/1435 (article 32 of Saudi Arabia Cabinet Decision No. 11/1435).

### *Criminal Courts*

These courts have jurisdiction over three types of cases, divided by panels as per article 20 of Saudi Arabia Royal Decree No. M78/1428 (article 20 of Saudi Arabia Cabinet Decision No. 303/1428):

- a panel for Qisas (lex talionis retribution) and Hudud matters, which are the Islamic Law (Sharia) prescribed non-discretionary punishment cases;
- a panel for Ta'zir, which can be termed as a discretionary punishment decided as per judicial opinion; and
- a panel for juvenile cases.

### *Family Courts*

Family courts have jurisdiction over all family matters, and claims enforcing penalties under the General Commission for Guardianship over Property of Minors and those of Similar Status, as per article 33 Saudi Arabia Royal Decree No. M1/1435 (article 33 of Saudi Arabia Cabinet Decision No. 11/1435).

### *Commercial Courts*

The Commercial Courts were first inaugurated in October 2017 in three major Saudi cities: Jeddah, Riyadh, and Dammam. In smaller cities, provinces, and villages, matters are adjudicated under the General Courts in the absence of a specialized First Instant Court. Commercial courts have jurisdiction over all commercial cases:

- disputes between merchants or filed against a merchant;
- disputes between partners in partnerships;
- violations of commercial laws, "without prejudice to the jurisdiction of the Board of Grievances;" and
- bankruptcy and related proceedings, as per article 35 of Saudi Arabia Royal Decree No. M1/1435 (article 35 of Saudi Arabia Cabinet Decision No. 11/1435).

The Saudi Commercial Courts Law was enacted by Saudi Arabia Royal Decree No. M93/1441 on the Commercial Courts Law (Saudi Arabia Cabinet Decision No. 511/1441 Approving the Commercial Courts Law). The Law was officially published on 24/08/1441H (corresponding to 17 April 2020) in the Saudi Official gazette (Um Al-Qura Gazette). The MoJ issued the Implementing Regulations of the Commercial Courts Law under Saudi Arabia Circular No. V13/8159/1441 Executive Regulations of Commercial Courts Law of Saudi Arabia and it was officially published on 05/11/1441H (corresponding to 26 June 2020) in Um Al-Qura Gazette. Its main purpose was to organise the work of the commercial courts, in a more efficient manner, with provisions implementing electronic procedures, and requirements for alternative dispute resolution.

### *Labour Courts*

Labour courts with jurisdiction over disputes relating to employment, whether arising out of contracts, wages, or work injuries, as per article 34 of Saudi Arabia Royal Decree No. M1/1435 (article 24 of Saudi Arabia Cabinet Decision No. 11/1435).

On 25 November 2018, the Ministry of Justice launched the Labour courts. Some of the Labour Courts' prime goals is to reduce lengthy litigation periods and achieve 'paperless' dispute resolution through digitizing the process.

## **Enforcement Court**

Enforcement Courts have jurisdiction over all enforcement-related procedures, with the exception of administrative and criminal judgments, as per article 4 of Saudi Arabia Royal Decree No. M53/1433 (article 4 of Saudi Arabia Cabinet Decision No. 261/1433). Recently, Enforcement Courts have implemented digitization. As a result, parties may now recover dues through a fully electronically backed-up process.

Specifically, the Enforcement Court is responsible for the enforcement of the following:

- judgments, decisions and orders issued by the courts;
- arbitration awards;
- reconciliation records issued by the authorities authorized to do so;
- negotiable instruments;
- notarized contracts and documents;
- judgments, court judgement, decisions of arbitrators, and authenticated instruments in a foreign country;
- ordinary instruments whose content is fully or partially recognized; and

## **The Board of Grievances**

Previously under Saudi Arabia Royal Decree No. M64/1395, the Board of Grievances had administrative and non-administrative jurisdiction. Now, under Saudi Arabia Royal Decree No. M78/1428 (Saudi Arabia Cabinet Decision No. 303/1428), the Board of Grievances has an administrative and interim non-administrative jurisdiction.

