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Tafahna Al-Ashraf – Dakahlia

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About the Journal

The Journal of the Faculty of Sharia and Law in Tanta affiliated with Al-Azhar in Dakahlia is a specialized peer-reviewed scientific journal issued annually. The first issue was published in 2001 AD.

Objectives and Scope

The Journal of Sharia and Law is a specialized peer-reviewed scientific journal issued once a year and published electronically, and it aims to:

1. Publish innovative research prepared by researchers in scientific fields related to legal and Sharia issues, in order to enrich and develop scientific research in these fields.
2. Strengthen scientific and intellectual ties between the Faculty of Sharia and Law and its counterparts in other universities.
3. Address contemporary humanitarian issues within the framework of law.
4. Keep pace with scientific developments in the field of law by introducing modern books, university theses, and research presented at conferences and scientific seminars.

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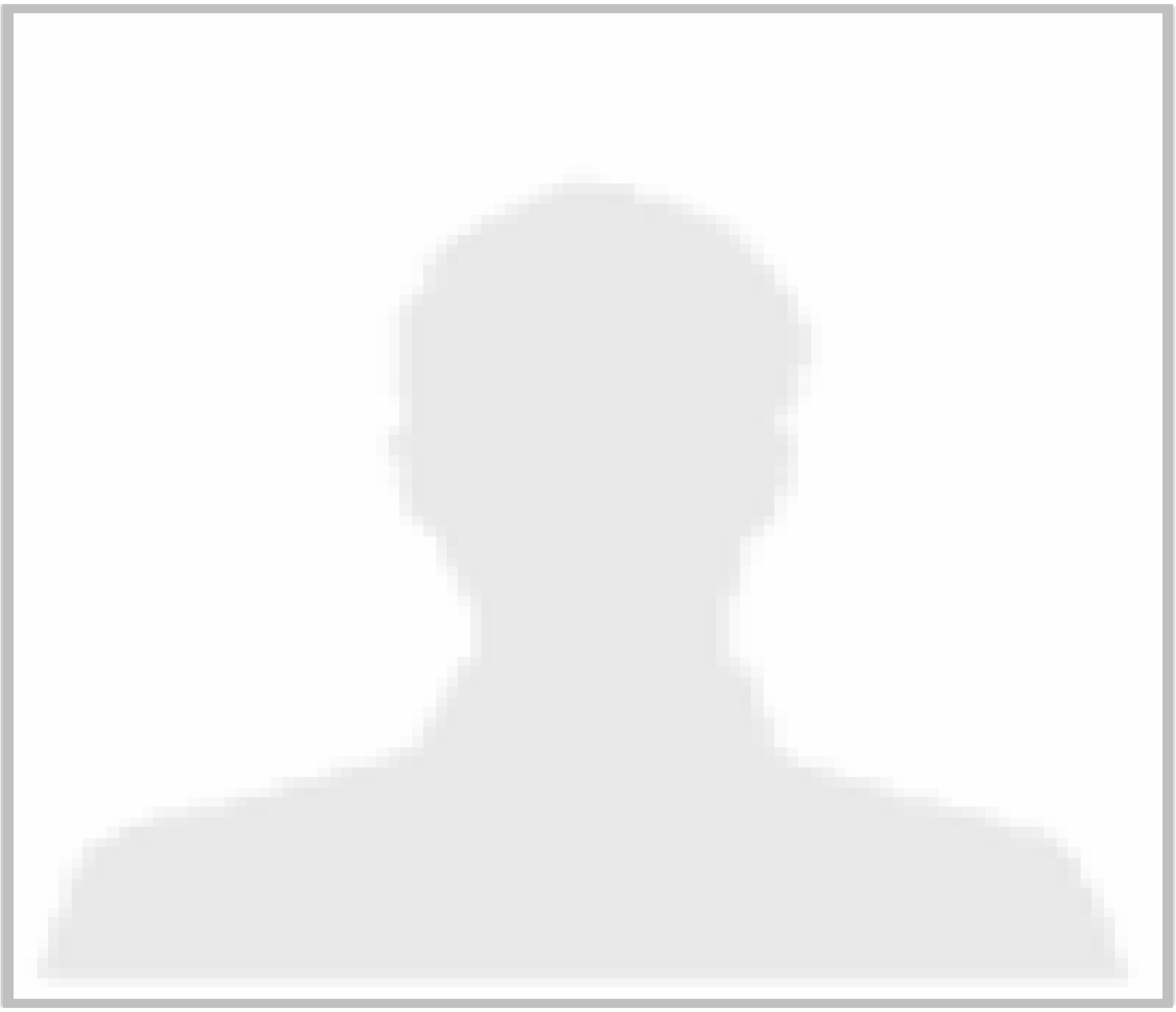

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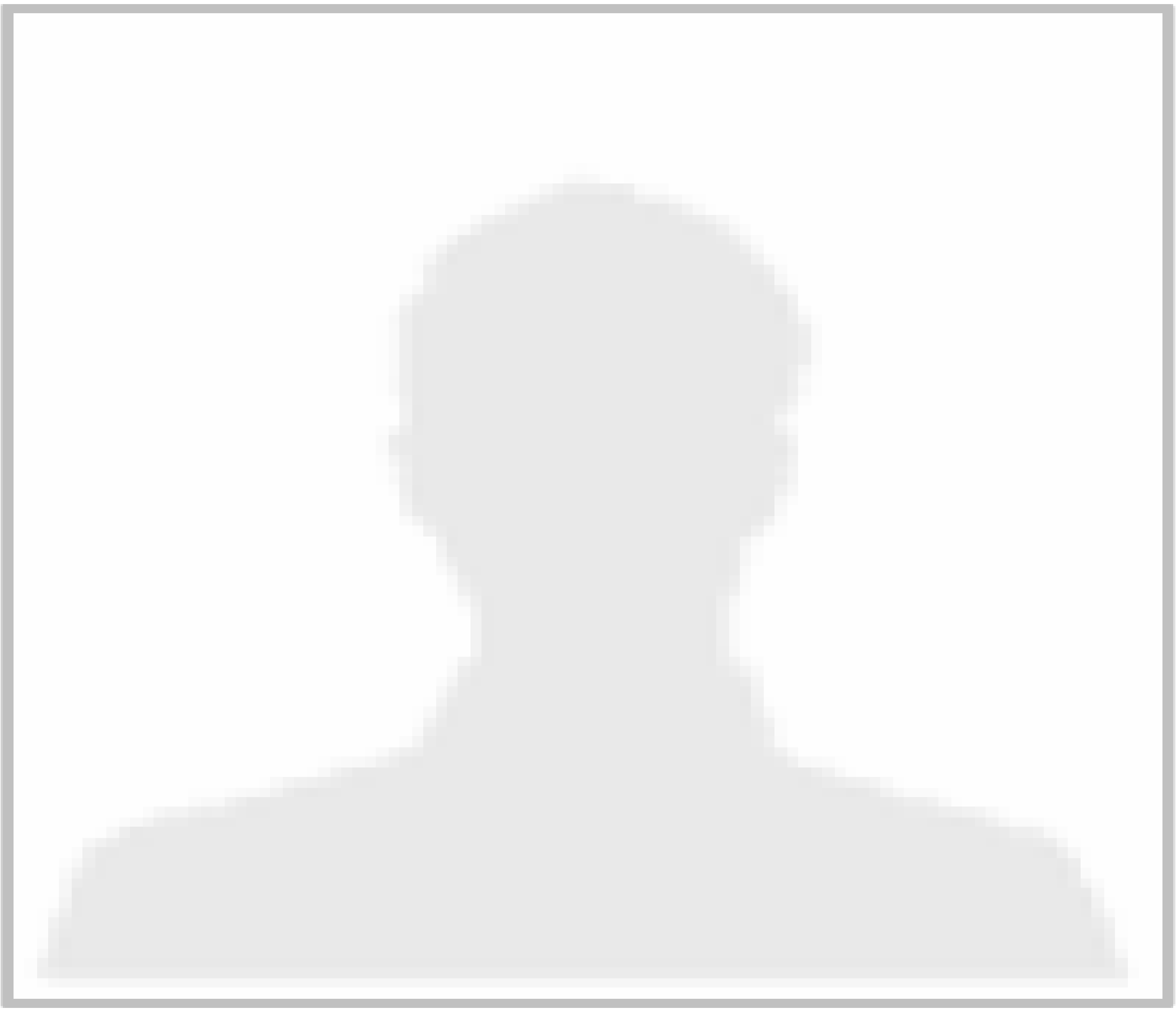

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Dr. Jihad Mahmoud Al-Ashqar

Al-Azhar University – Faculty of Sharia and Law, Tanta, Dakahlia

ghadealashkr.31@azhar.edu.eg

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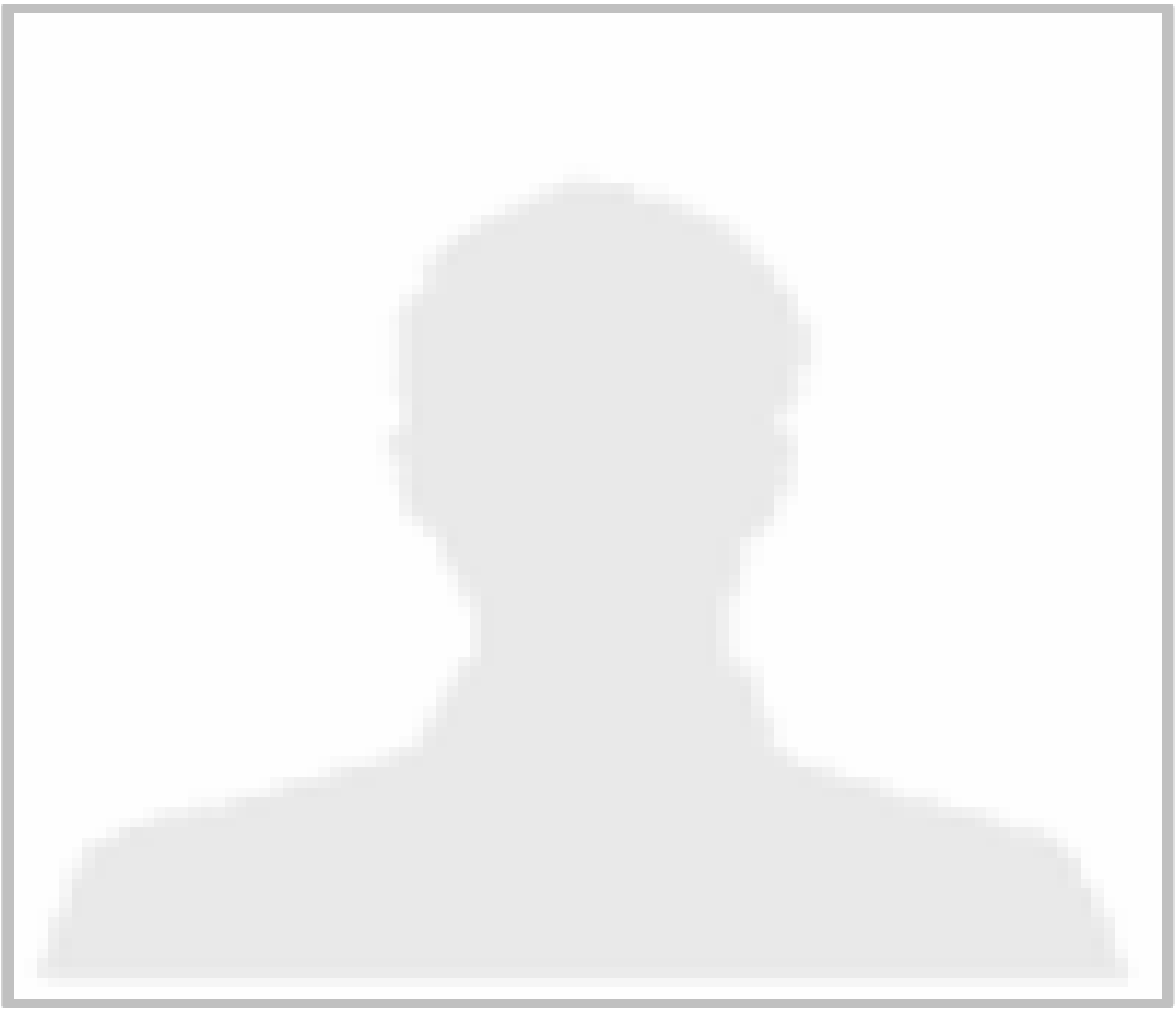

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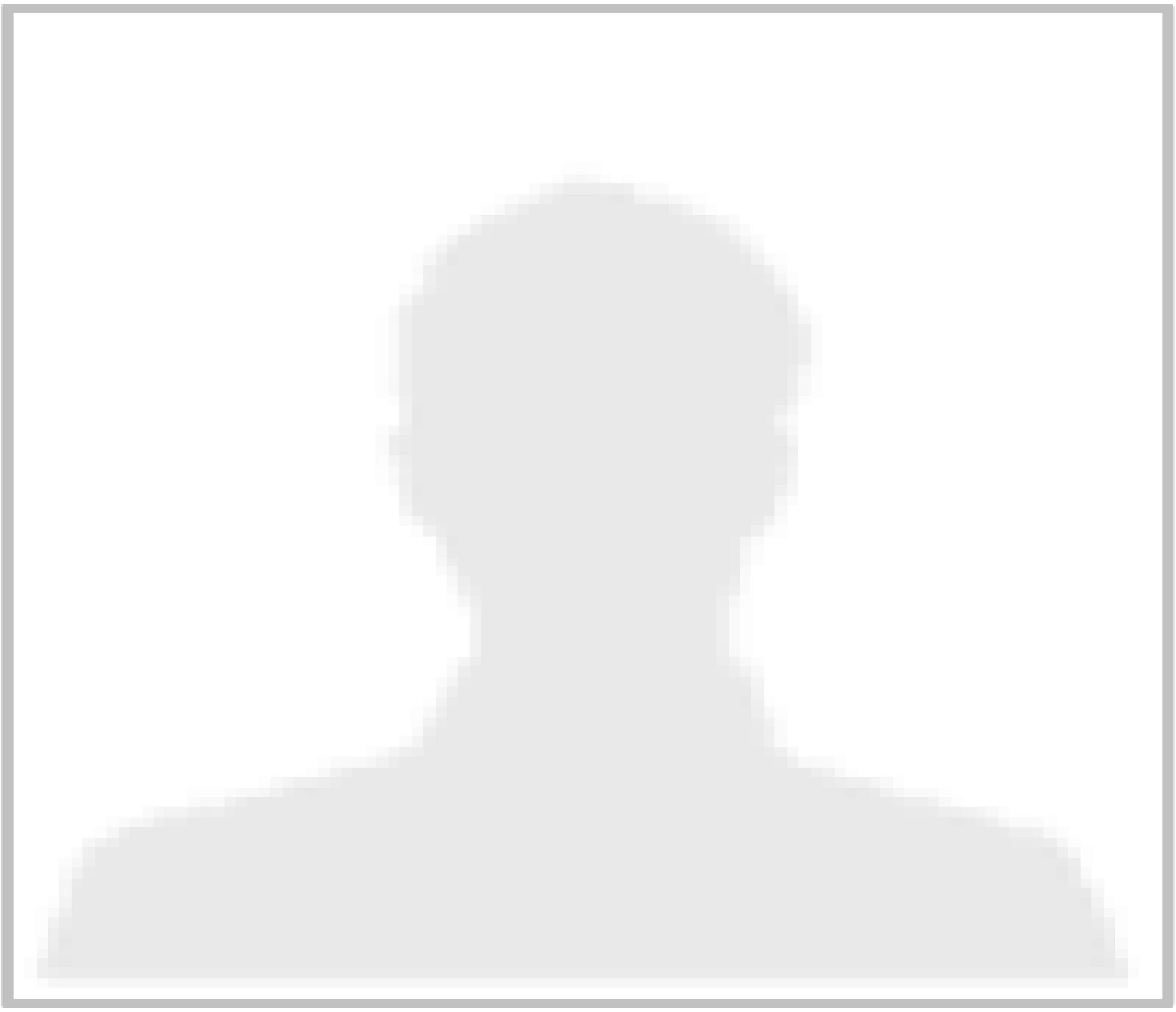

