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Establishing an Economic Court in the Kingdom of Saudi Arabia as a Part of Achieving Vision 2030

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ABSTRACT

The Kingdom of Saudi Arabia has undergone significant improvement since announced changed most of Saudi Arabia's systems and rules to keep the country up with the times with other countries to achieve Vision 2030. One of the most significant changes was in the jurisdiction system.

After the announcement of Vision 2030, many achievements, projects, and developments have been achieved, including the development of the judiciary system. One of the most important achievements that have been achieved is the development of the commercial court system in a manner that enhances the speed of settlement of commercial disputes due to the requirements of this type of case speed. The system will also help in consolidating the institutional justice methodology, and gives flexibility in commercial agreements related to adjudication, and flexibility in proof in proportion to the nature of business if this does not prejudice the public order and the rules of justice.

But the obstacle in this system appears in some of the commercial cases, with the growth of an economy and encouraging investment. Therefore, there must be a competent court to attract the confidence of investors. Moreover, The Kingdom of Saudi Arabia issued the privatization system to achieve Vision 2030 to support economic growth in the country. Where government ministries are affiliated with commercial companies on the one hand and are governmental in their organization on the other. This system needs an economic court to consider cases of this kind. Because One of the most essential goals of Vision 2030 is to focus on the economy and attract investment.

Keywords: *Economic Court, Vision 2030, the judiciary system, commercial cases.*

I. INTRODUCTION

The emergence of rapid transformations in the twentieth century caused global economic, financial, and trade system developments, leading to the development of economic and trade blocs and the establishment of the World Trade Organization. This progress triggered unprecedented shifts in the spread of competition globally and the flow of foreign direct

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investment between global economies. These changes made societies and countries change how they think about their systems and economies.²

The new reality of the global economy has been impelled on countries to form a map of their new economy to keep pace with developments. Consequently, they have developed their legislation, which plays a vital role in any society's economic, social, and political development. Countries also use laws to activate their various economic policies in internal and external trade. Governments in many countries have enacted laws to support the economic reform movement, and one of the most significant reforms was the establishment of specialized courts.³

Economic courts are an example of these specialized courts. They aim to create an efficient and appropriate economic climate to motivate the various economic parties to perform their functions in an atmosphere of freedom, transparency, and justice. Legislative stability and speed of litigation procedures are among the most important factors that investors rely on when making economic decisions and directing and developing their investments in a particular country.⁴

Investors usually resolve their economic disputes through the ordinary judiciary, but this method may be characterized by complexity, routine, and slowness. This situation can prompt investors to avoid investing in a country where the national judiciary handles disputes, which may harm their projects. In such countries, investors may resort to arbitration as an alternative way for the judiciary to resolve financial disputes because arbitration is straightforward and flexible. Nevertheless, some investors consider arbitration a costly route. That is why shows the importance of having a specialized economic judiciary with its advantages of speedy judgment and justice. Because the competent court provides guarantees for the existence of a system and specialized judges, it is considered an effective means of settling economic disputes. Such a system is a catalyst for investment and economic growth, and it gains investors' confidence in the judicial system.⁵

Every judicial system is affected by a country's historical background, culture, knowledge, and economic transformations. Saudi Arabia is currently witnessing a rapid process of profound social transformation and economic development. Its judicial system is one of the extended

² Azad Shakour Saleh, *Laws to Encourage Investment and Their Applications in The Field of Tourism Investment a Comparative Analytical Study*, 5 (2013).

³ Ahmed Al-Maraghi, *Economic Courts as a Means of Attracting Foreign Direct Investments: The Egyptian Experience between Reality and Hope*, 12 (2016).

⁴ Dr. Ahmed Abdel-Hasib Al-Sentari, *Legislative Justice in Light of The Idea of Expectation Project Comparative Study*, 1 L. J. FOR LEGAL AND ECON. RES. 769 (2012).

⁵ Dr. Ahmed Al-Maraghi, *The Role of Arbitration in Encouraging and Protecting Investments Foreign*, J. of LEGAL AND ECON. 706 (2013).

systems that the state has transformed to reflect these changes. That is why the country's judiciary is undergoing various stages of improvement to achieve the best system to face all cases and show the country's strength.⁶ Among the manifestations of change in Saudi Arabia's tendency to activate specialized courts and pay attention to commercial courts in particular, to activate the investment, boost the economy, and attract investors. However, Saudi Arabia's commercial courts may not be strong enough for the judicial system to achieve Vision 2030. Instead, it needs a specialized court with a system that guarantees the rights of investors and traders and an understanding of the economic system, including an Economic Court.

II. THE DEFINITION AND THE COMPETENCE OF AN ECONOMIC COURT

In discussing the term "economic court," it should be determined if this term represents a new court or not. This new court is refashioned from a pre-existing court or system to judge cases within a new jurisdiction or using new procedures. The term "new court" refers to the creation of a court that is not already in operation, a new chamber within the current court structure with a specially established jurisdiction (such as the commercial court of a country), or a judicial innovation that is not concerned with jurisdiction but with restructuring in a country.⁷ The term "economic court" and the reasons behind it may clarify if an economic court should be considered as a new court or a court that already exists.

A. The Term "Economic Court" and The Reason for the Name "Economic"

1. The Term "Economic Court"

To define a term, it is important to know the meaning of each word. This improves understanding of the term. First, the word "economic" defines theories and models that deal with how the market process works. It deals with human wants; how they can create wealth, distribute it in communities, and be satisfied.⁸ Second, the word "court" defines the place where trials and other legal cases occur. It may also be defined as the judge or judges who are in charge of the way a legal case proceeds and may make decisions about it.⁹

The definition of the term "economic court" is an independent court that hears all commercial cases and has no relation to other courts.¹⁰ An economic court also referred to as a commercial court or business court, is a state program that is committed to explicitly dealing with

⁶ Ekramy Khattab, *The Fact of Doubling in The Saudi Judicial System: A Comparative Study*, INT'L L.REV. 1 (2017).

⁷ Andrew Harding & Penelope Nicholson, *New Court in Asia*, 19 (2009).

⁸ See "Economic" in Business English Dictionary, at <http://www.businessdictionary.com/definition/economic.html>

⁹ See "Court" in Cambridge English Dictionary, at: <https://dictionary.cambridge.org/us/dictionary/english/court>

¹⁰ Sabri M. Alraei & Reda A. Albdualti, *The Comprehensive Encyclopedia in Economic Courts*, 3.

commercial disputes or complex litigation within its jurisdiction.¹¹ A commercial court is a program, not necessarily a specific courtroom; this commercial court is established within a state's existing trial court or civil division.¹² In every commercial court, judges are trained and work with complex commercial disputes, dealing with various kinds of cases from beginning to end.¹³ These definitions of the term "economic court" make it natural to understand and provide knowledge of the tasks of this court.

2. The Reason for the Name "Economic"

The reason for choosing the name "economic court" instead of "commercial court" is that an economic court considers all economic and commercial disputes equally, employing all methods of dispute resolutions and litigation. This is unlike a commercial court, which only resolves commercial conflicts, using litigation.

B. Economic Courts: Are They Limited Courts or Specialized Courts?

This question is very important to resolve to determine the nature of economic courts. Are these courts specialized for their purpose, which is to settle economic and commercial disputes? Or are these courts limited to specific cases and only consider these types of cases, with their judges specializing in economic cases (ignoring other cases, such as criminal, civil, and family cases.)?¹⁴

Economic courts are among the specialized courts, alongside family courts, enforcement courts, urgent courts, income tax courts, customs courts, and others. However, economic courts are not considered to be limited courts because their judges are not specialized; it is the judges who give a court the status of specialization. The judges are not specialized in hearing cases related to economic issues only, but they also consider and participate in examining cases presented in other courts, such as the general court.¹⁵

In every judicial system, the word "specialized" is used to keep pace with rapid advances in societies in all fields, such as in economic sectors. An important motivation for providing a professional judiciary to deal with conflicts of an economic nature is to attract international investment. The investor knows that there is a specialist judiciary responsible for considering

¹¹ Pamela J. Roberts, *South Carolina's Business Court Pilot Program*, 19 S.C. LAW. 30, 32 (2008).