The Board of Grievances' main characteristics are as follows:

- It was created as an administrative court to provide a means of recovery to private persons against actions of the government or its entities.
- It is independent from the Islamic Law (Sharia) courts, and outside the jurisdiction of the MoJ.
- The levels of adjudication consist of the High Administrative Court, the Administrative Courts of Appeal, and the Administrative Courts.

Article 13 of Saudi Arabia Royal Decree No. M78/1428 (article 13 of Saudi Arabia Cabinet Decision No. 303/1428) has also limited the Board of Grievances' jurisdiction to administrative cases including:

- claims of rights under civil service and pension laws;
- objections to administrative decisions;
- compensation claims from the government or governmental entities;
- contractual disputes where the government is a party to the contract; and
- disciplinary cases filed by the Bureau of Control and Investigation.

## **Administrative Councils**

### *The Supreme Judicial Council*

The Supreme Judicial Council under Saudi Arabia Royal Decree No. M64/1395 and Saudi Arabia Royal Decree No. M78/1428 (Saudi Arabia Cabinet Decision No. 303/1428) retains the authority to supervise the courts, with the addition of supervising judges under Saudi Arabia Royal Decree No. M78/1428 (Saudi Arabia Cabinet Decision No. 303/1428). Previously, under Saudi Arabia Royal Decree No. M64/1395, the Supreme Judicial Council was the country's highest court.

### *Administrative Judicial Council*

The Administrative judicial council is a council formed pursuant to article 4 of Saudi Arabia Royal Decree No. A/144/1435 dated 20/07/1435H. According to articles 4 and 5 of Saudi Arabia Royal Decree No. M64/1395 and Saudi Arabia Royal Decree No. M78/1428 (articles 4 and 5 of Saudi Arabia Cabinet Decision No. 303/1428), it performs administrative functions parallel to the Supreme Judicial Council in the Islamic Law (Sharia) courts, including:

- considering judges' job affairs like appointment, promotion, disciplinary actions;
- issue the regulations related to judges job affairs after approval of the King;
- issue judicial inspection regulation;

- establishing, merging or cancellation of courts and determining their special and qualitative jurisdiction and arranging for their circles;
- supervising courts and judges and their works within the limits stated in the two laws of Judiciary and Board of Grievances;
- designation of courts of appeal heads and their assistants;
- issue rules organizing jurisdictions and authorities of heads of courts and their assistants;
- issue rules showing method of selection of judges and procedures and controls for freeing them from work responsibilities for study;
- organizing works of attendant judges;
- determining corresponding judiciary works required to fill judiciary jobs; and
- preparing comprehensive reports.

## **Court fees**

Saudi Arabia Royal Decree No. M16/1443 on the Approval of the Judicial Costs Law (Saudi Arabia Cabinet Decision No. 65/1443 on Approving the Judicial Cost System) came into effect on 10 Shaaban 1443, corresponding to 13 March 2022. It refers to the initial fees that the claimant is obliged to pay to the relevant department accompanying the filing of the lawsuit with the courts. Judicial costs are now imposed on claims with amounts not exceeding 5% of the value of the claim and with a maximum amount of 1,000,000 SAR. The MoJ has emphasized that Saudi Arabia Royal Decree No. M16/1443 (Saudi Arabia Cabinet Decision No. 65/1443) aims to reduce malicious lawsuits, upgrade the quality of the judicial work and the quality of litigation procedures, as well as urge litigation parties to fulfil their obligations before resorting to the court – considering that the judicial fees will be an additional cost that the defaulting party will bear in case of not fulfilling his obligations.

The provisions of Saudi Arabia Royal Decree No. M16/1443 (Saudi Arabia Cabinet Decision No. 65/1443) shall apply to all claims submitted to the courts, except for the following:

- general criminal cases, disciplinary cases, and requests related thereto;
- cases and requests that are within the jurisdiction of the Personal Status Courts, with the exception of the cassation request and petition for reconsideration;
- lawsuits and requests that fall within the jurisdiction of the Board of Grievances;
- lawsuits and requests related to the division of estates, with the exception of the cassation request and petition for reconsideration;
- cases and requests arising from the application of the provisions of Saudi Arabia Royal Decree No. M50/1439 Promulgating the Bankruptcy Law (Saudi Arabia Cabinet Decision No. 264/1439 on the Approval of the Bankruptcy Law); and
- deeds and related requests.