Editorial Board

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Public Law

Al-Azhar University – Faculty of Sharia and Law, Tanta, Dakahlia

ahmedhosni@azhar.edu.eg

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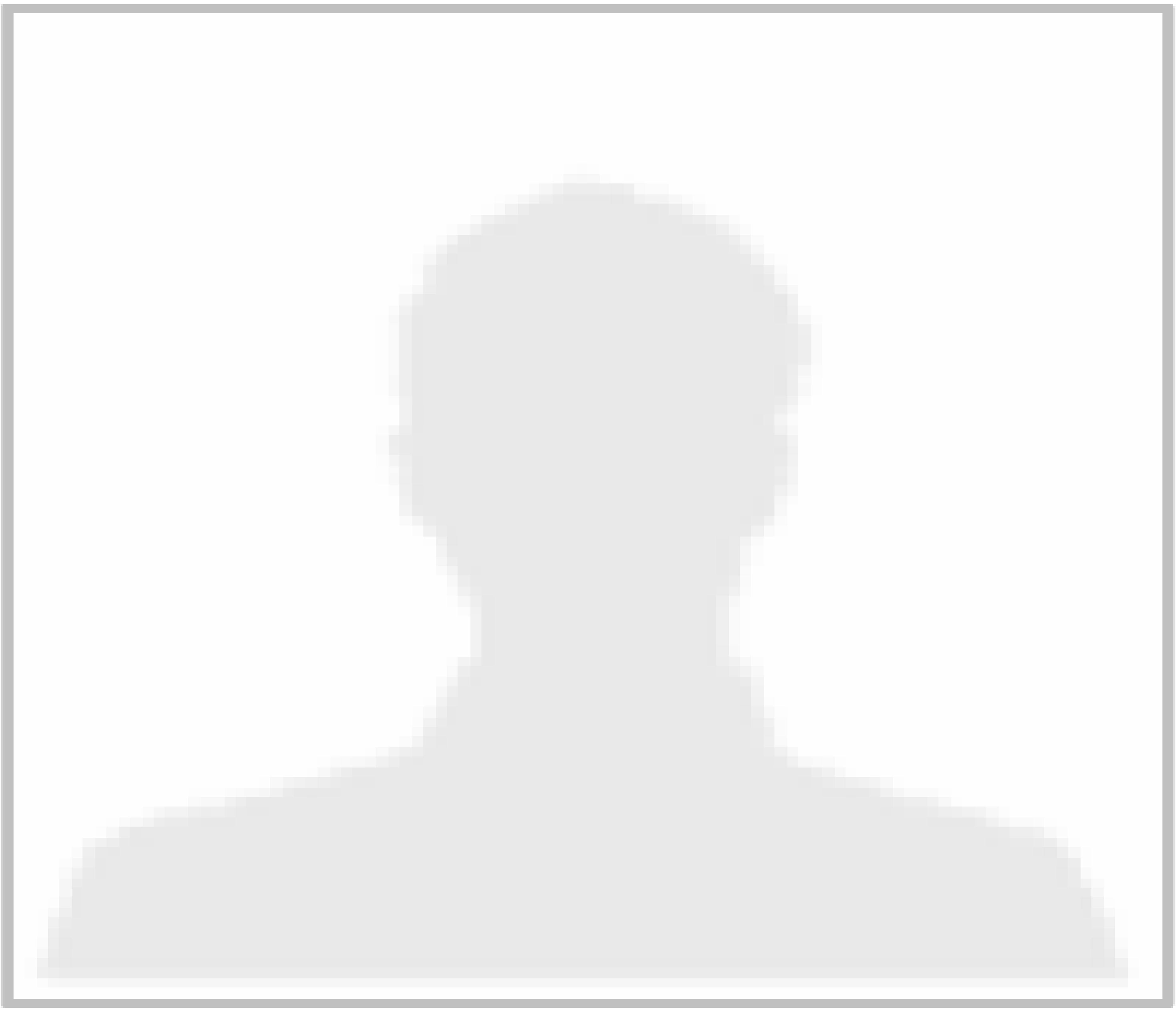
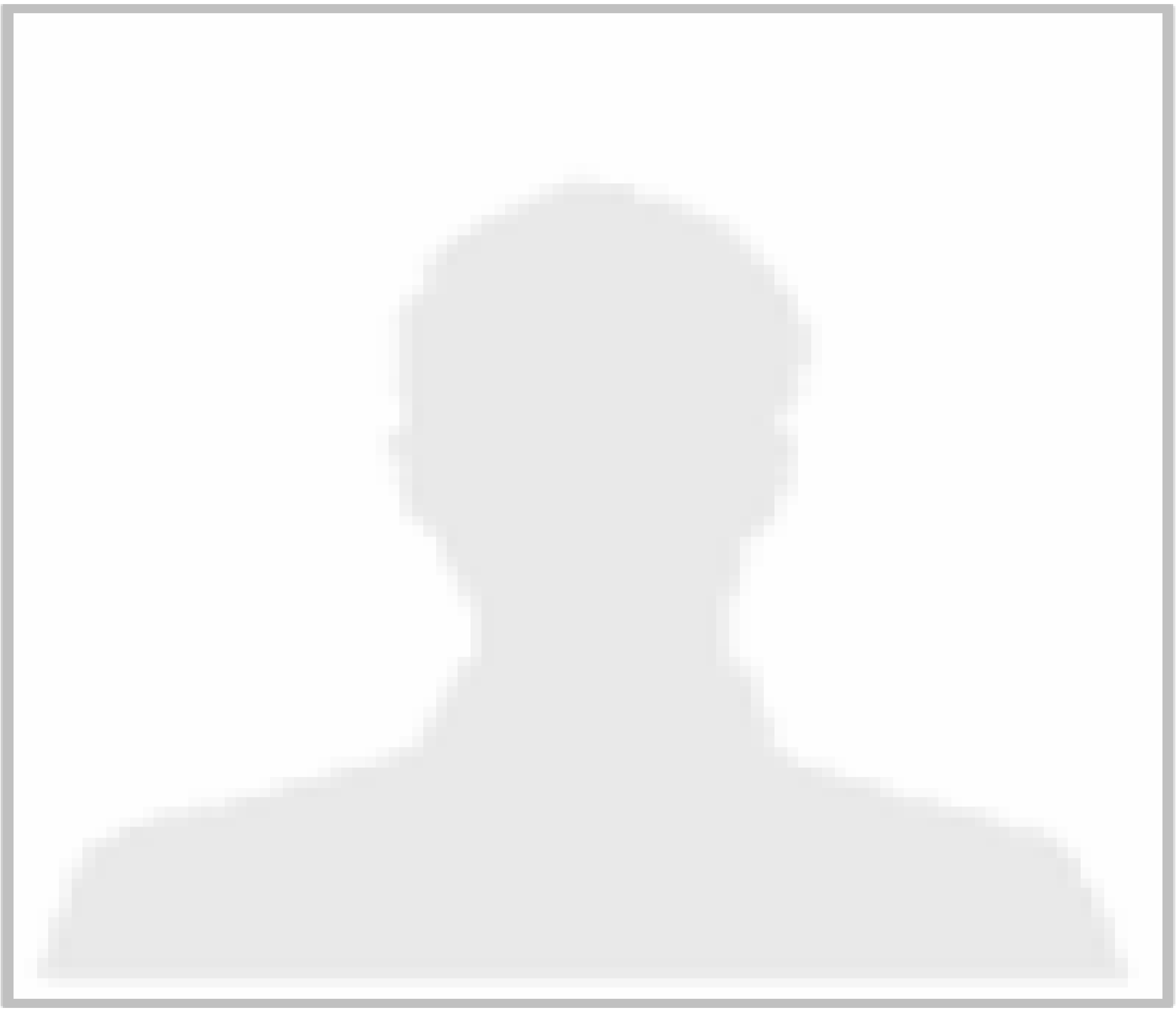


Dr. Hatem Amin Mohammad Abada

Head of Department / Division

dr.hatemamen@gmail.com



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Al-Azhar University – Faculty of Sharia and Law, Tanta, Dakahlia

yaser-elngar.2026@azhar.edu.eg

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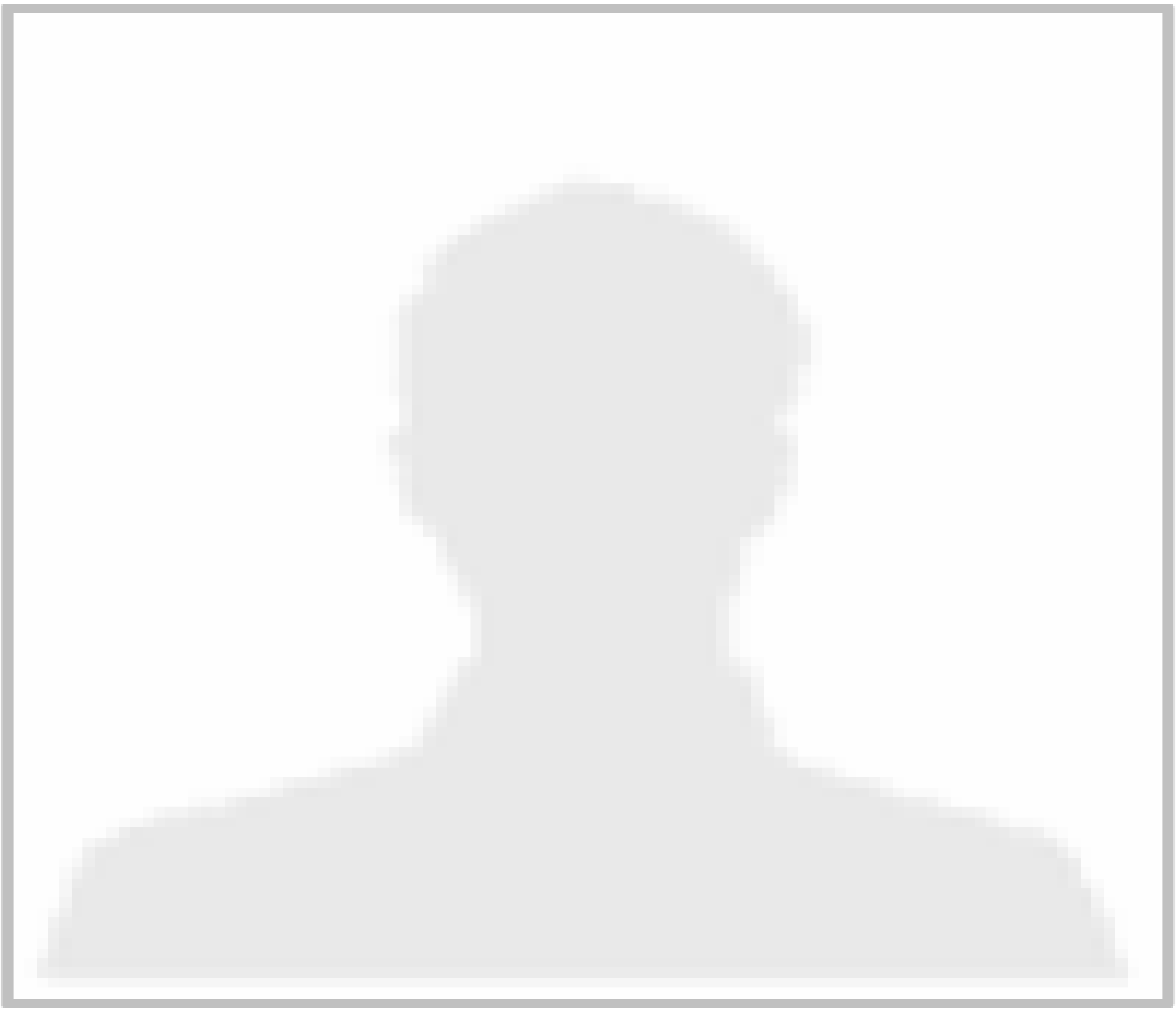

Dr. Ahmed Mohamed Attia Bibrs

Al-Azhar University – Faculty of Sharia and Law, Tanta, Dakahlia

ahamedbibars.31@azhar.edu.eg

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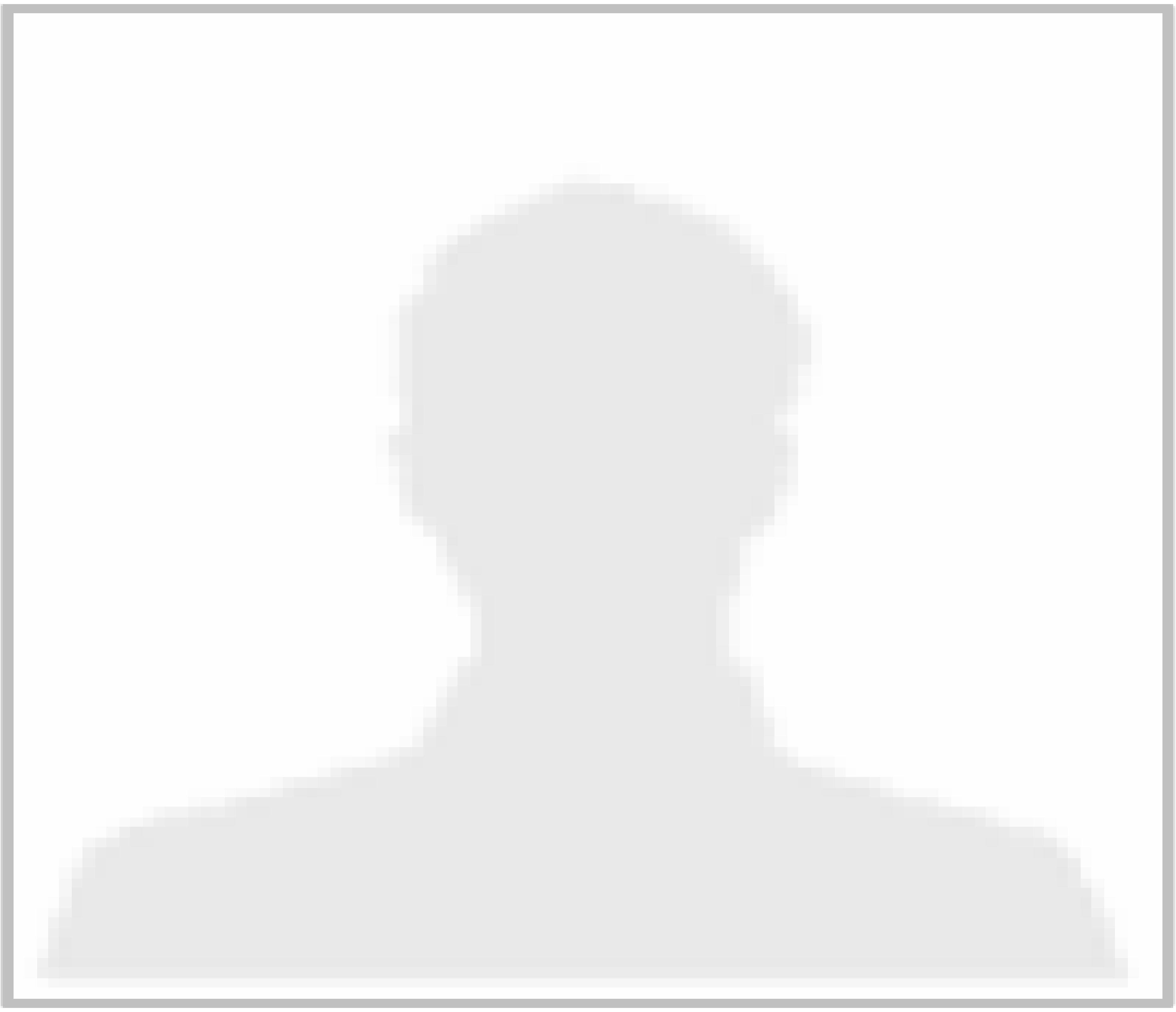