¹² Lee Applebaum, *The "New" Business Courts: Responding to Modern Business and Commercial Disputes*, 17 BUS. L. TODAY 13, 14 (2008).

¹³ Tyler Moorhead, *Business Courts: Their Advantages, Implementation Strategies, and Indiana's Pursuit of its Own*, 14. IND. L. REV. 397 (2010).

¹⁴ Dr. Omar AlAtten, *Economic Courts and Their Role in The Resolution of Commercial Disputes* 45 SHARIA.L. SCI. 73, 76 (2018).

¹⁵ *Id.*

economic conflicts. While stressing the establishment of economic courts, the proponents of economic courts have avoided describing the principles of economic conflict. Instead, they draw attention to the principles laid down by the state to assess the jurisdiction of economic courts. This may be due to the difficulty in determining the form of a dispute and the different branches of law dealing with economic disputes.¹⁶

Therefore, economic courts are considered specialized courts because of the type of cases they hear, in addition to the nature of the judges, who specialize in economic cases to the exclusion of other cases. This is why specialized courts have a special character, distinct from other courts. In addition, the specialized courts provide value for the judicial system: they can be trusted to understand and resolve cases.

C. Competence and Importance of The Economic Court

The legal systems of the world are generally based on one of five central systems: the civil system, the common law system, the religious law system, the customary law system, or the mixed law system. The legal system of the Kingdom of Saudi Arabia is a superficially religious law system, in that it is based upon Islamic law. The legal system in Saudi Arabia is unique because it mixes three different systems: common law, civil law, and religious law.¹⁷ Saudi Arabia adopts the idea of the applicability of legal precedent from the common law system, but Saudi Arabia does not have a written constitution as do common law countries.¹⁸ It also adopts a separate administrative judiciary and some other features from Egyptian and French civil law. Civil law in Saudi Arabia is based on Islamic law, unlike most civil law countries, and most of the civil laws have not yet been codified by the government.¹⁹ Because of this unique legal system, Saudi Arabia has the flexibility to adopt new ideas, such as establishing an economic court, to continue the improvement that has been shown in the country recently. However, it has been said that Saudi Arabia's reaction to reform and change is very slow because Saudi Arabia is a non-constitutional monarchy based on a traditional Islamic law system.²⁰

Today, the Kingdom of Saudi Arabia has surprised the world with the profound changes that have happened in the country, especially due to Vision 2030. Saudi Arabia has adopted new

¹⁶ Hamza E. Albaheth, *Establishing Specialized Economic Courts in Saudi Arabia to Boost Investments*, 25 UTOP. Y PRAX. LATINOAM. 278,288 (2020).

¹⁷ Ahmed Radwan, *On The Unique Legal System of Saudi Arabia* (2016), <http://www.hegazylaw.co/on-the-unique-legal-system-of-saudi-arabia/> (last visited Apr 2, 2019).

¹⁸ *Id.*

¹⁹ Saud Al Saud, *Making Sense of Judicial Remedies in Saudi Arabia: An Insider View*, 3 INDON. J. INT'L & COMP. L. 127, (2016).

²⁰ Hossein Esmaili, *On A Slow Boat Towards The Rule of Law: The Nature of Law In The Saudi Arabian Legal System*, 16 ARIZ. J. INT'L & COMP. L. 1 (2009).

changes bravely because there is no shame in being flexible, adopting new rules, and welcoming improvement. This is with the goal of operating in the contemporary world with the tools the country has. Because of this change, Saudi Arabia needs to establish an economic court to prove that the country is ready to face all issues and is developing in the judicial system. It also needs to prove how its unique system provides the country with more flexibility to accept these changes. Although Saudi Arabia has created a new law concerning the commercial court, explaining its competencies and rules, this new law does not suffice to obviate the need to create an economic court with all the economic and commercial projects developing happened in the country to achieve Vision 2030.

Saudi Arabia's economic progress has led to commercial growth in transactions and financial issues that the country is unaware of because its economics were dependent on oil. However, recently, the dependence on oil has changed, with the establishment of local projects and the provision of investment opportunities. Moreover, the economic renaissance that has overtaken the whole world has increased cooperation among nations. Because of economic growth, trade disputes have greatly increased, which has led various legal systems to establish courts to resolve commercial disputes in business and to consider economic irregularities.²¹

The use of a justice system is a natural and reasonable way to resolve disputes that arise in the field of economic transactions. Nevertheless, the accumulation of cases before the courts leads to a slow litigation process, which is not consistent with the nature of economic transactions, especially international transactions, the precision of economic issues, and the complexity of local and international trade systems. The trend is to establish systems to resolve trade disputes and provide economic rights of access to the courts for owners in a manner that ensures the full rights of the defense.²² Thus, there is a need to establish an economic court to allocate a specialized court of judges experienced and knowledgeable in such cases. This may decrease the burden and pressure on judges from the large number of cases, which often leads to the prolongation of litigation. In addition, it has become crucial to address commercial cases in a fast and efficient manner and to renew the rules related to commercial law by establishing specialized courts.

The establishment of economic courts, considered as specialized courts, is a rapidly growing trend in the United States, Europe, and throughout the world. Court specialization is essential to lead reform and advance the development of a successful judicial system.

²¹Dr. Omar Alkholi, *Judiciary Shadow (The Hidden Court) Administrative Committees That Conduct Judicial and Semi-Judicial Proceedings in The Kingdom of Saudi Arabia*,73 (2018).

²² *Id.*

It also helps to improve the investment climate and make contract enforcement more effective. Studies from the United States, Australia, and other countries have shown that specialization may improve the processing of court cases that are more complex or require exceptional expertise beyond the law.²³

The discussion now turns to the mechanisms to be adopted to establish this court, in line with existing legislative and judicial structures, and the need to establish an economic court instead of a commercial court, which Saudi Arabia already has. The idea of an economic court is not new; in England for example, such a court existed a very long time ago. The primary purpose of an economic court is to hear all cases related to commercial law, including arbitration cases, and to conclude these cases quickly with a satisfactory determination and without undue technicality or unnecessary expense.²⁴ Therefore, the Kingdom of Saudi Arabia needs to adopt the idea of the economic court from the rest of the countries that have already implemented it and add it to the Saudi judicial system. This is due to the country opening doors to global investment, in addition to the decision that will be implemented in 2024 that there should be a regional headquarters for international companies in the capital, Riyadh.

The Kingdom of Saudi Arabia today has become one of the countries in the world that attracts national and international investment. To guarantee the success of these investments, the judicial system is concerned with emerging economic changes; this is a future challenge that the country and the community must face. In recent years, the world has witnessed economic progress, producing new commercial transactions that the judiciary must be aware of and must study deeply to understand.²⁵ It is essential to establish a specialized judicial system, notwithstanding the fact that there are commercial courts, they still need to establish specialized courts, such as an economic court, where there are judges who know all the provisions of old and new commercial transactions to accurately and quickly settle disputes. The judges and all those who participate in the judicial field of the economic court should give companies and traders rapid access to their rights.²⁶ Although the Kingdom of Saudi Arabia has established a new system for commercial courts, the jurisdiction of commercial courts is still limited and different from economic courts.

An economic court is a specialized court. This means the judges have more knowledge and

²³ Heike Gramckow and Barry Walsh, *Developing Specialized Court Services International Experiences and Lessons Learned*, 3 (2013).