## **Other dispute resolution mechanisms**

### *Committees*

Committees may include:

- The General Secretariat of Committees for Resolution of Insurance Disputes and Violations;
- The Trademark Grievances Committee, formed according to the Board of Directors of the Saudi Authority for Intellectual Property (SAIP) Decision No. 2/17/2021 dated 11/20/1442 AH corresponding to 06/30/2021 AD;
- The Committee for violations of the Copyright Protection Law, formed according to the Board of Directors of the Saudi Authority for Intellectual Property (SAIP) Decision No. 2/17/2021 dated 11/20/1442 AH corresponding to 06/30/2021 AD;
- The Patent Lawsuits Committee, formed according to Saudi Arabia Council of Ministers Decision No. 60/1444, and is made up of three members specialized in statutory affairs and two members specialized in technical affairs ;
- The Banking and Financial Disputes Ombudsman Centre;
- The General Secretariat of Zakat, Tax and Customs Committee;
- The Committee for the Resolution of Securities Disputes; and
- The Appeal Committee for the Resolution of Securities Conflicts.

### *Arbitration*

Arbitration is available through the Saudi Centre for Commercial Arbitration (SCCA).

### *Reconciliation and mediation*

The Taradi Platform aims to facilitate the reconciliation process between the parties and motivate them to bridge the gap in views to reach an agreement satisfactory to all parties. Meditation is also available through the Saudi Centre for Commercial Arbitration (SCCA).

## Electronic judicial services

- **E-filing the Statement of Claim:** An individual can file a lawsuit by entering the data of the plaintiffs, defendants, and their attorneys, while recording the subject matter of the lawsuit, its type, the requirements of the case and its grounds, with the choice of the competent court.
- **Remote litigation through Najiz:** Any party and their representatives can litigate online or send requests through the Najiz portal. They also can respond to requests in cases where the remote litigation track has been selected.
- **E-file Enforcement Application:** This service allows a beneficiary to submit an application to the Court of Appellate to enforce of the executive document, whether it is a sum of money, a court ruling, or a report in matters of personal status “custody, visit, alimony” or if the subject of execution is actually or abstaining from an act or omission such as “real estate eviction, documents delivery, sale by public auction”. This is without in person visits to the court.
- **Issuing an E-Power of Attorney:** It is possible to issue a power of attorney electronically and approve the mandate directly without the need to visit a notary. All parties to the mandate are also notified of the completion of their issuance.

## Related Content

### Legislation

- Saudi Arabia Royal Decree No. M64/1395 Related to the Approving the Law of the Judiciary and the Law of the Board of Grievances
- Saudi Arabia Royal Decree No. M78/1428 Saudi Arabian Law of the Judiciary and the Law of the Board of Grievances
- Saudi Arabia Royal Decree No. M1/1435 approving Saudi Arabia Cabinet Decision No. 11/1435 on the Approval of the Law of Procedure before Sharia Courts
- Saudi Arabia Royal Decree No. M51/1426 Approving the Labour Law approving Saudi Arabia Cabinet Decision No. 219 /1426 on the Approval of the Labour Law
- Saudi Arabia Council of Ministers Order No. 241/1408 Amending the Companies Law
- Saudi Arabia Royal Decree No. M53/1433 Related to the Saudi Arabia Execution Law approving Saudi Arabia Cabinet Decision No. 261/1433 Approving the Execution Law
- Saudi Arabia Royal Decree No. M21/1421 on the Law of Procedure before Sharia courts abrogated by Saudi Arabia Royal Decree No. M1/1435
- Saudi Arabia Royal Decree No. M16/1443 on the Approval of the Judicial Costs Law approving Saudi Arabia Cabinet Decision No. 65/1443 on Approving the Judicial Cost System
- Saudi Arabia Royal Decree No. M78/1428 Saudi Arabian Law of the Judiciary and the Law of the Board of Grievances approving Saudi Arabia Cabinet Decision No. 303/1428 Approving the Law of the Judiciary and the Law of the Board of Grievances