Dr. Amir Mahmoud Al-Sayed

Al-Azhar University – Faculty of Sharia and Law, Tanta, Dakahlia

amidamir72@gmail.com

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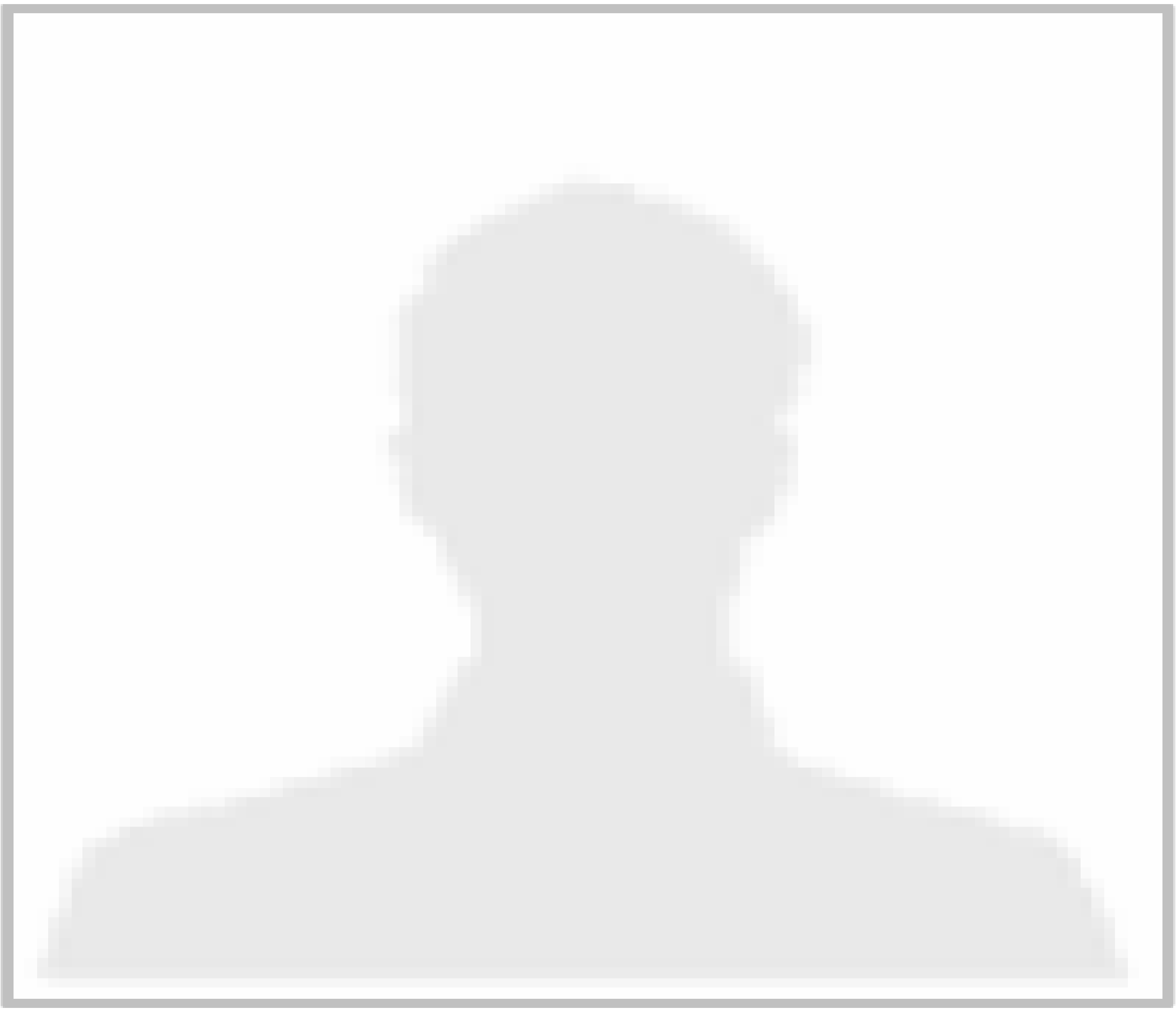

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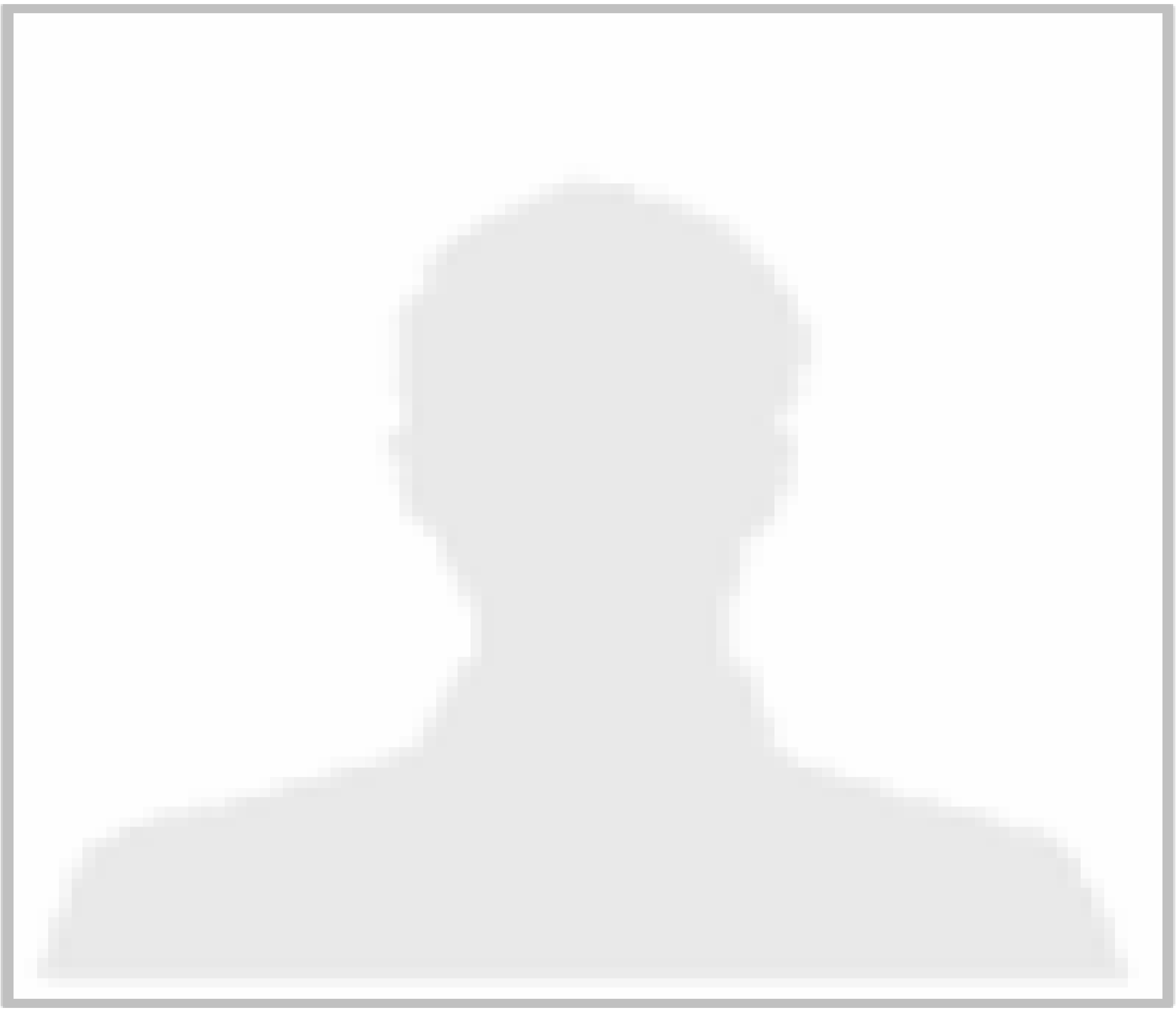

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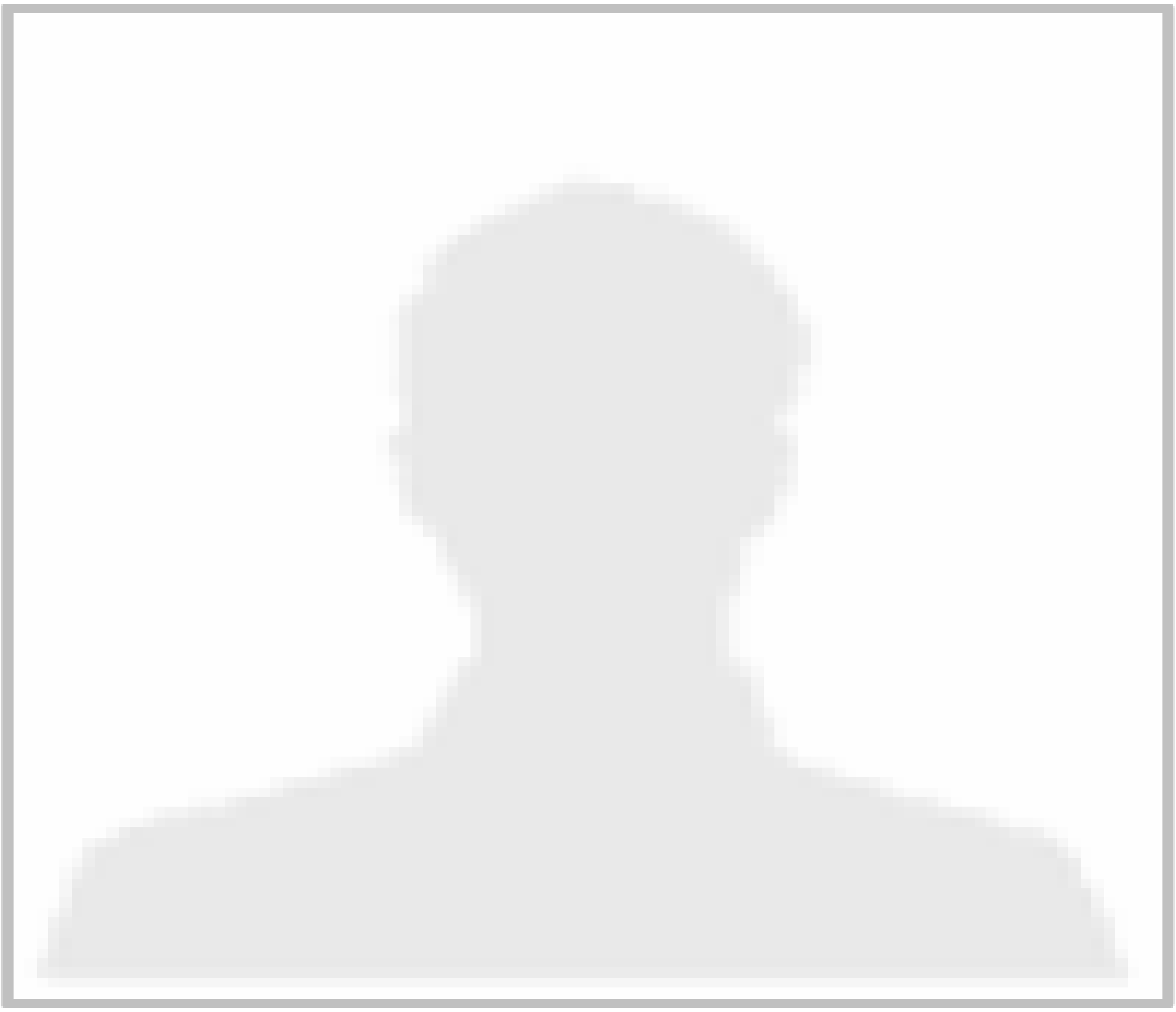
Comparative Jurisprudence

Al-Azhar University – Faculty of Sharia and Law, Tanta, Dakahlia

ahmaelraky12@gmail.com

More



Director

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Al-Azhar University – Faculty of Sharia and Law, Tanta, Dakahlia

sharea_tafhna@yahoo.com

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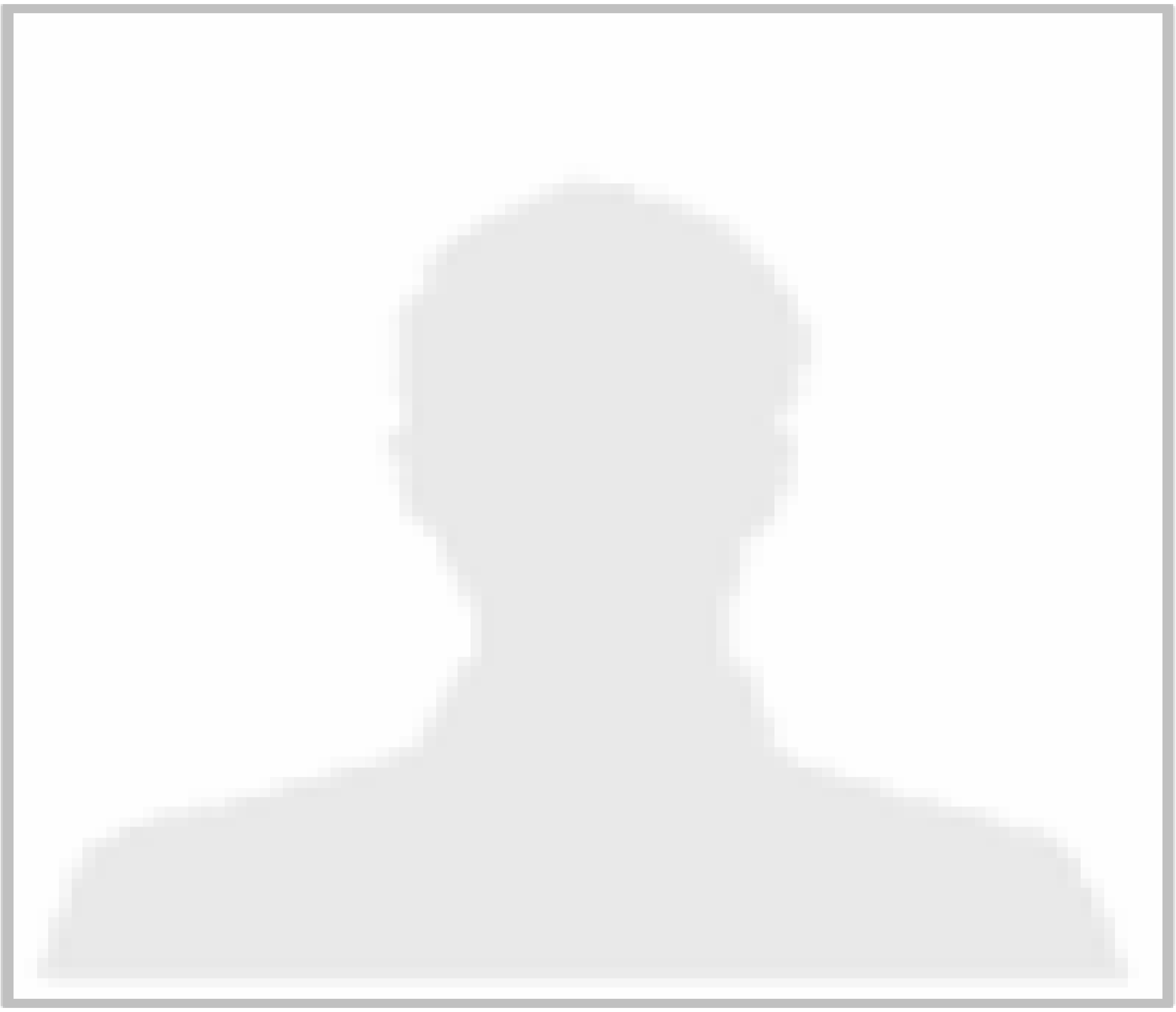