²⁴ Geoffrey Kiryabwire, *The Development of The Commercial Judicial System in Uganda: A Study of the Commercial Court Division, High Court of Uganda*, 2 J. BUS. ENTREPRENEURSHIP & L. ISS. 2 (2009).

²⁵ Moahammed Al-Khulaifi & Imad Kattan, *Establishment of Specialist Commercial Courts in The State of Qatar: A comparative study*, INT'L REV. L. (2016).

²⁶ *Id.*

expertise in the commercial and economic fields since judges in Saudi Arabia are not specialized in one field. They work in all different kinds of courts without being specialized. Today, with the economy growing in Saudi Arabia and specialized courts becoming a trend in common-law and civil-law countries, an economic court may make the local judicial system more flexible. Specialization in either system may increase development in the economic and legal frameworks. In addition, the complexities of the legal framework in the economic environment may become more developed.

Furthermore, a specialized court, such as an economic court, provides benefits that the mercantile community needs and improves the image of countries with such court. A country that wants to do well in business and grow its economy must create a specialized court.²⁷ Therefore, the judicial system in the Kingdom of Saudi Arabia must choose the appropriate legal form for the establishment of this competent court, which is the economic court. Whether it is the direction of common law, civil law, or another direction specific to the Saudi judicial system.

Legal specialization can take a variety of forms. The form chosen must resolve the gaps and problems addressed, in harmony with local circumstances. The establishment of an economic court can be organizationally part of the jurisdiction's general court system or a separate hierarchy of specialized courts that may include distinct, specialized appeals courts. Establishing a specialized court is hard because the country must consider the best structure and operations to avoid creating foreign and domestic effects.²⁸ In addition, the most critical decision for a country that wants to establish an economic court is what type of economic court to create and what type of cases the court is to hear. There are three types of economic courts. First, pure commercial courts in which the parties must be commercial entities, but the dispute need not be complicated. Second, complex commercial courts in which the parties must be commercial entities, and the case must be complicated. Third, complex civil courts in which the parties need not be businesses, but the case must be complicated.²⁹ The economic court that the Kingdom of Saudi Arabia needs (more than these three types) is a court to hear criminal issues related to complex, commercial issues alongside commercial cases. In addition, it needs to have an institute in this court to hear and resolve local commercial cases as well as provide alternative dispute resolution and international arbitrations.

In summary, an economic court is an independent court that includes all commercial cases,

²⁷ Heike & Barry, *Supra* note

²⁸ Moahmmed Al-Khulafi, *Supra* note

²⁹ Tyler, *Supra* note

including criminal cases that are related to commercial cases. An economic court is an ideal innovation to create an excellent judicial system in the country to support the economy and growth.

III. ESTABLISHMENT OF A SPECIALIZED COURT TO REGULATE THE JURISDICTION IN COMMERCIAL CASES IN THE KINGDOM OF SAUDI ARABIA

A. The Need for an Establishment of a Specialized Court in The Kingdom of Saudi Arabia

Today, all governments are careful to support the judicial system. They have been creating new, specialized courts because this idea has proven successful in the judiciary system. The meaning of a specialized court is a judiciary, which is established by law or based on a law of the rank of a court of the first instance, is part of the regular court formations, and its jurisdiction is limited to certain types of cases and disputes, which are often of a technical nature.³⁰ Its spatial jurisdiction may also extend to include a broader area of the jurisdiction of the court of the first instance, and specialized judges may be qualified judges in the matters before them. The court may apply special procedural rules, consistent with its specialized nature.³¹ Moreover, judicial specialization usually means that judges in a specific field of the law have special experience and skills. It also indicates, more precisely, that other kinds of cases are treated differently, perhaps even independently. Although specialization is a growing phenomenon, it is not recent, and there are many examples of judicial specialization around the globe and in all forms of the legal system. In ancient Rome, courts that treated criminal offenses were described, and courts specializing in maritime law in England date back to the fourteenth century.³²

Specialization of courts is a fast-growing phenomenon in the United States, Europe, and many other regions of the world. Studies have shown that the recent trend has been to create specialized courts and tribunals, especially in developing or newly developed countries, to deal with environmental cases. This tends to increase access to justice for people in general, for non-governmental organizations, and vulnerable groups.³³ A 2012 study conducted by the International Institute for Intellectual Property cataloged specialized intellectual property rights courts in ninety countries in Asia, the Asia-Pacific region, Europe, the Middle East, North Africa, Sub-Saharan Africa, North and South America, and the Caribbean. Frequently noted

³⁰ Abdul Wahab Abdul, *Specialized Courts as a Means of Progress and Justice: The Model of Federal Courts Specialized in The United Arab Emirates*, 7 *Supreme Courts, Discrimination, Cassation, and Commentary in the Arab Countries* (2013).

³¹ *Id.* 10

³² Heike & Barry, *Supra* note

³³ *Id.* 4

internationally are the development of specialist family courts and the increasing number of therapeutic courts.³⁴

Many claim that the key explanation for this growth is the rising specialization of the law and the increasing sophistication of subject matter. Others note several advantages that training provides, such as more effective procedures and better knowledge of the law, and the effect judges have on the parties and their community through the court's ruling. While there is evidence of increased efficiency and even efficiency in achieving goals, such as reduced recurrence, these results require the right conditions. Evidence to support other claims, that the establishment of a specialized business court improves a country's investment climate is quite mixed.³⁵ There are many examples for countries That worked in their judicial system to have specialized courts such as commercial courts in the United States of America.

For that, the number of trial courts in the United States that handle business cases mainly or solely have grown dramatically in the past 20 years. It has been argued that this is primarily motivated by the fact that specialized commercial courts draw out-of-state industry to a state and dissuade in-state businesses from leaving, thus growing the economy of the state. Some also propose that a business court draws out-of-state companies to move into the jurisdiction, thus creating franchise revenue for the state and that out-of-state businesses opt to litigate their lawsuits in that court, resulting in revenue for local attorneys.³⁶ Because of this, most countries in the world have gone to allocate commercial courts, especially if a country aims to attract investment.

Across the globe, but also with some distinct differences across legal systems and regions, the growing trend towards court specialization can be observed today. History and codification have contributed to greater system-wide knowledge in many civil-law countries. The conventional method of creating courts of general interest in common-law countries' jurisdictions, combined with greater local autonomy in the determination of court activities, has resulted in a greater variety of specialized judicial operations. The degree of specialization in either system whether civil-law or common-law tends to increase with the evolution of economic development and the legal framework. The more complicated and precise the legal system is, the more competitive the economic climate is, and the greater the specialization needed.³⁷

³⁴ *Id.*

³⁵ *Id.* 5

³⁶ *Id.*

³⁷ Lawrence Baum, *Probing The effects of Judicial Specialization*, 58 DUKE L. J. 1667,1684 (71) (2009).

Specialization may also be a constitutional requirement, most often originating from requirements or requests. These often arise from sources outside the courts that need to be carefully examined to decide whether specialization would be beneficial and, if so, which type or model of specialization would be best. Even the legal requirements for establishing specialized courts (such as juvenile or family courts) tend to result from an external demand that is sometimes fueled by dissatisfaction with how particular cases are handled or progressed. Sometimes, the impetus for change is research that identifies basic criteria that are not met by the courts or demonstrates why certain cases take longer than they should. It may also be economic or social patterns that indicate a need for improvement by process specialization.³⁸

As reported in a report released by the Consultative Council of European Judges' (CCJE) working party in March 2012, "the key reason for [court] specialization is the CCJE also indicated that the drive to specialize can be internal as well as external (a societal demand requiring judges to demonstrate better expertise and efficiency) and that the specialization of judges is increasingly necessary due to the specialization of lawyers and prosecutors."³⁹

The Kingdom of Saudi Arabia is one of the countries that has found that the courts should be specialized. Saudi Arabia has taken note of this by changing the judicial system, in the year 1428 A.H, to establish different types of specialized courts. In this year, the Kingdom of Saudi Arabia established a new specialized court: a commercial court with new laws and rules that Saudi Arabia had never had before. Nevertheless, the new commercial court system still does not provide all the remedies that the commercial law needs to help the country and the economy. Therefore, the Kingdom of Saudi Arabia still needs to establish an economic court to have an excellent judicial system.