### News & Books

- Abdullah F. Ansary, A Brief Overview of the Saudi Arabian Legal System (2015)
- Board of Grievances, Jurisdiction of the Board of Grievances
- Saudi Arabia sets up commercial courts to expedite investment (2017)
- [Saudi Arabia Ministry of Justice announces the creation of the labour courts](#)<sup>[2 p.9]</sup>

### Websites

- [The Board of Grievances Organizational Structure](#)<sup>[3 p.9]</sup>
- [The Administrative Judicial Council](#)<sup>[4 p.9]</sup>

## Authors

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#### **Education**

- Mini MBA, Kings College London, UK
- Specialist Certificate in Corporate Governance, University of Manchester, UK
- Doctor of Legal Practice, Nottingham Law School, Nottingham, UK
- Specialist Certificate (BA Equiv.) Arabic and Foundations of Islamic Sharia, Umm Al-Qura University, Makkah, KSA
- LPC, College of Law, Birmingham, UK
- LL.B (Hons.), Law with Business, University of Birmingham, Birmingham, UK

#### **Memberships**

- Admitted as a Solicitor of the Senior Courts of England and Wales
- Admitted as a Member of the Chartered Institute of Arbitrators (MCIArb)
- Admitted as an Associate of the International Compliance Association (AICA)
- Admitted as a Member of the Association of Corporate Counsel (ACC)
- Member of the British Association of Islamic Studies (BRAIS), International Chamber of Commerce- Young Arbitrators Forum (ICC-YAF), International Society for Islamic Legal Studies (ISILS), Legal Education Research Network (LERN) and The Society of Legal Scholars (SLS)

#### **Biography**

Dr. Sairah Narmah-Alqasim is a British lawyer and academic with over 15 years of professional experience in the United Kingdom (UK) and the Kingdom of Saudi Arabia (KSA). Dr. Narmah-Alqasim has trained at top 20 international law firms in the UK and acted as in-house counsel in the dispute resolution department at one of the world's largest international banks. Dr. Narmah-Alqasim is a former Vice Dean of one of the largest law schools in Saudi Arabia and holds a Doctorate in Legal Practice. She is currently based in KSA as a Senior Legal Consultant at Dentons KSA. She advises clients on a range of corporate, commercial and litigation matters. She also leads Knowledge Management for Dentons KSA and provides managerial support in the Jeddah KSA office.

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#### **Education**

- Masters of Law (LL.M), University of Cambridge, UK
- Bachelors of Law (LL.B), Dar AL-Hekma University, KSA

#### **Memberships**

- Admitted as a Lawyer, Ministry of Justice, KSA
- Member, Saudi Bar Association

#### **Biography**

Hadeel Tayeb is a licensed lawyer in KSA, with 3 years experience in Corporate and Dispute Resolution. She is currently an Associate at Dentons, Jeddah KSA office. Hadeel was previously a participant and then a co-coach in the 25th and 26th Willem C Vis Commercial Arbitration Moot. Her team were ranked top 20 in the world from over 300 global university teams. Hadeel also co-coached the University of Business & Technology (UBT) Jeddah College of Law (JCL) team in Saudi Centre of Commercial Arbitration's (SCCA) GCC International Commercial Arbitration Moot Competition in 2020-21, where the team won 2 out of 5 prizes, a testament of her legal aptitude.

## Notes

1. <sup>^ [p.3]</sup> <https://www.bog.gov.sa/en/AdministrativeJusticeCouncil/CouncilMembers/Pages/Default.aspx>
2. <sup>^ [p.7]</sup> <https://www.moj.gov.sa/ar/MediaCenter/News/Pages/NewsDetails.aspx?itemId=678>
3. <sup>^ [p.7]</sup> <https://www.bog.gov.sa/AboutUs/OrganizationalStructure/Pages/default.aspx>
4. <sup>^ [p.7]</sup> <https://www.bog.gov.sa/en/AdministrativeJusticeCouncil/Pages/default.aspx>
5. <sup>^ [p.8]</sup> [sairah.narmahalqasim@dentons.com](mailto:sairah.narmahalqasim@dentons.com)
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