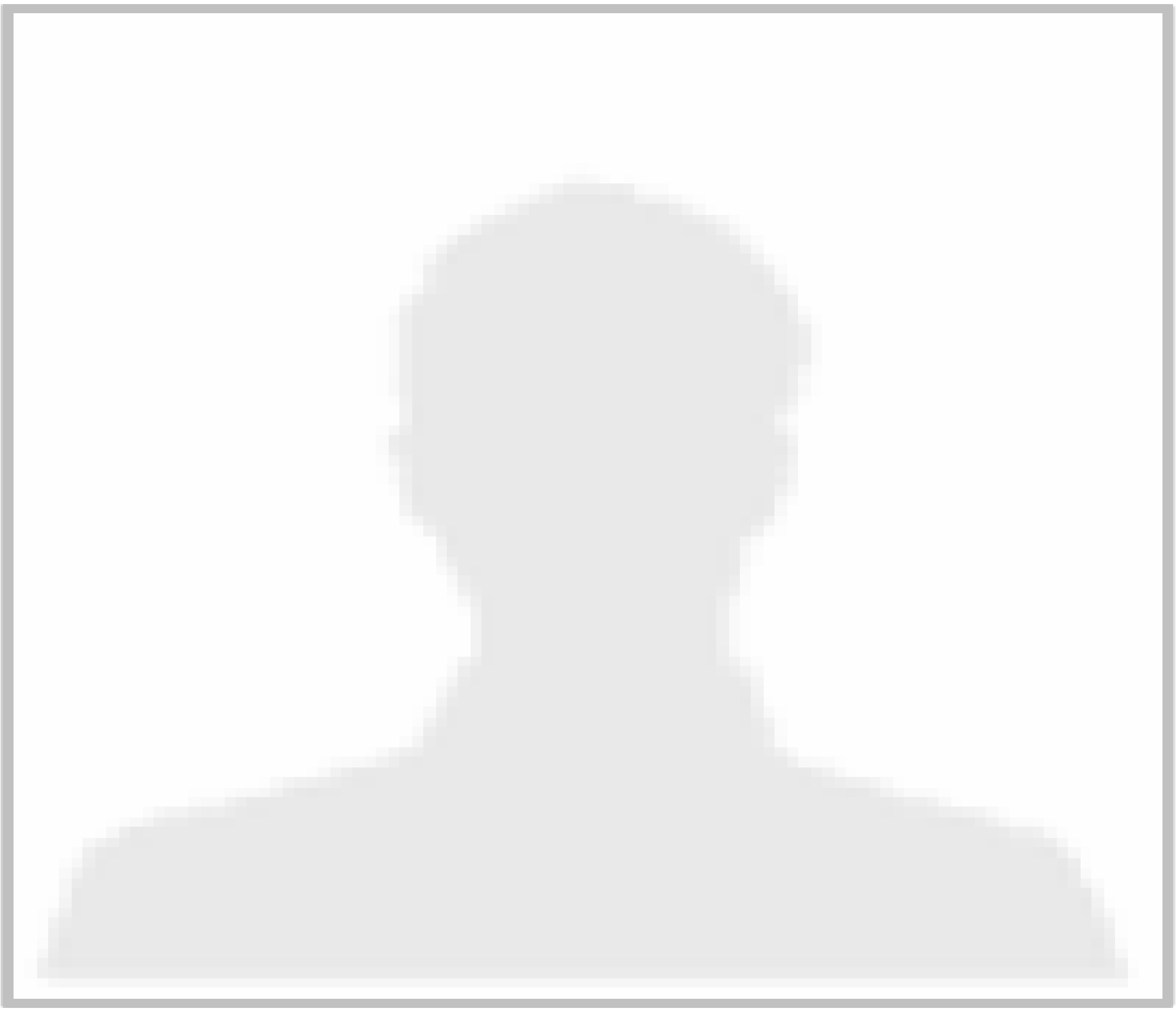

Prof. Mohammed bin Mar‘i Al-Harthi

Jurisprudence and its Principles

Jazan University – Kingdom of Saudi Arabia

qtq506@gmail.com

Publication Ethics

- **Ethics of scientific research for the researcher:**

- The researcher must adhere to the requirements of scientific integrity and the principles of proper documentation, in addition to respecting intellectual property rights by not publishing others' work and attributing it to oneself without acknowledgment. In the case of joint publication, the researcher must obtain the approval of all researchers, and clarify the effort of each participant in preparing the research, and confirm full responsibility for any violation or breach of research ethics in case of dispute.
- The researcher must not submit research that has been previously published wholly or partially in any form, or has been submitted or is under review by any other party. In the case of acceptance for publication, the researcher must not publish it again elsewhere without prior written approval from the journal.
- The research published in this journal reflects the opinions of the researchers and does not necessarily reflect the opinions of the editorial board or the university. The researcher bears full responsibility for the content of the research and for disclosing any conflict of interest arising from it. The researcher must also avoid defamation, slander, or offense toward others, and bears full legal responsibility for that.

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- The reviewer must provide specific comments and suggestions regarding the form, content, title, introduction, methodology, results, and recommendations of the research, and the adequacy of its review and sources, and any errors found. The reviewer must also indicate any scientific or ethical violations, if any, including prior publication, duplication, plagiarism, and scientific theft.

3- **Ethics specific to members of the editorial board:**

The editorial board must ensure the quality of the scientific research submitted for publication and ensure that it is reviewed by qualified individuals in an appropriate manner.

The editorial board must respect any request from the researcher to exclude any reviewer from reviewing his research, provided that the request is justified with reasons. The editorial board must also request all reviewers to disclose any conflict of interest before approving the review and beginning its procedures.

The editorial board must exercise its responsibilities with integrity, objectivity, and fairness, and must not discriminate based on any non-legal considerations. The editorial board must also give researchers the appropriate opportunity to respond to any observations raised about their research.

Peer Review Process

- The Journal of the Faculty of Sharia and Law is committed to implementing supervision with high precision, adhering to the rules of confidentiality and objectivity in the arbitration process for both the researcher and the reviewers. Each research is submitted, regardless of its nature, for peer review by two accredited reviewers who possess expertise and precise specialization in the subject of the research, to evaluate it according to specific criteria. In the event of a discrepancy between the reviewers' evaluations, the journal refers the research to another reviewer.
- The research is sent without mentioning the name of its author or the institution to which he belongs.
- The journal is committed to informing the researcher of approval for publication of the research without modification, or with specific amendments, based on the reviewers' reports, or to apologize for non-publication, with a statement of the reasons for rejection.
- The journal is committed to the quality of technical, editorial, printing, and electronic services provided for the research.
- Respecting the rule of non-discrimination: editors and reviewers evaluate the scientific material of the research according to its intellectual content, while observing the principle of non-discrimination, with adherence to the rules and methodologies of scientific thinking in presenting and evaluating ideas, trends, and topics, discussing them, and analyzing them.

Provisions for the Enforcement of Electronic Arbitration Awards in the Kingdom of Saudi Arabia – A Comparative Study in Islamic Jurisprudence and Regulations –

Turki bin Abdullah bin Aqeel Al-Tayyar Department of Sharia Politics, Higher Institute of the Judiciary, Imam Muhammad bin Saud Islamic University of Riyadh, Riyadh, Kingdom of Saudi Arabia. Email: Dr.turki@al-tayyar.com.sa

Research Abstract

The research addressed the provisions for enforcing electronic arbitration awards in the Kingdom of Saudi Arabia, by clarifying how to enforce arbitration awards issued by specialized arbitration bodies in Saudi Arabia, explaining the conditions for enforcing an electronic arbitration award, and outlining the procedures for executing the arbitration award electronically. In the research, judicial applications were presented on a judicial ruling regarding the non-enforcement of an arbitration award, and on the conditions for filing an arbitration award lawsuit until a judicial order for enforcement is issued. The research also discussed the regulatory controls for enforcing arbitration awards, and the regulatory provisions related to electronic arbitration awards. The study further examined aspects of global development in arbitration processes and the reasons for this development, along with the Saudi legislator's position on this development through regulatory provisions and practical application.

The research concluded that the Saudi legislator has allowed the enforcement of electronic arbitration awards, either through specific provisions or general rules, or through interpreting those provisions and applying them in line with the nature of electronic arbitration awards. It also concluded that the Saudi judiciary is moving towards accepting the implementation of arbitration awards electronically, especially in light of digital transformation and the increasing reliance on electronic litigation platforms affiliated with the Ministry of Justice. Electronic arbitration awards have indeed been issued and enforced before Saudi courts. The study recommended activating some provisions for enforcing foreign arbitration awards, unifying judicial efforts, accelerating procedures related to foreign transactions, and the necessity of issuing any electronic arbitration award intended for enforcement within the Kingdom of Saudi Arabia.

Regulatory provisions concerning highlighting forms of forgery that occur on electronic documents, particularly electronic arbitration awards.

Keywords: provisions, enforcement of electronic arbitration, Islamic jurisprudence, regulations.

Provisions of Enforcement of Electronic Arbitration Award in the Kingdom of Saudi Arabia - A Comparative Study in Islamic Jurisprudence and Regulations ============== Turki bin Abdullah bin Aqeel Al-Tayyar Department of Sharia Policy, Higher Institute of Judiciary, Imam Muhammad bin Saud Islamic University in Riyadh, Riyadh, Kingdom of Saudi Arabia. E-mail: Dr.turki@al-tayyar.com.sa Abstract The Scientific research dealt with the provisions for implementing an electronic arbitration award in the Kingdom of Saudi Arabia in terms of determining the competent authority to implement the electronic arbitration award in Saudi Arabia, And statement of the conditions for implementing the electronic arbitration award and a In the research, judicial applications were developed on a judicial ruling not to implement an arbitration award, on the conditions for depositing the arbitration award until the request to implement the arbitration award is accepted, and on the conditions for implementation. statement of the procedures for implementing the electronic arbitration award In the research, I relied on the statutory texts and downloading the statutory provisions into the electronic arbitration ruling. In the research, I showed the forms of global development in arbitration processes, the reasons for this development, and Saudi Arabia's keeping pace with this development through its various systems. The research revealed that the Saudi regulations did not address the implementation of the electronic arbitration award with special provisions, but rather with general provisions

We understand that the Saudi regulations, with their general rules and provisions, allow the implementation of an electronic arbitration award to be included in their texts The practical reality in the past few years has increasingly moved towards issuing electronic arbitration awards and even implementing them completely electronically via the Najez platform of the Ministry of Justice. And that electronic arbitration awards have been issued and orders for their implementation have been issued by the Saudi Courts of Appeal, and I recommended that a regulatory addition pertaining to the provisions for implementing electronic arbitration awards be absolutely based on all jurisprudence. And taking into account the electronic transactions system before issuing any electronic arbitration award that is intended to be implemented in the Kingdom of Saudi Arabia. With a regulatory addition related to highlighting the forms of forgery that occur on electronic documents, especially electronic arbitration awards. Keywords: Judgments, Implementation, Electronic Arbitration, Islamic Jurisprudence, Regulations.

Introduction

Praise be to Allah, Who says: "Today I have perfected for you your religion and completed My favor upon you and have approved for you Islam as religion" [Al-Ma'idah: 3]. And peace and blessings be upon the Messenger of Allah and after:

Global development in fields and activities related to technology and the internet continues, with multiple technical developments overlapping, and electronic fields have emerged that did not exist before the internet. Electronic commerce has become a major part of it, as well as the practice of electronic commerce and the conclusion of its contracts. Sometimes disputes arise between its parties, and some litigants resort to judicial authorities, which in most cases take a long time to issue a judgment. This may lead to disruption in dealing and separation between its parties.

With the spread of electronic commerce via the internet in a significant way, another problem has emerged, which is the lack of specialization in resolving disputes related to electronic commerce contracts. Therefore, it has become necessary for what is known as "electronic arbitration" to appear as a new term for resolving disputes related to the existence of electronic commerce. This is due to the presence of specialized individuals in the field of electronic commerce and their role in arbitration related to it, where disputes arise from electronic commerce contracts and traditional commercial disputes that may arise from consumer contracts, insurance, banking transactions, or intellectual property rights.

Therefore, electronic arbitration has become one of the most important features of electronic commerce, due to the time and expense savings it provides, which have a significant impact on commercial transactions.*(1)*

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(1) See: *Electronic Commercial Arbitration by Prof. Dr. Majid Hamad Al-Hamoudi, pp. 12, Dar Al-Fikr Al-Jami'i, first edition, 2013.*

However, electronic arbitration is not limited to dealing with electronic commerce contracts only; rather, it extends to include even traditional commerce contracts, as the practical reality includes many electronic arbitration processes for many traditional commerce contracts.

In this research, we will examine the legislation and regulations related to enforcement in the Kingdom of Saudi Arabia, and through their texts, we will identify the mechanisms and provisions for enforcing electronic arbitration rulings, and we will outline the conditions and procedures for enforcement.

Reasons for choosing the research are:

1. The novelty of this topic.
2. I have not found anyone who has addressed this topic according to modern Saudi regulations.
3. The importance of the research in light of modern global technological developments.

From here, we understand the importance of the research, which is reflected in clarifying the provisions related to the enforcement of electronic arbitration rulings in light of these new regulations in Saudi Arabia.

And by reviewing previous studies, I found that most of the books and research that dealt with this topic were either written according to non-Saudi regulations or addressed the topic in a general manner. Among the works found on this subject from the perspective of non-Saudi laws are: the book *Legal Regulation of Electronic Arbitration* by the author Dr. Abdul Basir Abdul Qawi, and the book *Electronic Arbitration in Electronic Commerce* by the author Amina Khalifa, and the book *Electronic Arbitration in International Trade Contracts* by the author Dr. Khaled Mamdouh.

Electronic Arbitration in International Trade Contracts, Dr. Khaled Mamdouh, pp. 41–42
Dar Al-Fikr Al-Jami'i, Alexandria, first edition, 2007.

This research aims to present the sources of electronic arbitration globally and the provisions for enforcing electronic arbitration awards in the Kingdom of Saudi Arabia in light of modern regulations, particularly in aspects of jurisdiction in enforcement and the conditions and procedures of enforcement.

Among the difficulties I faced while preparing this research is the lack of specialized writings on this topic according to the modern Saudi regulations, and that the provisions related to it are scattered across different regulations and need consolidation.

Research Methodology:

The research is based on the inductive approach to the legal texts related to this topic, and the analytical approach in interpreting the purposes of these legal texts and linking them to the subject. It also compares the provisions of electronic arbitration and clarifies the concept of electronic arbitration, and identifies the competent court for enforcing electronic arbitration awards, as well as the procedures and conditions for enforcing electronic arbitration awards.

This research will address the most prominent issues, which are the problem of enforcing national or foreign electronic arbitration, the issue of limiting the conditions that must be met for enforcement, the issue of the procedures for enforcing electronic arbitration awards, and the problem of reviewing and limiting the legal texts and regulations that govern the subject of the research, as well as determining the competent court for enforcing national and foreign electronic arbitration.

These are the most important issues addressed by the research. Before beginning the discussion of its topics, I would like to thank everyone who assisted me in preparing this research with guidance and advice.