B. The Advantages of Establishing a Specialized Court

i. Resolution Pace: More Cases

The ordinary courts with general jurisdiction are accused of having a slow pace in hearing cases. The length of their procedures and consideration prolongs the duration of disputes and perpetuates litigation. This is inconsistent with commercial cases, especially those related to investments, which cannot afford to wait, as they require speed. It has been said that justice loses its social function if it is delayed. Therefore, it is not surprising that strategic planners and leaders of administrative change consider time as one of the indicators for measuring the performance of departments, including case management. Two aspects are emphasized. The

³⁸ Heike & Barry, *Supra* note

³⁹ *Id.* 8

first is to reduce the time to complete the judicial process, starting from the moment the lawsuit is filed and registered until a judgment is issued. The second is to achieve justice. This is accomplished by considering the application of all legal texts and principles that govern the dispute before the judiciary in a fair application that reflects the intention of the legislator. Hence, the idea of establishing specialized courts as an economic court may be promoted as one way to reconcile the two factors: reducing time and achieving justice.⁴⁰

Specialized Economic courts can achieve the advantage of reducing time in several ways. Perhaps the most prominent is that allocating specific courts to a certain type of cases reduces the number of cases before them slightly, compared to the regular courts that consider all kinds of cases. This shortens the time required to consider and decide on any case, mainly because of the proximity of the dates of hearings for cases before the specialized courts due to the small number of cases. Instead of the court taking a month to hear a case, summon a witness, delegate an expert, or investigate, this time may be halved. Because the court is not crowded with issues of other types.⁴¹

It is also proven that the experience and specialization of judges is one of the main reasons for the delay in adjudicating cases before the courts. Hence, what distinguishes the specialized courts from the regular courts is that the first judges to hear a case are specialists in the topics and cases that are brought before them. Therefore, the presence of judges who are scientifically specialized and professionally qualified in conflict issues makes it possible for them to adjudicate cases with a high degree of knowledge and competence and an accurate understanding of all aspects and dimensions of the case before them. Hence, the judge's specialization advantage shortens the time for hearing the case. The judge's scientific specialization and practical experience provide him or her with sufficient knowledge and understanding of the technical aspects of the conflict. Therefore, he or she will not resort to experience except in matters that do not correspond with his or her knowledge.⁴²

ii. Efficiency and Uniformity

A specialized court, such as an economic court, increases efficiency in the judicial and legal system. The judicial system functions efficiently when a specialized court is granted jurisdiction for a specialized area of the law. Judges in the courts of general jurisdiction no longer must wrestle with the problems in that area of law or spend time to maintain their knowledge of it.

⁴⁰ Ahmed Ali, *The Specialized Judiciary and Its Role in Encouraging Investment*, THE ARAB CENTER FOR LEGAL AND JUDICIAL RESEARCH 7,8 (2018).

⁴¹ *Id.*

⁴² *Id.*

Their research productivity is improved, as they are accountable for staying current in fewer fields of the law. In the restricted jurisdiction courts, however, their colleagues who deal with these issues with a much higher frequency acquire the skills to settle conflicts that include certain issues more quickly and expeditiously than their counterparts. Overall, the justice system's productivity is improved. If a judicial system seeks to retain generalist courts of high quality and high efficiency, a significant factor is whether to delegate jurisdiction to specialist courts for time-consuming, controversial, and complicated areas of law.⁴³

The legal system's efficiency is affected by lawyers who, especially in unusually complex cases, appear before a generalist judge. The subject matter or legal problems, with which the generalist judge can only be slightly acquainted, may surpass all conceivably applicable and valuable material on the record in detail. Via various briefs and motions, the lawyers present detailed background material and create a thorough legal system to ensure that the judge has access to as much information as possible that is helpful to their case. The costs to the litigants and to the legal system are usually high, as is the cost effect on public access to the courts. By comparison, specialist court judges usually do not need to be trained by the bar and are far more capable of reducing the complexity of the legal system to the essential issues on which the resolution of the case depends, using their experience. Since the litigants have more trust in the skills and abilities of the specialized court judges, the lawyers feel less obligated to build a detailed record, and costs and delays are reduced proportionately.⁴⁴

Many participating states believe that the potential efficiency with which it settles complex conflicts is the leading advantage of a business court. A 2012 study measuring the overall case time (measured in days) and case complexity (measured in docket entries) demonstrated the productivity for which business courts are valued. The study showed that complex contract cases were resolved by business courts an average of 1,138 days more quickly than normal civil courts. The same study found that complex tort-based cases were resolved by business courts an average of 718 days faster than civil courts.⁴⁵

One explanation for this degree of productivity is the fact that it is mandatory in a business court for a single judge to preside over the entire case. Instead of having a review at any point of the legal process, the judge is readily acquainted with the details of the case and the procedural background. This also provides the judge with an opportunity to handle the discovery, petition deadlines, hearing times, and proof designations with an eye to the trial or final stage of the

⁴³ Markus B. Zimmer, *Overview of Specialized Courts*, 2 IJCA 46 (2009).

⁴⁴ *Id.*

⁴⁵ Tyler, *Supra* note

case, over which he or she will also be presiding. A judge who is not presiding over a business court may have the option of devoting his or her limited time to dealing with a complicated oral argument or a dozen smaller cases. The judge may devote his or her time to the other dozen cases by removing the complicated problem, transferring it to an existing business court. The whole system profits because the procedure is easily organized in a way that accelerates cases that cause delays in the docket.⁴⁶

Moreover, it is desirable to have specialist courts, where there are valid reasons or conditions, to enforce the law, uniformity, and continuity. Uniformity in decision-making leads to predictability. The key advantages of predictability are that it eliminates the need for litigation, decreases the chance that prospective parties can find legal grounds for bringing a dispute to court, and builds trust in the court system for both the legal profession and the public. Generalist judges may only rarely deal with especially complicated or complex legal problems or highly sophisticated technological details, so each time these arise they need to refresh their knowledge and update themselves on recent developments. Specialist court judges, who deal with these issues much more regularly, are constantly updating themselves on new developments and improving their expertise. Due to their experience, familiarity, and smaller numbers, specialty judges can make rulings that are more uniform than those of the slightly greater number of less-expert generalist judges who fill the regional courts of trial and appeal. Greater uniformity creates clearer case law and less litigation over time. Less uniformity, a typical consequence of several regional generalist courts exercising complicated and narrowly oriented authority, leads to inefficiencies. It has the potential to create significant forum-shopping issues, undermine confidence in the courts, and lead to weaker jurisprudence.⁴⁷