After that, we move on to detailing the sections and requirements of the research, as follows:

Preliminary Study

Definitions and Sources of Electronic Arbitration

First Requirement

Definitions

In this requirement, we will discuss defining the vocabulary of the research topic, then we will proceed to define the title of the research as a compound term, saying:

The definition of the singular "Ahkam" (provisions): "Ahkam" is the plural of "hukm" (judgment), and in the term "hukm" there are definitions that are close in meaning. Among them is what is stated in the dictionary: "hukm" (with a dammah on the ha') is derived from "hakama" (he judged), meaning he prevented; "hakama" (he judged) between people, meaning he judged between them; and "hukm" (judgment) is also used in the sense of knowledge, wisdom, and judgment; and "hukm" (judgment) is also used for matters. It is also said: "hakama" (he judged) between people by a judge, that is, he made him a judge; and "hakkamahu" (he appointed him as a judge), meaning he delegated judgment to him.

And "hukm" (judgment) is established by appointing the judge and making him a ruler over the people; and "hakkamahu" means he made him a judge and referred to him. And "hakama" is also used in the sense of restraining and preventing. It is also said: "hakama" the animal, meaning he restrained it; and "hikmah" (wisdom) is also used in the sense of restraint and prevention.*(1)*

And "hukm" in the terminology of jurists: they said: "hukm" is the attribution of one matter to another either affirmatively or negatively. This excludes what is not a judgment, such as a relative attribution. And the legal ruling (al-hukm al-shar'i) is:

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(1) Mukhtar Al-Sihah by Imam Zain Al-Din Abu Abdullah Muhammad bin Abi Bakr bin Abdul Qadir Al-Razi, edited by Youssef Al-Sheikh Muhammad, Al-Maktabah Al-Asriyyah – Model House, Beirut – Sidon, Fifth Edition, 1420 AH / 1999 CE.

A ruling is applied to the actions of those legally responsible.*(1)*

And the ruling in **judicial terminology** is understood by some as the declaration of the judge's opinion in the use of his judicial authority, i.e., the judge issues the ruling whether it is guaranteed or not. Others see that every decision issued by the court in a dispute, according to the rules of issuing judgments, is known in jurisprudence as a ruling. It is also said that it is a decision issued by a competent court in a specific dispute brought before it, according to the rules and procedures defined in the regulations. And it is also said that it is every final decision issued by the court by virtue of its judicial authority, ending a specific dispute.*(2)*

The definition of the term "implementation" (tanfeeth): from the root (n-f-dh), which means to pass through or penetrate. It is said: the matter has been carried out, and "nafadha" (it was executed), and "anfadhahu" (he executed it) also means to enforce it. It is also said: "nafadha" (it was executed) strictly. And the command "anfidh" means: carry out or execute.*(3)*

And the definition of **execution in terminology**: it is intended by jurists of Islamic law with several meanings, and the closest of what was stated by them to the subject of this research is the definition of execution as: obtaining the right from the one upon whom it is due, by compulsion, and delivering it to the one entitled to it.*(4)*

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(1) Book of Definitions, author: Ali bin Muhammad bin Ali Al-Sharif Al-Jurjani, p. 92, verified, edited, and authenticated by a group of scholars, Dar Al-Kutub Al-Ilmiyyah, Beirut, Lebanon, first edition, 1403 AH – 1983 CE.

(2) Electronic Legal Encyclopedia: www.elmodawanaeg.com

(3) Mukhtar Al-Sihah by Al-Razi, p. 5

(4) Execution of Foreign Judgments in the Kingdom of Saudi Arabia, Dr. Abdullah Al-Khudairi, p. 11, publisher: Saudi Center for Commercial Arbitration, 2011.

What is meant by execution according to jurists of law is: "Compulsory execution is the execution carried out by the public authority in the state by coercion against the debtors, under the supervision of the execution judge and his oversight."*(1)*

And the singular of arbitration in language: "ḥ-k-m" (arbitration) [singular]: plural: arbitrations (non-binding arbitrations): 1- The source of a judicial arbitration ruling; the term "arbitration": a body or committee undertakes arbitration in disputes without resorting to the judiciary, and between disputing parties, and in sports competitions and the like.*(2)* It is also said: judgment is cutting off the dispute between people, so it is said: he judged against him, and ruled for him; and judgment completes and ends the matter. And it is also said: he made wisdom for the group, so whoever is given wisdom has been given abundant good.*(3)*

And in the terminology of Islamic jurists: **Secondly**: "arbitration": a source – defined as appointing two persons as a judge between them (Al-Nashr Al-Thani) – in the journal (p. 179): it is the agreement of the two disputing parties to appoint a judge by their consent to settle their dispute and claims.*(4)*

Attributed to His Excellency Sheikh Abdullah bin Zaid bin …

(1) *Article: Compulsory execution by Dr. Zain Al-Abidin Sharar, published on the website of the Qatari International Center for Conciliation and Arbitration* https://www.qicdrc.gov.qa/media-center/news/mqalt-d-zyn-alabdyn-shrar-altnfydh-aljbry

(2) *Dictionary of Contemporary Arabic Language by Dr. Ahmed Mukhtar Abdel Hamid Omar, p. 528, World of Books, first edition, 1429 AH / 2008 AD.*

(3) *Al-Mu'jam Al-Wasit for authors, Arabic Language Academy in Cairo (Ibrahim Mustafa / Ahmed Al-Zayyat / Hamid Abdel Qader / Muhammad Al-Najjar), p. 109, publisher: Dar Al-Da'wah.*

(4) *Jurisprudential Dictionary: language and terminology by Dr. Saadi Abu Jaib, p. 96, Dar Al-Fikr, Damascus, second edition 1408 AH / 1988 AD.*

And in the terminology of arbitration centers: "An agreement to resolve disputes that arise or may arise between parties in a specific dispute through arbitrators chosen by the will of the disputing parties to decide them instead of resolving them through the competent judiciary."(1)

It has also been stated that it is: "An internationally recognized means for settling disputes outside the state judicial system."*(2)* It has also been stated that it is: "A system through which disputes can be resolved, especially commercial disputes among businessmen, by individuals who are not affiliated with the judicial courts."*(3)*

And in the terminology *(4)*of the Saudi Arbitration Law: "Arbitration" – closest to the phrase "arbitration body": it is the arbitrator, the individual or group of arbitrators, who decides the dispute referred to arbitration.*(5)*

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(1) *Saudi Center for Commercial Arbitration – electronic website https://www.sadr.org/ADRService/arbitration-arbitration-FAQs*

(2) *Cairo Regional Center for International Commercial Arbitration – electronic website https://crcica.org/ar/arbitration*

(3) *Sharjah International Commercial Arbitration Center – electronic website https://www.tahkeem.ae/ar/arbitration*

(4) *Royal Decree No. (M/34) dated 24/5/1433 AH, published in Umm Al-Qura Newspaper (the official gazette) Issue No. (4423) dated 8/6/1433 AH corresponding to 2012/6/8*

(5) *The text of Article One: "Unless the context requires otherwise, the following words and expressions shall have the meanings assigned to them:"*

And the singular of "electronic" in language: it was stated in its definition: "electronic" [singular]: electronics; a name attributed to the electron. Computer: an electronic computer; electronic mind; electronic calculating machine (computer)… electronics: a branch of physics that deals with electrons and their effects and the use of electronic tools; electronic programming; electronic mail; electronic card; electronic writing; electronic preservation; electronic signature; electronic names; electronic technology; electrons… electronic charge; electronic systems; electronic devices; means of expression; electronic media; electronic brain: an electronic (sensory) device; electronic device includes a group of machines that substitute for the human brain in solving the most complex operations.*(1)*

And the singular of "electronic" in terminology:

In the terminology of the Saudi Electronic*(2)* Transactions Law: "electronic" means: a technology that uses electrical, electromagnetic, optical, or any other similar means.

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(1) *Arbitration agreement: an agreement between two or more parties to replace arbitration with resolving all or some of the disputes that have arisen or may arise between them in relation to a specific contractual or non-contractual legal relationship, whether contractual or non-contractual. It may be in the form of an arbitration clause included in a contract, or in the form of a separate arbitration agreement. 2- Arbitration body: the sole arbitrator or a group of arbitrators who decide the dispute referred to arbitration.*

(2*) Dictionary of Contemporary Arabic Language by Dr. Ahmed Mukhtar Abdel Hamid, p. 111.*

(3) *Issued by Royal Decree No. (M/18) dated 8/3/1428 AH, published on the website of the Bureau of Experts at the Council of Ministers: https://laws.boe.gov.sa*

National Center for Documents and Archives website: https://ncar.gov.sa and similar technical means,(1) and in the Saudi Anti-Cybercrime Law.(2)

(1) Article One and its text: “The words and expressions stated in this Law shall have the meanings indicated before each of them, unless the context requires otherwise:

1- The Ministry: Ministry of Communications and Information Technology.

2- The Minister: Minister of Communications and Information Technology.

3- The Commission: Communications and Information Technology Commission.

4- The Governor: Governor of the Commission.

5- The National Committee: National Committee for Information Security.

6- The Center: National Center for Digital Certification.

7- Computer: any electronic device, fixed or mobile, wired or wireless, that contains a system for processing, storing, or sending data, or that performs logical or arithmetic operations, or that stores data, or uses any of the technical means.

8- Network: a connection between more than one computer or computer system, or any means that allows the exchange of data or information between them.

9- Electronic system: any set of programs and devices designed for processing and managing data.

10- Electronic transactions: any exchange, transmission, or reception of data between two or more parties using electronic means.

11- Electronic data: data that has electronic characteristics in terms of form or content, including numbers, symbols, or codes, whether texts, images, or sounds.

12- Electronic signature: any letters, numbers, symbols, sounds, or processes attached to or logically associated with an electronic record, used to identify the signer and indicate his approval of the content.

13- Electronic record: data that is created, stored, sent, or received by electronic means and is capable of being retrieved in a perceivable form.

14- Electronic authentication certificate: an electronic document issued by a certification service provider to prove the identity of a person and link it to a specific electronic signature.

15- Electronic signature verification system: a system used to verify the validity of the electronic signature.

16- Electronic certification service provider: any person or entity licensed to provide electronic certification services.

Several terms were mentioned that fall under the concept of the term “electronic,” and among them the concept of “electronic” in the regulation, which are:

1- Information system: a set of programs and prepared tools for processing data and managing it, and includes computers.
2- Information network: a connection between two or more computers or any information system to obtain data and exchange it, such as private networks and the global network (the Internet).
3- Data: information, commands, messages, sounds, or images that have been prepared or previously prepared for use in the computer, and everything that can be stored, processed, and transferred by the computer, such as numbers, letters, symbols, and others.
4- Computer programs: a set of commands and instructions that include applications or systems that are installed on the computer or computer networks.
5- Computer: performs the required function; the computer: any electronic device, fixed or mobile, wired or wireless, that contains a data processing system.

An electronic signature is performed electronically on an electronic transaction using an electronic signature system.
17- Digital certification certificate: an electronic document issued by a certification service provider, used to confirm the identity of the person holding the electronic signature system, and contains the signer’s identification data.
18- Certification service provider: a person who provides electronic certification services, including providing certification certificates or any other services related to electronic signatures.
19- Signer: a person who performs an electronic signature.
20- Non-intermediary: a person who sends an electronic transaction.
21- Recipient: a person to whom the electronic transaction is directed.

And it was stated that:

(1) *Issued by Royal Decree No. (M/18) dated 8/3/1428 AH, published on the website of the Bureau of Experts at the Council of Ministers: https://laws.boe.gov.sa*

National Center for Documents and Archives website: https://ncar.gov.sa or storing it, or sending it, or receiving it, or displaying it, performs specific functions according to the programs and commands assigned to it.

7- Unauthorized access: the entry of a person in a deliberate manner into a computer, or an electronic site, or an information system, or a computer network, without authorization or with exceeding the authorization granted to him, and any act resulting from this entry that leads to damage or misuse of the computer or the information network, in violation of the provisions of this regulation.

8- Electronic site: a place for making data available on the information network through a specific address.*(1)*

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(1) *Article One and its text: "The words and expressions mentioned in this regulation shall have the meanings assigned to each of them, unless the context requires otherwise:*

The person: any natural or legal person.

Information system: a set of programs and tools prepared for processing data and managing it, and includes computers.

Information network: a connection between two or more computers or any information system to obtain data and exchange it, such as private networks and the global network (the Internet).

Data: information, commands, messages, sounds, or images that have been prepared or previously prepared for use in the computer, and everything that can be stored, processed, and transferred by the computer, such as numbers, letters, symbols, and others.

Computer programs: a set of commands and instructions that include applications or systems that are installed on the computer or computer networks.

Computer: performs the required function; the computer: any electronic device, fixed or mobile, wired or wireless, that contains a data processing system.

or storing it, or sending it, or receiving it, or displaying it, performs specific functions according to the programs and commands assigned to it.

Unauthorized access: the entry of a person in a deliberate manner into a computer, or an electronic site, or an information system, or a computer network, without authorization or with exceeding the authorization granted to him, and any act resulting from this entry that leads to damage or misuse of the computer or the information network, in violation of the provisions of this regulation.

Electronic site: a place for making data available on the information network through a specific address.

From what has been mentioned regarding the definition of the term “electronic” in language and regulations, we see that the linguistic and regulatory definitions do not go beyond defining this term in a technical manner only. It has been shown that this term, within its limits as mentioned, does not carry a special meaning in language or in Islamic jurisprudence or regulatory jurisprudence.

Definition of electronic arbitration: jurists of law have differed regarding the definition of electronic arbitration, and the reason for that is the novelty of this subject. The researcher sees that the means used in the arbitration agreement and procedures are what gives it the electronic characteristic. From this perspective, electronic arbitration is defined as the process in which arbitration is conducted through electronic means, which is the determining criterion of the electronic nature, such that the dispute arises due to an activity or a relationship concluded through electronic means.*(1)*

And what is carried out through electronic means in terms of activities and deals that arise from them is electronic arbitration: electronic commerce contracts. Electronic commerce is defined as: the use of modern technological means such as the Internet and other electronic means in concluding transactions, contracts, marketing, and the exchange of information.

And the Saudi system has approved electronic contracts, and the text of the tenth article states:*(2)*

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“Viewing the data, (3)or obtaining it without a valid authorization.”

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(1) See: Legal Regulation of Electronic Arbitration by Prof. Dr. Abdel Sabour Abdel Qader, p. 2.

(2) See: Electronic Arbitration and Means of Proof in Electronic Commerce Contracts by Dr. Saad Ghanem Al-Omari, p. 3, Dar Al-Kutub Al-Masriya, Cairo, first edition 2018.

(3) Jurists of law have differed regarding the legal nature of electronic contracts, and this goes back to how they are concluded.

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The Saudi Electronic Transactions Law states in Article (6): "It is permissible to express offer and acceptance in contracts by means of electronic dealings, and the contract shall be valid and enforceable if it meets the conditions stipulated in this law."

2- The contract is concluded remotely or subsequently.

The localization of legal relations that take place via the electronic network, and regarding it, jurists have adopted the criterion of definition into two types: the first: the legal criterion, which is defined by the state to which the internet network belongs, and the service provider for subscription to the network, which is a global state, and the company that processes the data and enters it into the network and analyzes it through that state. This is because it does not follow any specific state, nor does it take the nationality of a specific state, and this is considered one of the legal criteria.

As for the second criterion: it is the economic criterion for the contract internationally, if the contracting parties are in several states. As for the economic criterion for the contract internationally, it means the flow of money resulting from international contracts in the trade of goods, products, and services, and this requires the application of the legal criterion and the economic criterion to determine the international nature of the contract.

As for the second type: contracts that are at the level of all their elements in one state, such as the parties, the subject, and the implementation of the contract, all in one state. Jurists have distinguished between internal and international trade, as the latter is concluded via global networks in a special system, and does not recognize geographical borders, and the electronic contract is concluded without a specific place, since it takes place via the internet.