Therefore, efficiency is relatively simple. Repeating similar tasks increases productivity by encouraging individuals to build habits and by giving them greater knowledge of their tasks. Therefore, it seems fair to conclude that judges who only hear cases involving international trade law process such cases more rapidly than judges who hear cases involving international trade law only rarely. Judicial specialization may generate some inefficiencies because parties need to litigate jurisdictional boundaries, and there could be too few cases for specialized courts to completely use the time of their judges. However, these inefficiencies have little to do with the impact of competence on the thinking of judges, so they can be set aside.⁴⁸

iii. Expertise and Improved Case Management

⁴⁶ *Id.*

⁴⁷ Markus, *Supra* note

⁴⁸ Lawrence, *Supra* note

Generalist judges are often referred to as all-out novices and experts in nothing. The possibility of a generalist judge developing sufficient professional knowledge in any specific field of law or complicated subject matter is low, with caseloads covering a wide variety of fields of law. Usually, the legal problems and factual conflicts expressed in the caseloads of generalist judges cover a wide variety of unrelated and sometimes nuanced specialty fields of the law. It is difficult to remain adequately competent and current to adjudicate an occasional case capably. As a result, generalist judges need research assistance and must continuously immerse themselves in the different fields of law and often technically challenging factual conflicts expressed in their caseloads. They operate in a wide variety of legal fields all, usually but master none, thereby generating decisions that run the risk of being low in quality and likely to attract appeals because they do not represent in-depth expertise like the judges in Saudi Arabia. In contrast, specialist courts whose judges have greater competence and jurisdiction-specific experience are likely to deliver higher-quality rulings that cannot be or may not need to be appealed.⁴⁹

The judicial system in the Kingdom of Saudi Arabia requires that every judge in Saudi Arabia passes a degree in sharia law. sharia law is the main authority in the Saudi legal system, and judges must possess sufficient knowledge and understanding of sharia principles and jurisprudence to apply sharia laws in disputes before them. the law of the judiciary also requires All criminal, labor, and commercial court judges, as well as all criminal, labor, and commercial court of appeal circuit judges in all provinces, counties, and districts of the kingdom, must complete at least two months of training in the commercial, labor, and criminal procedure laws and other relevant regulations.⁵⁰

Saudi judges are well-trained and certified sharia adjudicators because of the academic requirements, yet sharia courses at Saudi Arabian colleges and universities do not expose students - potential judges - to business or commercial principles. Sharia students learn very little about the difficulties of international trade and commercial dealings in sharia colleges. Even if the student is pursuing a law diploma from the Institute of Public Administration in the Kingdom of Saudi Arabia after graduating from the Sharia Faculty. Unspecialized courts, therefore, take extended periods of time to finalize sophisticated commercial transactions, In addition to the presence of non-specialized Sharia judges.⁵¹ There are many examples of

⁴⁹ *Id.*

⁵⁰ Dr. Abdullah F. Ansary, *A Brief Overview of the Saudi Arabian Legal System*, 142 (2008).

⁵¹ Saleh Abbadi, *Arbitration in Saudi Arabia: The Reform of Law and Practice*, (April 2018) (unpublished SJD. dissertation, The Pennsylvania State University Penn State Law) (on file with Saudi Digital Library, The Pennsylvania State University Penn State Law). <http://search.sdl.edu.sa/Viewer/Default.aspx?ecode=RTpcRGlzc2VyYdGF0aW9uc1Jvb3RcMzU3MTFcRGlzc2VyYdGF0aW9uLnBkZnwyMDIxMDkxNzE5MDczMw==>

countries that prove to have specialized judges who give the trust and efficiency in their judiciary system like China.

The best example of the benefits of having expert judges in specialized courts, such as economic courts, is the economic court of China. Judges in China were not regarded as legal practitioners until the implementation of the Judges' Law in 1995 AD. Instead, they were classified as state cadres, and the structure of staff management applicable to judges was similar to that applicable to officials serving in other departments of government. Approximately two-thirds of Chinese judges in the early 1980s had no degree in law, and one-third of them have demobilized members of the military. The implementation of the Judges' Law was therefore seen as a significant step towards the institutionalization and professionalization of Chinese judges and the development of a modern framework for the personnel management of judges suitable for the judicial profession. The establishment and enhancement of the requirements for appointment as a judge to the courts in China included related changes. The minimum qualifying requirements in the Judges' Law, as revised in 2001 AD, require new judges to pass a national judicial examination (unified for all prospective legal practitioners, such as judges, prosecutors, and lawyers). In addition, they must have one to three years' experience working in a Chinese court after earning a degree in law or another degree. The number of years of work experience required depends on the degree that the applicant holds and the court's level. For example, a holder of a doctorate degree in a non-law specialty who is equipped with professional legal knowledge and at least two years of work experience can be appointed as a high-level court judge. The candidate is assumed to demonstrate possession of professional legal knowledge. Current judges without a law degree who were appointed before the adoption of the Judges' Law are educated at colleges for central or local judges. This requirement ensures that even judges who had previously been appointed based on their political background instead of their legal abilities are qualified for their positions. A new system of judicial ranks, consisting of twelve grades grouped into the categories of chief justice (the President of the SPC), grand justices (the vice-presidents of the SPC and the presidents of high-level provincial courts), senior judges, and judges, have been further introduced by the amended Judges' Law.⁵²

Although the recruiting requirements for becoming a Chinese judge have been substantially raised, it is widely believed that there is inadequate instruction for judges on commercial law practices. For example, in evaluating the impact of international arbitration awards, Chinese judges have little knowledge of modern principles of commercial arbitration or the worldwide

⁵² Weixia Gu, *Courts in China: Judiciary in The Economic and Societal Transitions*, 495, 496 (2014).
SPC: Is Supreme People's Court of The People's Republic of China.

pro-enforcement approach. Local magistrates, therefore, often wrongly apply legal standards and laws. In a collection of arbitration reports presented by the SPC Gazette, when assessing the validity of foreign-related contracts, Chinese local judges typically disregarded the relevant laws. This general lack of judicial experience in commercial law has also contributed to excessive departure from or rejection of compliance to international arbitral awards.

The lack of a tenure system and fair compensation has also worsened the scarcity of eligible judges (as opposed to lawyers). Some judges have become corrupt while others in major law firms have left their positions for more lucrative practices. The caliber of local judges is also unbalanced and economically oriented across China. More judicial talent is drawn to economically well-developed areas, and judges in these fields are more likely to have the expertise to deal with foreign cases and international arbitration requirements. Judges in coastal regions are also more professional, having a more liberal approach to the understanding of contracts and agreements. In contrast, rural regions are ill-equipped to deal with complex commercial situations, such as those requiring arbitration. In various areas of China, the unbalanced qualification of judges often generates confusion and inconsistency in judicial compliance. This confusion is also the reason why, in its 2000 agreement with the mainland on mutual recognition and the implementation of cross-border arbitral awards, Hong Kong was reluctant to apply its arbitral awards in all Chinese jurisdictions for review by the courts. Evidently, neither Hong Kong cases nor foreign-related cases have been taken up by any of the intermediate courts, nor do they have trained judicial staff to deal with such cases.⁵³

Moreover, a study by the American Bar Association indicated that the right to have a qualified judge preside over the case is the “hallmark of each business court” from start to finish.⁵⁴ Usually, business court judges apply to be appointed to the docket of the business court and are thus knowledgeable and enthusiastic about issues of corporate law. Because of his or her familiarity with different business processes, these judges have a greater ability to create practical agreements and possible resolutions. A South Carolina Business Court study reported that its cases were more often pre-trial than any other civil cases and that “unique opportunities to resolve business cases are not lost” due to the single judge concept. As these judges become more acquainted with typical business disputes within their jurisdictions, their comprehension of business matters increases, and their effectiveness increases in turn.⁵⁵

⁵³ *Id.*

⁵⁴ American Bar Association (ABA): Founded in 1878, the ABA is committed to advancing the rule of law across the United States and beyond by providing practical resources for legal professionals, law school accreditation, model ethics codes and more. <https://www.americanbar.org>

⁵⁵ Tyler, *Supra* note

There is also the added advantage of constantly going before the same judge to provide consistency in the trial and remove surprises that can be uniquely attributed to each new judge. Complex commercial disputes are a challenging form of litigation that warrants the special consideration that the litigating parties can obtain from these judges. In many complicated business cases, there are complex pleading schedules, numerous parties, cross-arguments, complicated discovery schedules, vast electronic records, and a need for responsive judges who can schedule hearings quickly to rule on matters in a timely manner. The amount of time these expert judges save, with the increased presence of judicial congestion, contributes to a substantial reduction in legal costs for each party involved.⁵⁶

Additionally, this kind of court improves case management. Judges tend to follow different administrative and procedural methods to handle their workload as court caseloads rise and trial-level judges become responsible for adjudicating a growing number of cases. Such management strategies include setting and implementing deadlines for pre-trial preparation, monitoring disclosure of facts and details, ruling on dispositive motions, requiring counsel to prepare succinct case summaries and outlines, and suggested pre-trial or trial schedules, brokering hearings for settlement, arranging, and holding trials, and instructing juries. To efficiently enforce and track certain case-management controls, a trial judge with advanced experience in the subject matter of the cases is in an advantageous position. The specialized judge needs less time than a generalist judge to examine and focus on the fundamental issues of the case and, therefore, can provide advice and guidance to lawyers earlier in the life of the case. In addition, trial judges often extemporaneously make case-related determinations, with little time or assistance available to them for the careful formulation of opinions for study, consultation, contemplation, and the articulation of positions. In their regular face-to-face meetings with lawyers, pro se litigants, jurors, and the public, trial judges of general jurisdiction frequently rule orally on legal issues. They rely on the experience and skills they have gained over the years rather than on a detailed analysis of the case law, specific policy considerations, or briefs. In such environments, when ruling from the bench, the specialized judge is much more likely to use specialized experience and in-depth knowledge, thereby acting as a much more productive case manager. In addition, since cases appear to be identical, procedural rules and standards may be structured explicitly to promote efficient case management.⁵⁷

iv. Increased System Flexibility

⁵⁶ *Id.*

⁵⁷ Markus, *Supra* note

The specialized court has an advantage in increased system flexibility. Areas of the law, court systems have to deal with major changes in caseload over time. They may encounter, for example, an unexpected rash of case filings from administrative agencies that continues to expand over a multi-year cycle, then begins to slow and gradually decrease to a trickle, equally unexpectedly. Tasking the generalist courts with such fluctuating caseloads has the potential to wreak havoc on the timely and systematic resolution of their ongoing caseload. Appointing additional new generalist judges can mitigate the increase in the impact of the workload, but what should be done with the additional judges when the workload decreases, particularly if they have tenure for life? Through managing these unpredictable areas, specialist courts may play an important role in helping court structures to deal with such variations, and the number of judges, who usually serve for fixed periods rather than lifetime terms, can be changed to cope with the workload.⁵⁸

IV. VISION 2030 AND THE NEED TO ESTABLISH AN ECONOMIC COURT IN SAUDI ARABIA

Vision 2030 is a vision of the future that expresses the Kingdom of Saudi Arabia's ambition as a state and people. One of the factors behind the success of Saudi Arabia is confidence in God and the existence of the Two Holy Mosques, which strengthen the Arab and Islamic depth. The second factor for success is that Saudi Arabia has a considerable investment capacity, which helps economic development and makes an additional resource for the country. Another success factor for Saudi Arabia is its geostrategic location, as it connects three continents and is surrounded by internationally important waterways. Vision 2030 goals for the Kingdom of Saudi Arabia include establishing a vibrant society, a thriving economy, and an ambitious nation. The country also aims to be one of the best in the world for effective government performance that serves citizens. Among the most important fundamentals of this vision are the bedrock of Islam, investment power, the importance of the country's strategic geographical location, and the opening of the country to the private sector, encouraging it in a way that makes Saudi Arabia one of the largest economies in the world.⁵⁹ To achieve vision 2030 by establishing an economic court as a specialized court. Establishing an economic court will have many impacts in different aspects for the vision itself, the country, the judges, investors, and investment. Also, the economic court guarantees to protect investment and investors. Moreover, evaluating the performance of economic courts determines its importance in achieving Vision

⁵⁸ *Id.* at 49.

⁵⁹ For more information about Vision 2030, see *The Saudi Vision 2030*, available at <https://vision2030.gov.sa/en>.

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1. Impact of the Economic Court in Vision 2030

Saudi Arabia has demonstrated its commitment to implementing reforms to improve the business environment, develop infrastructure, and build a diversified and sustainable economy. The rapid development in the kingdom on various social, cultural, and economic levels has attracted significant international attention.⁶⁰

Saudi Arabia's primary goals are to develop the business environment, encourage investment and advance economic development in a way that supports the achievement of the ambitious goals of Vision 2030. At a time when the kingdom is moving confidently into the post-oil era, the judicial system has kept pace with the rapid growth the country is experiencing.⁶¹

The Ministry of Justice in Saudi Arabia has launched a package of initiatives to improve the judicial system in line with the ambitious goals set for the ministry by the National Transformation Program, which will contribute to raising the classification of the Saudi judiciary and highlighting it globally.⁶²

Signs of change first appeared in 2007 when King Abdullah issued royal orders in an initial step that paved the way for an amendment to the kingdom's judicial system. This included the establishment of the Supreme Court as the highest judicial authority in the country, the Supreme Administrative Court at the Board of Grievances, and the courts of appeal established in some of the kingdom's governorates.⁶³

In September 2017, the Ministry of Justice launched independent courts represented by commercial courts in Jeddah, Dammam, and Riyadh. These were seen as the beginning of a new era for the Saudi judicial system, which was reflected positively in terms of enhancing the confidence of the parties concerned with these courts and the speed with which they deal with the judicial challenges imposed by the legal system in the kingdom.⁶⁴

Since this initial stage of development, the judicial system has witnessed a new phase of growth, and the amendments to the legal procedures system in February 2018 have provided more clarity on litigation procedures. The new regulations aim to restructure the litigation procedures currently in place to increase the efficiency of commercial court procedures in terms of quality and speed. The new amendments have also provided timetables regarding the dates for holding

⁶⁰ Dr Ahmed Basrawi, <https://www.maaal.com/archives/20180531/108371> (last Visited Feb.8, 2021).

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

hearings, setting the maximum number of hearings for commercial claims, and setting regulations relating to first hearings and documenting sessions.⁶⁵

These reforms will be supported by a package of new laws, which are still under review by the Ministry of Justice. They include the imposition of fees for litigation in a step that would reduce the number of malicious cases submitted to the courts, in addition to encouraging the settlement of cases outside the courts and adopting alternative means of settling disputes, including mediation. The speed and breadth of these reforms reflect the kingdom's commitment to building a solid judicial system that supports Vision 2030.⁶⁶

With the implementation of the first steps to harmonize the legal landscape with the broader transformation plan for Saudi Arabia, further reforms are expected, including a shift from a paper-based system to an electronic system to facilitate the delivery of outputs and access to information. These changes are expected to be supported by further transformations to ensure that the legal system in the kingdom keeps pace with the reform program and strengthens the legal infrastructure to support the achievement of Vision 2030.⁶⁷

a. The Impact of an Economic Court on the Country

The justice system has made governmental institutions in Saudi Arabia competitive in terms of the global indicators published by the World Bank, inspired by Vision 2030 through the application of six pillars that reflect a fundamental improvement in the judiciary services provided by the justice system, as well as implementation and documentation.⁶⁸

The Ministry of Justice's strategy is based on a vision that focuses on achieving completed justice, providing distinguished documentary and judicial services, and spreading the judicial culture by building efficient institutions, qualified human resources, and effective partnerships locally and internationally using advanced tools.