It has also been shown that the internet network is not limited by borders, and the contracts concluded through it do not take place within specific geographical limits, and exceed the jurisdiction of the state in all relations that take place through it, and the contract that takes place through the network is valid despite the absence of a specific place for execution, as long as there is consent, and if the data is entered into it, it is considered valid, as well as the field in which it operates through this network and in a digital manner, and this enables any person connected to this network to benefit from its services provided through it, and therefore the international nature of the contract results from the existence of the global network, and it has been found that the means used have changed the legal concepts that were established by international law, and new means have emerged that produced these relations between the parties in a virtual world.

See: Electronic Arbitration by Prof. Saad Al-Omari, pp. 29–30.

for execution merely, if it is done by means of a single or more electronic record.(1)

And the regulator stipulated conditions for the validity of this electronic contracting, as stated in Article Eleven of the Saudi Electronic Transactions Law, which says: "It is permissible for contracting to take place through electronic data systems automatically or directly between two electronic data systems, one or more, that are prepared and programmed to carry out such tasks without human intervention. The contract is considered valid and enforceable if the conditions stipulated in the law are met, despite the absence of direct intervention by any natural person in the process of concluding the contract.
2- It is permissible for contracting to take place between an electronic data system and a natural person, if that person knows or is supposed to know that he is dealing with an automated data system, and that it will carry out the process of concluding or executing."

And regarding the definition of electronic arbitration, we say that from what has been mentioned in its definition:
"That it is arbitration whose procedures are carried out through the international communications network without the need for physical presence of the parties to the dispute and the arbitrators in a specific place."(2)

And it is also said that it is: "arbitration whose procedures are carried out through an international communications network by visual or audio means without the need for the physical presence of the parties to the dispute and the arbitrators in a specific place."(3)

And based on what has been mentioned, it is possible for us to say in defining our research topic in a composite form that it is:

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(1) *Published on the website of the Bureau of Experts at the Council of Ministers:*
https://laws.boe.gov.sa
Published on the website of the National Center for Documents and Archives:
https://ncar.gov.sa

(2) *See: Electronic Arbitration in Electronic Commerce by Prof. Ayman Janabi, p. 189, Dar Al-Fikr, Cairo, 2014.*

(3) *See: Legal Regulation of Electronic Arbitration by Prof. Abdel Sabour Abdel Qader, p. 24.*

It is: the flow of rules, commands, and directives derived from its sources that are considered binding upon the arbitrator in issuing a final judgment from an arbitration body, implementing the operative part of the judgment in the form and manner of non-traditional technical procedures (paperless).

Second Requirement
Sources of Electronic Arbitration

Jurists of law have differed regarding the issue of its place and merit, and the successive developments in electronic arbitration; some see that they are historical stages from which electronic arbitration emerged, while others see that they are sources of electronic arbitration,(1) and we see that combining the two opinions is preferable, so that agreements, laws, and international organizations, virtual judiciary, electronic court, and the system for settling disputes among debtors, and centers for settlement and management of disputes, are considered stages through which electronic arbitration has passed and developed, and there is no doubt that electronic arbitration is linked to these stages or some of them in its mechanism and procedures.

These sources of electronic arbitration are divided into the following branches:

First Branch
International Agreements, Laws, and Organizations

International arbitration has been established globally through the conclusion of many international agreements related to

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(1) See: Electronic Arbitration by Prof. Saad Al-Omari, p. 18; Electronic Arbitration by Dr. Khaled Mamdouh, p. 35; Legal Regulation of Electronic Arbitration by Prof. Abdel Sabour Abdel Qader, pp. 31–33.

Arbitration in its traditional form was preceded by the United Nations' initiative to conclude the Geneva Protocol in 1923 regarding the recognition of the validity of the arbitration clause, as well as the conclusion of the Geneva Convention in 1927 concerning the enforcement of foreign arbitration awards. Then the United Nations intervened in 1958 in New York to establish the New York Convention on the recognition and enforcement of foreign arbitration awards, which entered into force in 1959. This convention represents an internationally recognized system concerning the review, enforcement, and annulment of foreign arbitration awards by national courts, and it also provides for the recognition by national courts of the validity of arbitration agreements and the obligation of the parties to resort to arbitration in case of their agreement on that. Saudi Arabia ratified it in 1414 AH.*(1)*

The European Convention on International Commercial Arbitration was adopted in Geneva in 1961 within the framework of the Economic Commission for Europe affiliated with the United Nations, and the Investment Disputes Settlement Convention among member states was concluded in 1965 within the framework of the World Bank for the establishment of the International Centre for Settlement of Investment Disputes, and it entered into force in 1966.(2)

Saudi Arabia also became a party to more than one international arbitration convention, and Saudi Arabia also acceded to the Riyadh Arab Convention for Judicial Cooperation in 1406 AH – 1985 AD. The Riyadh Convention stipulates the recognition of all judicial judgments and arbitration decisions and their enforcement among Arab states. Saudi Arabia also acceded to the Convention on the Enforcement of Judgments, Judicial Delegations, and Notifications among the states of the Gulf Cooperation Council in 1418 AH – 1997 AD, which was ratified by all GCC countries.

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(1) *See: Saudi Center for Commercial Arbitration – electronic website https://www.sadr.org/About-ADR.im.sa-History*

(2) *See: Electronic Arbitration by Prof. Saad Al-Omari, p. 18; Electronic Arbitration by Dr. Khaled Mamdouh, pp. 205–222.*

This convention stipulates the recognition of all judicial judgments and arbitration awards and their enforcement without re-examining the subject matter of the case.*(1)*

The expansion of international interest in arbitration did not stop at what we have mentioned, but extended to electronic arbitration by issuing laws that allow parties to resort to the internet network, as adopted by the European Union, which recommended allowing resort to electronic commerce networks. This recommendation speaks about allowing member states, in the event of a dispute between information service providers and users, to settle these disputes outside the courts using electronic means. The European Union also directed member states to allow service providers to present their services in their countries without the need for prior authorization, using electronic means, including electronic dispute resolution. This was included in Directive No. 2000/31, which allows member states to enable information service providers and users to settle their disputes away from courtrooms, using directed messages in the electronic world.*(2)*

This committee also issued a special committee for disputes — especially those arising between consumers — by adopting a set of directives regarding dispute resolution along electronic lines, including:

1. Establishing a European network for direct online dispute resolution, and resolving all consumer disputes in Europe, especially in the services sector.
2. The principles that member states must observe when settling disputes.

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(1) See: Saudi Center for Commercial Arbitration – electronic website
https://www.sadr.org/About-ADR.im.sa-History

(2) See: Electronic Arbitration by Dr. Khaled Mamdouh, pp. 259–260.

their disputes via the Internet, and the aim of this recommendation is to address the deficiency in Recommendation No. 257/98, which sets out guiding steps to provide better protection for the European consumer in his transactions over the Internet.*(1)*

At the level of international organizations, we find that the World Intellectual Property Organization (WIPO) has worked on developing and activating the arbitration system related to electronic commerce, to regulate disputes especially related to intellectual property and domain names, and commercial trademarks.*(2)*

The issue of resolving commercial disputes related to intellectual property rights is considered very important due to its speed, lower cost, and the provision of alternative solutions to lengthy and costly judicial methods for the parties. The need for this has emerged in recent years after the increase in the number of electronic contracts, and the establishment of WIPO as a specialized body to resolve the aforementioned disputes for individuals and companies around the world, and WIPO has a long list of specialists including arbitrators and mediators in this field, numbering about 1500 experts, and these countries adopt laws (WIPO rules) in dispute resolution methods, and often these methods are followed in many countries, and they have a great importance as alternative methods, especially for companies that seek to avoid entering into long and costly disputes, especially at the international level.*(3)*

WIPO has become well-known as the organization that provides its rapid services in resolving disputes related to registration, or misuse of domain names on the Internet.

(*1) See: Electronic Arbitration in International Trade Contracts by Dr. Khaled Mamdouh, pp. 206–207.*

(2) See: Electronic Arbitration in International Trade Contracts by Dr. Khaled Mamdouh, p. 260.

(3) See: Electronic Arbitration in International Trade Contracts by Dr. Khaled Mamdouh, pp. 221–226.

These services are offered on top-level domains such as .net, .com, and .org, as well as on local domains. Trademark owners can submit their complaints using the forms available on the organization's website, where all these stages are completed online via the Internet, and the final decisions are obtained within two months.*(1)*

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(1) See: Electronic Arbitration in International Trade Contracts by Khaled Mamdouh, p. 222.

Second Branch

Virtual Judiciary – Magistrate Virtual and Electronic Court
Cyber Tribunal

Some researchers see that it began in 1991, at the beginning of the second wave of mechanisms for resolving disputes, where this system relies on the use of the Internet and electronic websites, and its function is to organize disputes in two stages: the first stage is mediation, and if this stage fails, the transition is made to the second stage, which is the arbitration stage.*(1)*

In 1996, David Stodolsky established a project known as the Virtual Magistrate Network, and it was managed by a group of judges (about 40 judges) on the basis of a single judge, and the aim behind it was to combat piracy operations, defamation crimes, and violations of copyright, as well as another program which is the service of resolving disputes related to domain names and famous trademarks provided by accredited institutions by the Internet Corporation for Assigned Names and Numbers (ICANN).*(2)*

Some jurists see that the first project to resolve disputes via the Internet to settle electronic commerce disputes using the Internet network was the electronic arbitration project known as the Virtual Magistrate.

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(1) See: Legal Regulation of Electronic Arbitration by Prof. Abdel Sabour Abdel Qader, p. 31; Electronic Arbitration by Prof. Saad Al-Omari, pp. 19–20.
(2) See: Legal Regulation of Electronic Arbitration by Prof. Abdel Sabour Abdel Qader, p. 33; Electronic Arbitration by Prof. Saad Al-Omari, p. 20.

Virtual, and this project was launched in March 1996 as an experimental project for arbitration via the Internet with the aim of resolving disputes arising between Internet users, and those who were harmed by messages or illegal files, and the laws operate in different systems to submit complaints or claims for compensation against the offending user. The project was officially initiated in March 1996 under the auspices of the Center for Law and Information Policy at Villa Nova Center For Law and Information Policy. Before the Virtual Arbitration Court project could address a single case, it had not yet begun issuing rulings, and the parties to the dispute were seeking resolution before the issuance of the arbitrators' ruling.*(1)*

In 1998, responsibility for the project was transferred to Kent Chicago College of Law, its technology laboratory, and this laboratory includes the American Arbitration Association (AAA), the Cyber space Law Institute, and the National Center for Information Research in the United States. The main objective of this project is to provide fast and effective solutions to disputes related to the Internet, through the expertise available at the Center in the fields of arbitration, laws related to electronic commerce and its contracts, Internet law, disputes over commercial trademarks and intellectual property, and other topics related to this field. The Virtual Magistrate system is concerned only with disputes arising from the use of information networks among their users, including cases in which one of the users claims that he has been harmed as a result of messages or information transmitted through them.

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(1) See: Electronic Arbitration in International Trade Contracts by Khaled Mamdouh, pp. 221–223; Legal Regulation of Electronic Arbitration by Prof. Abdel Sabour Abdel Qader, p. 33; Electronic Arbitration by Prof. Saad Al-Omari, p. 20.

It does not conform to the legal form.*(1)*

And the arbitration is carried out by the arbitrator according to the Virtual Magistrate system by the American Arbitration Association, which includes a predefined list of persons qualified to work as arbitrators in this field. The arbitration court may be composed, according to the Virtual Magistrate system, of one arbitrator or three arbitrators, and in both cases the arbitrators have the possibility of accessing the contents that surround the disputes being handled electronically. The arbitrator reviews the dispute and communicates with the parties to the dispute who have requested to submit to the provisions of this system via electronic mail, provided that he decides the dispute within (72) hours, and it should be noted that the decision issued by the arbitrator is merely of moral value unless the parties agree to it, and the center does not provide its services for free (for example).*(2)*

As for the electronic court, it was established by the Faculty of Law at the University of Montreal in Canada in September 1996, under the supervision of the Center for Public Law Research, and this project provided electronic arbitration services using software applications and techniques that ensured security and speed in implementing procedures. It was allowed to follow the procedures available in the UNCITRAL Arbitration Rules, with the introduction of some amendments to suit the nature of international electronic commerce, and the ease of use and transparency were among the most important principles adopted by the Internet court. The aim of establishing the electronic court is to resolve disputes that arise from the use of cyberspace.

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(1) See: Electronic Arbitration in International Trade Contracts by Khaled Mamdouh, pp. 223–224.

(2) See: Electronic Arbitration in International Trade Contracts by Khaled Mamdouh, p. 224.

Through providing arbitration services, via electronic channels and means, and setting rules derived from commercial arbitration rules via the Internet, and thus forming a database for managing and settling their disputes according to a system that ensures the credibility of electronic procedures, and includes the parties to the dispute, and verifies the connection according to a contractual framework on the other hand.

According to the system of this court, all procedures are carried out electronically on the website of the electronic court, starting from the stage of settlement, through submission, and the arbitrators review the dispute and register it on the electronic website of the court, and this differs from the system of electronic litigation, where we find that only part of these procedures takes place within an electronic framework. The electronic court specializes in considering disputes related to electronic commerce and intellectual property rights related to trademarks, freedom of expression, and private life. It also specializes only in disputes related to the use of information technology and communications in the field of electronic exchange of information.*(1)*

Arbitration begins with notifying the requesting party to the secretariat of the arbitration court, which within five days of receiving the request determines the date of its entry into the jurisdiction of the court, and if the secretariat finds that mediation is more appropriate for settlement, it calls the parties to the dispute to resort to mediation, and the duration of mediation must not exceed two weeks, and a file for the case is opened on its own website, and access to it is not allowed except using the secret key given by the secretariat to the parties and members of the court.*(2)*

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(1) See: Electronic Arbitration in International Trade Contracts by Khaled Mamdouh, pp. 224–226; Electronic Arbitration by Prof. Saad Al-Omari, p. 33.

(2) See: Electronic Arbitration in International Trade Contracts by Khaled Mamdouh, Article 226 / 4 / 4 / 5.

The arbitration request must include several data: the names of the parties, the nature of their work, their postal and electronic addresses, a description of the nature of the dispute and its circumstances, the purpose of the request, the type of settlement required, and a list of evidence of proof, and the text of the arbitration clause or reference to it.*(1)*

The conditions for accepting the case, whether for electronic arbitration or electronic mediation, relate to the sectors of electronic business and electronic commerce.*(2)*

The court's desire to build trust in its system has led it to issue certification certificates for electronic websites that deal with electronic commerce, and which meet the conditions required by the court, as an expression of the commitment of these sites or those responsible for them to settle their disputes with users in accordance with the rules and procedures of this court.*(3)*

This court attracts the provision of dispute resolution services to English and French researchers, due to its presence in two regions that have different linguistic backgrounds, and thus it combines between the Latin and Anglo-Saxon systems, which leads to the unification of legal rules between systems that have different legal cultures in relation to electronic commerce and the methods of resolving disputes related to it.*(4)*

Although this court exerts special care regarding disputes in which one of the parties is a consumer, it strives to interpret the contracts that are the subject of the dispute.

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(1) See: Electronic Arbitration in International Trade Contracts by Khaled Mamdouh, p. 266.

(2) See: Electronic Arbitration in International Trade Contracts by Khaled Mamdouh, p. 266.

(3) See: Electronic Arbitration in International Trade Contracts by Khaled Mamdouh, p. 267.

(4) See: Electronic Arbitration in International Trade Contracts by Khaled Mamdouh, p. 267.

for the benefit of the consumer, and the applicable law is the consumer law, and the arbitrator can make an effort to provide better protection for the consumer, and this is through supplementary information and evidence.(1)

Third Branch

Domain Name Dispute Resolution System

The Internet network has allowed companies and commercial institutions located in different countries of the world to display their goods on the network through what are called websites on the Internet, which include sites established to display goods and services for the purpose of marketing them and dealing with them, whether officially or electronically. The Internet has created legal problems of a new type related to intellectual property rights, the most important of which are those related to commercial trademarks that have become registered in some sites on the network under well-known commercial marks, with the aim of attracting customers to the electronic site.*(2)*

The domain name system can be likened to the Domain Names System (DNS) as a substitute for telephone directories, as it allows network users to connect to the required site and exchange data and information with it through the use of a set of letters and symbols known as domain names.*(3)*

The domain name allocated to each site differs from the domain names allocated to other sites, and therefore precedence in registering the domain name grants

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(1) See: Electronic Arbitration in International Trade Contracts by Khaled Mamdouh, p. 272.

(2) See: Electronic Arbitration in International Trade Contracts by Khaled Mamdouh, pp. 266–267.

(3) See: Electronic Arbitration in International Trade Contracts by Khaled Mamdouh, p. 268.

others from registering the same name, and relying on this, a unified system was established that works to resolve domain name disputes. The Internet Corporation for Assigned Names and Numbers (ICANN) issued many documents, including two documents: the first: the Uniform Policy for Resolving Domain Name Disputes and named it a document, and it was issued on 24/10/1999 and entered into force on 1/1/1999, and the second: it dealt with the rules of procedures of the settlement system, named the Rules of Procedures, and it was issued on 24/10/1999.*(1)*

ICANN has licensed some entities to manage the settlement system, and these entities are called dispute resolution service providers, including arbitration bodies, mediation, and conciliation in this field, and ICANN determines these providers to resolve disputes according to agreements concluded between it and Internet service providers authorized to undertake the task of allocating domain names and registering them, where these agreements refer to the submission of domain name disputes to the aforementioned system.*(2)*

The system targets the consumer by providing an optional mechanism for rights holders in the fields of commerce and intellectual property rights to settle disputes arising from registration in bad faith and the use of domain names on the Internet that correspond or resemble trademarks. Among the characteristics of the domain name dispute resolution system on the Internet is that settlement procedures take place through electronic mechanisms such as e-mail, and providing a website that offers complaint forms and responses to them according to specific rules.

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(1) See: Electronic Arbitration in International Trade Contracts by Khaled Mamdouh, pp. 268–269.

(2) See: Electronic Arbitration in International Trade Contracts by Khaled Mamdouh, p. 269

case management data, and the operation of the system also does not depend on the places where the complainant or the defendant or the registrants are located. It has been taken into account in designing the system that it be a global model in terms of scope, at least for domain name disputes, and on the other hand its operation is achieved without the need for the physical presence of persons in a specific place.*(1)*

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(1) See: Electronic Arbitration in International Trade Contracts by Khaled Mamdouh, pp. 269–270; Legal Regulation of Electronic Arbitration by Prof. Abdel Sabour Abdel Qader, pp. 33–34.

Fourth Branch

International centers for managing settlement and resolution of electronic disputes

Many permanent arbitration centers have emerged in different countries of the world, and the United Nations Organization has overseen the establishment of some of them. Among these centers are the European Arbitration Center and the European Arbitration Center in Ireland. There are also specialized arbitration centers such as the International Center for the Settlement of Intellectual Property Disputes and the Washington Center for the Settlement of Investment Disputes. In Saudi Arabia, many arbitration centers have emerged, including the Saudi Center for Commercial Arbitration and the Saudi Center for Arbitration in real estate matters.*(1)*

These centers are linked to electronic contract disputes, which require speed, prompting the necessity of searching for electronic mechanisms to resolve electronic disputes, which led some arbitration centers to resort to online arbitration. This method appeared in practice in 1999, and according to this system, the arbitrator determines the outcome of the dispute through the “Create a Case” platform, where the litigant submits the required information about the dispute via the electronic platform, and the center creates a dispute page on the Internet, and each party is provided with a password to enable them to access the site and present the dispute. The arbitration panel consists of a single arbitrator on the basis that the case is resolved within one month from the start of the procedures, and arbitration institutions have begun to flourish, especially after the experience.

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(1) See: Electronic Arbitration in International Trade Contracts by Khaled Mamdouh, pp. 270–272.

(2) See: Electronic Arbitration by Prof. Saad Al-Omari, p. 19; Saudi Center for Commercial Arbitration official website:
https://rega.gov.sa
https://sadr.org

globalization, which is a tool that reflects the context of the open market.(1)

The Saudi Center for Commercial Arbitration has introduced three products characterized by speed and the possibility of conducting arbitration through them electronically, namely: the Expedited Procedures Rules, the Emergency Arbitrator Rules, and the Electronic Arbitration Procedures Rules. The Expedited Procedures Rules represent the first version of the Expedited Procedures Rules issued in No. 9, dated 15/08/1439 AH corresponding to 30/04/2018, which included the amendments made to these rules, and the second version of the Expedited Procedures Rules was issued. In case of conflict, priority is given to these rules.

The Expedited Procedures Rules include the treatment of disputes that arise between parties, or that have previously been agreed upon, through the complete procedural protocol stipulated in the rules. Among the most prominent features of the Expedited Procedures Rules is the appointment of a sole arbitrator only to consider the case in a single hearing session on one day, provided that the sole arbitrator issues his arbitral award within a maximum period of 20 days from the date of closing the proceedings, or within 180 days from the date of submission to it, whichever occurs first. In addition, the Expedited Procedures Rules provide the parties with a fast and simplified process, giving the arbitrator the choice of deciding the dispute based only on written submissions, and comprehensive time limits, and the Expedited Procedures Rules apply when the total amount of the dispute does not exceed (1,000,000) Saudi Riyals (including arbitration costs). It is also permissible for the parties to choose to subject the dispute to the Expedited Procedures Rules regardless of the total amount of the dispute.

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(1) See: Electronic Arbitration in International Trade Contracts by Khaled Mamdouh, pp. 272–273; Electronic Arbitration by Prof. Saad Al-Omari, p. 19.

The second version of the Expedited Procedures Rules came into force on 11 Shawwal 1444 AH corresponding to May 1, 2023, and it applies to all arbitration cases registered on or after this date, regardless of the date of the arbitration agreement between the parties.*(1)*

As for the Emergency Arbitrator Rules, they were first adopted on Safar 19, 1440 AH corresponding to October 15, 2018, and were updated to reflect the amendments made to the rules, enabling any party wishing to request urgent interim relief to avoid waiting for the constitution of the arbitral tribunal, by submitting a request for the appointment of an emergency arbitrator to consider the request. Compared to the previous version, this version of the Emergency Arbitrator Rules provides greater flexibility by allowing the submission of all interim measures that the prospective claimant wishes to submit to the Center, provided that the request for arbitration is submitted within 10 calendar days from the date of submitting the request, and the third annex clarifies in detail the Emergency Arbitrator process, starting from submitting the request until issuing an order or award. The deadlines are detailed in a clear timetable, and the emergency arbitrator must be appointed within one day from the date of submitting the emergency arbitration request, and the emergency arbitrator must issue an order or award within 14 days from the date of referring the case file to the emergency arbitrator.*(2)*

The Emergency Arbitrator Rules came into force on 11 Shawwal 1444 AH corresponding to May 1, 2023, and apply to all arbitration cases registered on or after this date.

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(1) See: Saudi Center for Commercial Arbitration – official website
https://sadr.org

(2) See: Saudi Center for Commercial Arbitration – official website
https://sadr.org

As for the Electronic Arbitration Procedures Rules, they were first adopted on Muharram 21, 1440 AH corresponding to October 1, 2018, and were updated once before on Dhu al-Qi'dah 18, 1442 AH corresponding to July 28, 2021. The third version was issued to align with the amendments introduced to the rules, and the third version applies to electronic arbitration procedures, and in case of conflict, this version shall prevail.

The electronic arbitration procedures rules have been divided into procedures for resolving small disputes that do not exceed a total dispute amount of (200,000) Saudi Riyals (excluding arbitration costs). According to these rules, a sole arbitrator must be appointed immediately, and the arbitrator must issue the final arbitration award within 30 days from the date of his appointment. The final arbitration award is usually based on the parties' written submissions, unless the parties agree otherwise or the arbitrator deems it necessary to hold a hearing session, which is limited to one session only.

The third version of the electronic arbitration procedures rules came into force on 11 Shawwal 1444 AH corresponding to May 1, 2023, and applies to all arbitration cases registered on or after this date, regardless of the date of conclusion of the contract between the parties.*(1)*

One of the researchers sees that there are currently more than 25 institutions providing electronic arbitration services, the most prominent of which is the American Arbitration Association, which operates in the virtual judiciary on the Internet, and also the British aviation agencies.

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(1) Saudi Center for Commercial Arbitration – ADR Services
https://www.sadr.org/ADRServices-arbitration-arbitration-rules

online BBB, and the International Court of Arbitration Model Center, and dispute resolution via the Internet, the virtual judge, and electronic arbitration, and the four entities accredited by ICANN, which are: the National Arbitration Forum, the World Intellectual Property Organization (WIPO), the Asian Domain Name Dispute Resolution Center, and the CPR Institute for Dispute Resolution.(1)

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(1) See: Electronic Arbitration in International Trade Contracts by Khaled Mamdouh, p. 277.

First Topic

The authority with jurisdiction to execute the electronic arbitration award

The parties aim from arbitration as a sound means to resolve disputes concerning them, enabling the beneficiary of the issued award to obtain his right through easier procedures and faster means. Therefore, the decisive element in implementing the issued judgment lies in the method of its execution, and finally: the execution of the arbitration award represents the most important stage in the arbitration system.

Some researchers also see that what comes after arbitration, as a result, is one of the most important conditions of arbitration and among the arbitrators' choices, and among the arbitration procedures, and among the most important arbitration rulings is the enforcement order, and it is one of the most important stages of arbitration awards. As some describe it as the final objective of the arbitration system as a whole; thus, it is considered one of the stages of arbitration that takes place in this final stage which translates the final resolution of the dispute between the parties.*(1)*

By searching for the authority that specializes in executing the arbitration award,(2) we find that the Saudi enforcement system has stipulated the jurisdiction of the enforcement judge to enforce all judgments except administrative and criminal cases, (3)and in an official news published on Tuesday, Rajab 8, 1434 AH.

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(1) See: Electronic Arbitration in International Trade Contracts by Khaled Mamdouh, p. 278.

(2) Issued by Royal Decree No. (M/53) dated 13/8/1433 AH, published on the website of the Bureau of Experts at the Council of Ministers: https://laws.boe.gov.sa

National Center for Documents and Archives website: https://ncar.gov.sa

(3) Its text: "Article Two: all rulings and decisions issued in administrative and criminal cases are subject to the enforcement judge's authority, and what is meant by that is the obligation of the enforcement judge to carry out the compulsory execution and supervision over it, except for what is excluded by the enforcement provisions, and all rulings mentioned in the Sharia procedural regulations, unless the context requires otherwise."

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Corresponding to 26 May 2021, it was said that the enforcement courts in the Kingdom processed 75 thousand arbitration awards and settlement minutes, with total amounts reaching 6.7 billion riyals, distributed as 35 thousand arbitration awards worth 4.7 billion riyals, and 40 thousand settlement minutes worth 2.9 billion riyals, and that these figures reflect the active enforcement in enforcement courts and commercial courts, and the increase in the number of arbitration awards issued by the Saudi Center for Commercial Arbitration within the past five years.*(1)*

The Saudi Enforcement Law also stipulates the jurisdiction of the enforcement judge in enforcement disputes and issuing decisions and orders related to enforcement, and that the enforcement judge must adhere to his territorial jurisdiction, and that all decisions of the enforcement judge are final, and that the one who undertakes enforcement is the enforcement department in each public court, unless this law provides otherwise.

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(1) Saudi Press Agency – official website
https://www.spa.gov.sa

(2) Its text: "Article Three: The enforcement judge has jurisdiction to adjudicate all enforcement disputes, regardless of their value, in accordance with the provisions of Sharia law and regulations, and he also has the authority to issue decisions and orders related to enforcement, such as orders to compel the debtor to disclose his funds, to prevent him from travel, to suspend his services, and to imprison him, and to order disclosure of funds, travel ban, and other enforcement procedures."

(3) Its text: "Article Four: The territorial jurisdiction of the enforcement judge shall be – as the case may be – as follows:
A- In the jurisdiction of the court that issued the enforcement document.
B- In the place where the contract was concluded in its territory.
C- In the debtor's place of residence.
D- In the debtor's place of property, if the enforcement relates to a property."

(4) Its text: "Article Five: All decisions of the enforcement judge are final, and all his rulings in enforcement disputes are subject to appeal, and the period for appeal is (10) days from the date of issuing the decision, and the appeal is submitted before the end of the period."

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the individual in the public court or the enforcement court,*(1)* and the arbitrators' awards are subject to enforcement according to the arbitration law,*(2)* and the arbitrators' awards issued in a foreign country are considered enforceable instruments.*(3)*

7/ The decisions of the enforcement judge are considered judicial decisions, and include the following:
1- The enforcement request.
2- The execution formula, which includes the judgment of execution and the date of issuance of the decision.
3- The full name of the enforcement applicant, and the name of the enforcement judge, and the memorization of all enforcement documents.
4- The number of the enforcement applicant.
5- His identity number, and the number of his identity.
6- The number of the agency, its date, and its source.
7- The number of the enforcement instrument, its date, and the authority that issued it.
8- The number of the request, its subject, and the decision of the judge separately.

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(1) Its text: "Article Three: The enforcement department undertakes enforcement – in every public court – and its procedures, and more than one department may be established when needed.
B- The individual judge undertakes – in the enforcement court – the enforcement of judgments, decisions, and orders issued in foreign countries, in accordance with the provisions of this law.

(2) Issued by Royal Decree No. (M/34) dated 24/5/1433 AH.

(3) Its text: "Article Nine: The enforcement instrument is every document or record proving the right to a specific amount or a specific performance, including judgments, decisions, and orders issued by courts, arbitral awards, and authenticated reconciliation minutes according to the arbitration law, and documents authenticated by the competent authorities, such as contracts and instruments, whether judicial or non-judicial, domestic or foreign, and any document whose content is recognized as a debt or part of it, and it is enforceable by law, provided that it does not contradict Sharia law, and the judge must verify its validity before issuing the enforcement order."

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Based on these provisions stipulated in the Saudi Enforcement Law, it is clear that the competent authority to execute the arbitration award is the enforcement judge. What confirms this is that these provisions came in absolute terms and did not distinguish between the execution of traditional or paper arbitration awards, and the electronic system did not negatively affect the validity of documents or the binding force of electronic evidence that has probative value for documents and written instruments under certain conditions. Therefore, the competent authority to execute the electronic arbitration award is the enforcement judge.

This is because it is subject to objection in accordance with Article 7/2 of the Enforcement Law, including appeal or objection.

Article Fourteen states: “All judgments, judicial orders, arbitral awards, and authenticated instruments issued in a foreign country must be submitted to the competent enforcement judge to verify that they meet the enforcement conditions, and then the judge orders their enforcement.”

Second Topic

Conditions for the Execution of the Electronic Arbitration Award

The New York Convention is considered one of the most important international agreements that addressed the enforcement of international arbitration awards. The New York Convention of 1958 addressed the recognition and enforcement of foreign arbitral awards, as it provided a facilitating framework for the enforcement of arbitration awards. The general rule is the enforcement of arbitration awards except in the case of accepting evidence to the contrary due to one of the reasons specified by the convention by way of limitation. In Article Three, it obligates the contracting states to recognize the authority of the arbitration award and to order its enforcement in accordance with the conditions and provisions stipulated in the convention. However, it does not require recognition or enforcement of arbitration awards to which the provisions of the convention do not apply.