During the years following the launch of the National Transformation Program 2020, the Ministry of Justice sought to develop the method of doing business and provide services to fully contribute to the advancement and development of work. To achieve these aims, the ministry developed its strategic plan and worked to align it with Vision 2030 to ensure integration and interdependence of the strategic pillars. The ministry has also worked to restructure its organizational structure and establish a system of specialized offices that implement its

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ Justice is an Advanced System That Achieves Vision 2030, Six Strategic Pillars, (2020) <https://www.al-jazirah.com/2020/20200519/qr5.htm> (Last Visited Oct 14, 2021).

initiatives and projects, according to the best methodologies and international practices, to achieve the ministry's vision and desired mission and its strategic goal within the National Transformation Program represented in upgrading the quality provided services.⁶⁹

The strategic plan included six pillars, topped by raising the operational efficiency of the judicial system. The aim is to reduce the time involved in closing cases of all kinds, raise completion rates, and develop procedures and mechanisms to reduce the flow of cases to courts, through smart technical solutions that reduce administrative burdens on the judicial cadre so that they can spend their time providing better services to beneficiaries.⁷⁰

The second strategic pillar the ministry is working on involves improving beneficiaries' experience, ensuring that they are satisfied with the procedures and their speed, in addition to the performance of the service provider and the readiness of the place (the court and its facilities). This is achieved by integrating with partners from various governmental, private, and non-profit sectors while ensuring permanent development.⁷¹

The third strategic pillar of the ministry is the rehabilitation and development of the judicial cadres' and the consequent raising of the judicial cadres and notaries' capabilities. This will increase productivity and reduce the time it takes to complete transactions by qualifying the judicial competencies that make continuous learning a tributary of their success.⁷²

The fourth strategic pillar supports digital transformation programs, as it focuses on increasing the percentage of electronic services provided to beneficiaries, improving their availability levels, and raising the efficiency of internal procedures. Support for digital transformation programs comes from the automation of systems, administrative procedures, and justice services. The aim is to raise the quality of services provided to beneficiaries in a short time and achieve institutional excellence in government performance to ensure reaching an advanced level in country rankings.⁷³

The fifth strategic pillar, which involves strengthening the execution court and the documentation and real estate security system, seeks to reduce the time involved in enforcing executive bonds and raise the kingdom's rating in the property registration index. It will achieve this by strengthening the enforcement judiciary and the documentation and real estate security

⁶⁹ *Id.*

⁷⁰ The Ministry of Justice is Racing Against Time in Digital Transformation (2021) <https://www.okaz.com.sa/news/local/2067868> (Last Visited Oct 14, 2021).

⁷¹ *Id.*

⁷² Aljazirah, *supra* note

⁷³ *Id.*

system by expanding the provision of services and involving the private sector. This will help facilitate doing business, provide an attractive environment for local and international investors, and enhance their confidence in the justice system.⁷⁴

The sixth strategic pillar, devoted to developing commercial courts and bringing together the various dispute bodies and committees, seeks to reduce the average time involved in closing commercial cases and raise Saudi Arabia's rating in the contract enforcement index.

This pillar involves an investigation of what is included in the regulations arising from the split of the commercial and labor judiciary and the inclusion of quasi-judicial committees. This necessitated the ministry working to establish labor courts and commercial courts, expand their scope to include all regions of the kingdom, and develop courts of appeal to activate their competencies stipulated in legal pleading.⁷⁵ The goal of these strategies is to achieve the vision of 2030. In addition to these strategies, the Ministry of Justice has taken care of and developed several areas that start with the work environment in the judiciary and provide new judicial services.

b. Impact of the Economic Court on Judges.

Many legal systems, some of which have a long history of generalist judges, debate how much specialization is expected of a modern judiciary. The advent of new legal fields dominated by technical principles and the growing complexity of contemporary society can be seen as the ideal justification for the establishment of specialized courts. It is easy to conclude that a new generation of cases involving complex issues of fact and law merits adjudication by judges who are well-versed in the issues at hand. New specialized courts may also help address an issue that concerns many judicial systems: the large caseloads that ordinary courts are burdened with. However, judicial specialization can have significant disadvantages, such as the possibility of a specialized court's "insularity" or a propensity to self-seclude within the narrow limits of their expertise.⁷⁶

Specialization continues to be highly valued in contemporary society, and a good deal of specialization is needed to comprehend certain facets of modern life. When people work with personal computers, they do not assume that knowledge of computer sciences is needed to operate them, but they generally accept that they lack the advanced knowledge required for resolving the highly technical problems that IT poses. People are conditioned to believe that

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ The Expression is Borrowed from Chad M. Oldfather, *Judging, Expertise, and the Rule of Law*, 89(5) WASH. U. L. REV. 847 (2012), Available at http://papers.ssrn.com/abstract_id=1799568

specialization is needed to cope with the complexities of the modern world. This ambiguity can be seen in many areas that impact daily life, and there is an understanding that the law, too, is becoming more complicated. When social relationships and economic balances alter, new legal problems emerge, necessitating the development of new laws to resolve them. These laws must be interpreted and enforced to address new types of cases, but they often mask subtleties that can only be seen and understood by those who are personally acquainted with the subject matter. Consequently, it might instinctively be assumed that specialized judges, or judges with detailed knowledge of the subject matter (as specialized judges), will be in the best position to administer justice in a competent, effective, and timely manner. However, the situation in many legal systems indicates that judicial organization is generally impervious to the claims advanced in favor of professional adjudication: the dominant paradigm in these legal systems is still the so-called generalist judiciary. The question of creating specialized divisions within ordinary courts has recently resurfaced as part of the Government's upcoming reforms aimed at resolving a long-standing problem in Saudi Arabian civil justice, namely the excessive duration of judicial proceedings.⁷⁷

A generalist judge is one who is required to be willing (and capable) of dealing with all the problems (both factual and legal) posed by the cases that come before the court in which they sit. The connection between the advantages of a generalist judiciary and the security of unbiased decision-making is clear. Beginning with the assumption that all judges are equally qualified, it does not matter which judge decides a particular case, and therefore cases can be allocated at random since expertise in a particular field is not needed. However, it is often regarded as a weakness that might jeopardize impartiality. That is true in theory, or at least it was true when the twenty-first century's "age of hyper-specialization" existed only in the minds of science-fiction authors. However, believing that judges are repositories of general expertise, even encompassing knowledge that traditionally belongs solely to experts, seems anachronistic today, since it feeds the illusion of a judiciary that is not only generalist but omniscient. As a result, it could easily be argued that, since judges cannot be omniscient, specialized courts or divisions should be formed to handle cases that need specialized expertise to pass judgment. However, determining whether a case is of this nature and ascertaining the standards used to assess when matters should be referred to a specialist judiciary are problematic issues. In principle, even though only matters that fall within the domain of civil and commercial justice are considered, each legal field corresponds to a certain degree of expertise, and therefore a strict application of specialization to case assignment could exponentially increase the number

⁷⁷ *Id.*

of specialized courts. This would result in business courts, labor courts, family courts, immigration courts, environmental courts, and a slew of others, including so-called problem-solving courts, which tend to be the last frontier of judicial specialization because their true aim is to “forge new solutions to chronic social, human, and legal issues,” rather than settle conflicts.⁷⁸

Among the “virtues” of a specialized judiciary, two stand out: the quality of decisions and efficiency in the disposition of cases. Regarding the first, the presumption is that a judge who specializes in a particular legal issue will issue better decisions than his generalist colleagues, or at the very least decisions that the parties will consider as better.⁷⁹

Subject matter specialization is the concept of judicial specialization. This involves specialized judges being assigned to and hearing certain types of cases concerning a particular subject about which they have acquired expertise. However, the question of who determines a judge’s level of specialization is unavoidable. For legal systems where the judiciary is predominantly drawn from the ranks of the legal profession, this issue could be irrelevant, as a lawyer with a long and active career in a specific field of law will clearly make an outstanding specialist judge. Things are different in legal systems that select judges based on the number of examinations passes they hold. Many of these exams are taken by people who have just graduated from law school. It can be presumed that judges “in the field” “who practice the judicial profession” that is, those who have been concerned solely with a particular form of case for a long time specialize in a specific area of law. The issue is that the rules governing the organization of the judiciary do not allow for any screening processes to assess whether judges have gained specialized knowledge in a specific field. That is, once a judge begins working, they advance in their judicial career without further evaluation of their performance or their specialization. Advancement is based on seniority alone. In legal systems with a bureaucratic judiciary, even if sanctioned by a slew of assurances aimed at preserving principles such as impartiality and judicial independence, the creation of specialized courts would only make sense if it was accompanied by the desire to appoint judges with critically tested and established expertise. This is the direction taken by Spain, which created commercial courts in 2003 as specialized divisions of ordinary trial courts and special panels staffed with judges with expertise in commercial matters.⁸⁰

⁷⁸ Lawrence Baum, *Specializing the Courts*, 218 (2011).

⁷⁹ Elisabetta Silvestri, *Judicial Specialization: In Search of the ‘right’ judge for Each Case?*, 2 Russ. L. J. 165,175 (2014).

⁸⁰ *Id.*

The development of specialized courts or divisions, which is just a strategy aimed at enhancing the “mass output” of dispute resolution and providing court users with decision-makers whose experience could make a difference, involves a special way of classifying judges whose expertise in a particular area will offer added value to their general competence as decision-makers.⁸¹ Having a specialized judge will impact the economic court, facilitate the examination of cases, and speed of completion, delivering more accurate and efficient judgments. This is the impact of establishing an economic court to reach the aspire of the vision 2030.

c. Evaluating the Performance of Economic Courts

One of the critical factors in attracting investment is the extent of the investor’s confidence in the judiciary and the strength of the ruling and enforceable laws that guarantee investors’ rights and help them guarantee their investments. The establishment of the Economic Court in Saudi Arabia came with the aim of safeguarding the rights of capital litigants by issuing quick, fair, and prompt judgments and facilitating procedures litigation in economic cases to attract more foreign investments. Although these courts play a positive role in many important economic cases, they still need many reforms and an increase in the speed of performance. It is also necessary to choose specialized judges for these courts so that the roles can be performed with maximum efficiency.⁸²

Effective reforms will achieve the purpose of establishing economic courts that encourage investment, attract investments in Saudi Arabia, and achieve the goals of Vision 2030. The two most crucial elements in the effectiveness of the judiciary are justice and speed. The slow pace of litigation procedures hinders justice. Specialized courts such as economic courts have reduced the time taken to complete cases and speeded up many litigation procedures. Litigation procedures speed is in addition to the element of specialization in cases, which is a vital element and is considered one of the most important characteristics of economic courts, as their jurisdiction is limited to adjudicating discounts between businesspeople and investors. Hence, they are an important addition to economic activity in general and investment in particular, and they send a message to investors. Their absence presents an obstacle, a delay in the rapid and just settlement of investment, economic, and commercial disputes. These areas need to be dealt with by courts that specialize in economic affairs presided over by specialized judges qualified to resolve these disputes. The establishment of Economic Courts Law in Saudi Arabia is a necessity that coincides with the current economic changes in the country that have resulted in

⁸¹ *Id.*

⁸² *Id.*

commercial relations, such as electronic signatures and other transactions that the articles of the criminal law are no longer able to regulate.⁸³

Ultimately, Saudi Arabia needs to establish an economic court to achieve the goals of Vision 2030 and encourage economic growth. One of Vision 2030's goals was the development of the judicial and judicial environment, and this was the starting point. It involves national transformation, and as part of this transformation, the kingdom's Ministry of Justice began a digital transformation, converting some judicial services into digital services to keep pace with development. Among these developments in the judicial system is the establishment and activation of specialized courts, such as commercial courts.⁸⁴

One of the implications of establishing specialized economic courts is that they were empowered to facilitate litigation procedures, especially considering the spread of economic and commercial crimes. Consequently, legal systems sought to develop economic legislation to establish economic courts to expedite the settlement of commercial disputes. Economic courts perform a set of basic tasks to solve economic problems, and they initially attempt to settle economic and commercial disputes through reconciliation and mediation mechanisms. In case of failure, they issue their judgments in the cases before them. The economic courts are one of the basic mechanisms that states establish to settle commercial disputes that arise between investors or between the state and the investor, and thus they are a mechanism to create a favorable climate for investment in the country. Moreover, the presence of specialized, experienced, and competent judges assists the speedy completion of cases and the issuance of fair judicial decisions at the core of the case.⁸⁵

Foreign direct investment is crucial in developing a country's economy. It provides an appropriate environment for investment characterized by social, political, and judicial stability. It also provides a legislative and judicial structure characterized by simplicity, clarity, and lack of contradiction in laws concurrent with a fair judiciary exercising its activities transparently and swiftly in settling disputes and providing a specialized and trained judiciary to settle disputes that may arise on investments. Judges in economic courts need to be wisely selected and suitably trained. There is a need for judges to distance themselves from political affiliations, and the emphasis should be on the importance of the compatibility and appropriateness of the economic judiciary in the face of corrupt investors. Economic courts also need the support that enables them to fulfill the purpose for which they were established and ensures the speedy

⁸³ *Id.* at 54.

⁸⁴ The Saudi Vision 2030, *Supra* note 2.

⁸⁵ Omar Alkholi, *Supra* note 9

settlement of the cases they hear. Therefore, establishing economic courts is a crucial element of achieving the goals of Vision 2030.⁸⁶

V. CONCLUSION

This paper has shown why Saudi Arabia needs to establish specialized courts such as an economic court to grow an economy and achieve Vision 2030. There is a need to expedite the establishment of specialized courts to ensure justice and specialization considering complex economic and commercial systems that require specialized knowledge. Commercial courts and other specialized courts such as labor courts are crucial and help accelerate reforms. Investments face many obstacles and difficulties when dealing with the current judiciary.

It imposes a burden on traders and investors due involved and the huge volume of business and subsequent issues and commercial problems. And this requires the establishment of a judicial apparatus dedicated to economic issues, supported by an administrative apparatus to organize, and coordinate its work.

This would also help prevent the losses that investments incur due to delays in adjudicating cases, slow procedures, and work pressure in the courts. The importance of establishing this system lies in the urgent needs of the business sector, especially after the legislative development that has occurred in Saudi Arabia. The new system will increase the clarity and transparency of the regulations and enhance the factors that attract foreign investments. There are many advantages in creating an economic court for example, cases will be heard by judges uniquely experienced in business and commercial law.

Also, establishing an economic court will create a body of case law that promotes consistency and increases guidance for parties and lawyers so that litigation risks can be informatively assessed. Furthermore, the new court will enable business and commercial cases to move more expeditiously and will reduce litigation costs for the parties and the court system. It will establish specialized dispute resolution programs and procedures that promote earlier and more frequent settlement of business and commercial cases, which are more amenable to alternative dispute resolution (ADR) resolutions. Moreover, it will move non-business cases more expeditiously by removing complex, time-consuming business cases from the general docket. It will be competitive from an economic development standpoint when judged alongside other states and jurisdictions with established economic courts. The business community's overall infrastructure will also be improved through the creation of a forum that makes conducting

⁸⁶ Dr. Ayman Ramadan El-Ziny, *Economic Courts and their Role in Encouraging Investment*, 1,54 (2015).

business in that region more attractive, predictable, and reliable.

Therefore, the need to establish specialized economic courts in Saudi Arabia has become an urgent necessity. They will enable the kingdom to keep pace with the process of economic openness and the country's entry into global and regional economic partnerships, including investment agreements in industrial cities and petroleum. Furthermore, the new system will help secure the necessary support for plans to enhance foreign investment in Saudi Arabia. One of the requirements for establishing economic courts is to focus attention on the human resources available to administer these courts, from judges, judicial assistants, and lawyers in the field of commercial law.

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