The convention's provisions set more stringent conditions and higher judicial fees than those imposed for the recognition and enforcement of national arbitration awards.*(1)*

The conditions for executing the electronic arbitration award pass through a series of stages, starting from the conditions of the electronic arbitration award itself and then the stages of its execution, and we divide them according to the following requirements:

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(1) Its text: "Each contracting state shall recognize arbitral awards as binding and enforce them in accordance with the procedural rules followed in the territory where the award is relied upon, under the conditions stipulated in the following articles. No more onerous conditions or higher fees or charges shall be imposed on the recognition or enforcement of arbitral awards to which this convention applies than those imposed on the recognition or enforcement of domestic arbitral awards."

Convention on the Recognition and Enforcement of Foreign Arbitral Awards, New York 1958, United Nations version 2015, published on the United Nations website: https://uncitral.un.org

See also: Electronic Arbitration in International Trade Contracts by Khaled Mamdouh, p. 432.

First Requirement

Conditions for the Electronic Arbitration Award Capable of Execution

It is required for the electronic arbitration award that it be issued by the originator by sending it himself, or that it be sent by another person on his behalf, or that it be sent by an automated data system programmed by the originator to operate automatically on his behalf, and not through an intermediary different from the originator.*(1)*

The electronic arbitration award is considered sent when it enters a data system that is not under the control of the originator, and the necessary technical conditions for the data system, the method of documenting it, and the place of sending the electronic record or receiving it must be observed.*(2)*

Acknowledgment of receipt is made in any of the forms determined by the implementing regulations of the Saudi Electronic Transactions Law, unless the originator agrees with the addressee on specifying this form.*(3)*

It should be noted here that the Saudi competent authority established a national center in which

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(1) Article Two of the Saudi Electronic Transactions Law states: "The electronic record is considered issued by the originator if he sends it himself, or if it is sent by another person on his behalf, or if it is sent by an automated data system programmed by the originator to operate automatically on his behalf, and not through an intermediary different from the originator, subject to the provisions and procedures stipulated therein."

(2) Article Seven of the Saudi Electronic Transactions Law states: "The electronic record is considered sent when it enters a data system that is not under the control of the originator, and the necessary technical conditions for the data system, the method of documentation, and the place of sending the electronic record or receiving it shall be specified."

(3) Article Eight of the Saudi Electronic Transactions Law states: "Acknowledgment of receipt may be made in any of the forms determined by the implementing regulations, unless the originator agrees with the addressee on specifying this form."

for digital certification, which supervises the tasks related to issuing digital certification certificates and managing them. The implementing regulations of the Saudi Electronic Transactions Law specify the rules related to determining the headquarters of the center, its formation, its competencies, its tasks, and how to carry out its work. The center is responsible for accrediting digital certification certificates issued by foreign entities outside the Kingdom, and it deals with these certificates within the Kingdom in accordance with the controls and procedures determined by the implementing regulations of the Saudi Electronic Transactions Law.*(1)*

Upon fulfilling the conditions of the electronic arbitration award and all its requirements, the arbitration award issued according to the Saudi Arbitration Law has the force of a judicial order and is enforceable.*(2)*

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(1) Article Sixteen of the Saudi Electronic Transactions Law states: "The Ministry shall establish under this Law a national center for digital certification, which supervises the tasks related to issuing digital certification certificates and managing

them. The implementing regulations shall determine the rules related to specifying the headquarters of the center, its formation, its competencies, its tasks, and how to carry out its work."

Article Seventeen: "The center shall be responsible for accrediting digital certification certificates issued by foreign entities outside the Kingdom, and these certificates shall be treated within the Kingdom in accordance with the controls and procedures determined by the implementing regulations of the Saudi Electronic Transactions Law."

(2) The Saudi Arbitration Law, Article Fifty-Two states: "Without prejudice to the provisions stipulated in this Law, the arbitration award issued in accordance with this Law shall have the force of a judicial order and shall be enforceable."

And it is said: Dr. Hossam El-Din Al-Saghir adds: Most legislations and conventions recognize arbitration awards as having the force of a judicial order, which has a prospective effect for the future and operates outside the court, while the judgment issued by the judiciary has a binding force within the scope of the court.

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As for the application of the provisions of enforcement of the arbitration award in its traditional or paper form to the provisions of enforcement of the arbitration award in its electronic form, the subject of the research, we say in that: the specialists stipulate conditions agreed upon among many Arab laws, including the Saudi system, where these conditions are not very different from the arbitration award in its electronic form, (1)and these conditions are as follows:

1. That the arbitration award be issued by a court or an arbitral tribunal, and that it be constituted by agreement of the parties or in accordance with the law, whether it is composed of a sole arbitrator or more than one arbitrator, if they are multiple in number, provided that the number is odd. Accordingly, arbitration awards are not taken from a report issued by an expert, nor from a judgment issued by a person who was not appointed as an arbitrator by the parties.
2. That the arbitration award be issued in respect of a dispute, meaning any dispute between the parties, and therefore the decisions related to determining the time and place of the convening of the court or the arbitral tribunal, or decisions of adjournment, and decisions aimed at preparing the dispute for adjudication, such as a decision to appoint an expert or to hear witnesses or conduct a hearing session, are not considered judgments, nor is the decision by which the arbitrator accepts the parties' request considered a judgment.

This is because the appeal against the judgment by appeal has no effect on its enforceability after the expiry of the appeal period, and the arbitration award does not have the force of a judicial order but only has probative value, and therefore it may not be appealed except through the means of appeal stipulated in the laws.
See: Legal Regulation of Electronic Arbitration by Prof. Abdel Sabour Abdel Qader, p. 153.

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(1) It was stated in the book Electronic Arbitration in Electronic Commerce by Prof. Amina Janabi, p. 189: It does not differ from traditional arbitration except in the use of electronic means.

3. That the arbitration award be issued on the subject of the dispute or part of it, and it is not conceivable to speak of enforcing an arbitration award in a procedural matter with coercive force.
4. That the arbitration award be final, meaning that it resolves the dispute definitively regarding the issue decided therein.
5. That the arbitration award be binding, meaning that the arbitration award includes an obligation imposed on the party against whom it is issued to perform an act or refrain from performing an act, such as paying a monetary amount or delivering movable or immovable property or otherwise.
6. That the arbitration award be terminating the dispute. (1)

(1) See: Conditions and Procedures for the Enforcement of Arbitration Awards by Dr. Faisal Mohammed Fahd, p. 15, Dar Al-Fikr Al-Jami'i, Alexandria, 2019; Electronic Arbitration in International Trade Contracts by Dr. Khaled Mamdouh, pp. 432–433.

Second Requirement

Conditions for Ordering the Execution of the Electronic Arbitration Award

The electronic arbitration award achieves the same objectives as those achieved by the written arbitration award. The Saudi Electronic Transactions Law has recognized electronic documents and their enforceability before the competent authorities in the Kingdom,(1) and accordingly it is possible to apply the provisions related to ordering the execution of the written arbitration award to the electronic arbitration award.

The conditions for ordering the execution of the written arbitration award are as follows:

1. Expiry of the period for filing a nullity action against the award.
2. Verification by the competent judge of the following:

A- That it does not conflict with a judgment or decision issued by a court or committee that has jurisdiction to decide the subject of the dispute in the Kingdom of Saudi Arabia.

B- That it does not include anything that contradicts the provisions of Islamic Sharia and the public order in the Kingdom. If it is possible to separate the part that contains the violation, the execution order may be issued for the remaining non-conflicting part.

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(1) The previous article states: “Without prejudice to what is stated in Article (Three) of this Law, if any law in the Kingdom requires that the document, record, or information submitted to a person be in writing, then this requirement is fulfilled if it is in electronic form, subject to the provisions stated in paragraph (1) of Article (Six), and in the Electronic Documentation System it is stated in Article Thirty-Five: It is permissible to perform electronic documentation without data documentation, and the judgment of written documents shall be applied in accordance with the provisions of the Electronic Transactions Law.”

C- That the person against whom the award was issued has been properly notified of it.(1)

Accordingly, once the electronic arbitration award is issued,(2) the original arbitration award is deposited electronically in the competent Court of Appeal, and the conditions for filing are fulfilled.

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(1) Article 50 of the Saudi Arbitration Law states: “Article Fifty: If the arbitration award is subject to annulment, then it is not enforceable.
2- It is permissible to execute the arbitration award according to this law after verifying the following:
A- That it does not conflict with a judgment or decision issued by a court or committee that has jurisdiction to decide the subject of the dispute in the Kingdom of Saudi Arabia.
B- That it does not include anything that contradicts the provisions of Islamic Sharia and the public order in the Kingdom. If it is possible to separate the part that contains the violation, the execution order may be issued for the remaining part.
C- That the person against whom the award was issued has been properly notified of it.”

And the aggrieved party may submit a grievance against the execution order to the competent authority within thirty days from the date of its issuance.

(2) It is also stated in the Saudi regulation in Article Twenty-One: “It is permissible to reserve half of the wages and salaries payable to the debtor, except in the following cases:
1- If the debtor has multiple creditors, the enforcement judge shall distribute the amount among them in accordance with Sharia provisions.
2- Means of transport necessary for the debtor and his dependents shall not be seized if their value does not exceed the amount determined by the enforcement judge.
3- The debtor’s basic residence, if it is suitable for his condition, shall not be seized, unless the debt is related to that residence.”

(3) The Saudi Electronic Transactions Law also states that electronic data has probative value. Article Nine states: “Electronic data has probative value, provided that the method used in its creation, storage, or transmission ensures the integrity of the information contained in it, and allows the information to be displayed when needed.”

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The implementing regulations specify the means and technical conditions required, and it must include the availability of the evidentiary elements of electronic documents. Article (25) states: “Any data that arises, is issued, is sent, is received, or is stored by an electronic means, and is capable of being retrieved or accessed in a perceivable form, shall have evidentiary value.” The electronic documentation system also includes digital records, electronic signatures, digital correspondence including e-mail, and other digital communication means.

Article (26) states: “Electronic records shall have evidentiary value equivalent to written evidence, provided that they meet the conditions stipulated in this system.”

Article (27) states: “The official digital document shall have the probative force prescribed for the official document issued by the competent authority or any entity authorized to perform such function.”

Article (28) states: “The non-official digital document shall have the probative force of the written document, unless it is proven otherwise.”

According to the provisions of the Electronic Transactions Law and the Electronic Commerce Law, if the document used in electronic contracting is a reliable digital document stipulated in the contract between the parties,(1) it shall be considered sufficient evidence. Article (29) states: “The digital document shall be considered valid proof if it complies with the conditions stipulated in Articles (26), (27), and (28).”

Article (30) states: “All matters not provided for in this system shall be subject to the rules applicable to written documents.”

Article (31) states: “The probative force of the digital document shall be assessed in the same manner as written documents, and the court may request the submission of its original digital form or any other digital means, and may request the presentation of its content in a readable form.”

Article (32) states: “The party submitting the digital document shall bear the burden of proving its authenticity if it is challenged.”

Article (33) states: “The court shall assess the probative value of digital extracts in the same manner as the original digital document, to the extent that the extract corresponds to the original.”

The electronic arbitration award is subject to the general conditions stipulated for depositing the traditional arbitration award. These conditions are:

1. Depositing the original award or a copy signed thereof in the language in which it was issued with the competent court.
2. The award must be deposited within five working days from the date of its issuance, or a translation thereof in Arabic must be submitted if it is issued in a foreign language.
3. The award must be deposited by the arbitral tribunal that issued it and not by any other party. (1)
4. The deposit must be carried out for its official registration.

The digital record is subject to the provisions of paragraph (1) of this article regarding outputs from digital payment means. Article Fourteen states: "The digital record shall have evidentiary value provided that it does not contradict its digital nature."

Also see: Conditions and Procedures for the Enforcement of Arbitration Awards by Dr. Faisal Mohammed Fahd; Electronic Arbitration in Electronic Commerce by Prof. Amina Janabi, p. 175; Electronic Arbitration in International Trade Contracts by Dr. Khaled Mamdouh, p. 440; Legal Regulation of Electronic Arbitration by Prof. Abdel Sabour Abdel Qader, p. 48.

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(1) It is stated in Article Forty-Four: "The arbitration award shall be deposited, whether the original award or a signed copy thereof, with the competent court within the period specified in Article (43) (1), and a translation into Arabic shall be attached if it is issued in a foreign language." It is published on the official judicial portal: https://sjp.moj.gov.sa/Filter/AhkamDetails/127

The arbitration award was submitted via the Najiz portal through the Claims Audit Center, by registering the request and preserving it electronically, and notifying the beneficiary that the deposit request is complete, along with a statement of the arbitration award data and specifying the competent court in which the arbitration award is to be deposited.(1)

The arbitration award deposited on 25/7/1445 AH with the court, and the case was referred to this circuit, and a session was scheduled for consideration on Monday 27/7/1445 AH, where this session was held remotely (via visual communication), during which it was verified from the plaintiff's representative the validity of the link, and it was found that the representative of the plaintiff is (…), and the commercial registration number (…) and the commercial registry number (…), and after reviewing the plaintiff's request which includes the request to deposit the arbitration award issued on 22/6/1445 AH by the arbitration panel, and the validity of the arbitration award, and the parties were heard, and after that the session was prepared for deliberation.

After reviewing the request file, the lawsuit file, and the documents submitted, it became clear to the circuit that the plaintiff's request includes the deposit of the arbitration award deposited on 25/7/1445 AH with the court, in accordance with the provisions of the Arbitration Law, and based on Article (44) of the Arbitration Law, which states: "The arbitration award shall be deposited, whether the original award or a signed copy thereof, with the competent court within the period specified in Article (43) (1), and a translation into Arabic shall be attached if it is issued in a foreign language."

And since the claim submitted is not within the jurisdiction of the arbitration panel, as the plaintiff has requested the deposit of the arbitration award, and the procedures of depositing the arbitration award are not within the jurisdiction of the arbitration panel, but rather within the jurisdiction of the competent court, and since the plaintiff has requested that the court deposit the arbitration award, and since the provisions of the Arbitration Law and its implementing regulations stipulate that the court competent to deposit the arbitration award is the Court of Appeal, therefore the circuit rules that it lacks jurisdiction over the case and orders its referral to the competent court, which is the Court of Appeal, in accordance with Article (76) of the Commercial Courts Law.

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(1) This procedure is mentioned in the reasoning of a judicial ruling as follows: Court of Appeal.

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At the Eastern Province / Fifth Commercial Circuit, Case No. 10573/380/05.

Praise be to Allah, and prayers and peace be upon the Messenger of Allah. Thereafter, the Fifth Commercial Circuit convened based on the request of the plaintiff (…) dated 5/7/1445 AH against the defendant (…) based on the contract concluded between the first party (…) and the second party (…) regarding "(…) transactions," and based on what was stipulated in Clause (48) of the contract regarding the occurrence of a dispute or disagreement or dispute arising between them, then it shall be resolved before the arbitration panel, and based on what was stated (…), and in view of the issuance of the arbitration panel's award No. (…) dated 22/6/1445 AH, and based on the request of the plaintiff to deposit the arbitration award, and the court having set the session specified for considering the case referred to above related to the request to deposit the arbitration award issued on (…) and dated (…) 1445 AH, and after reviewing the file and the documents attached to it, and after examining the request, the court requested the deposit of the arbitration award issued in the attached case based on what was supported by the Ministry of Justice documents, and based on what was stated in the case file dated 5/5/2023, and referring to what was stated in the Saudi Arbitration Law issued by Royal Decree No. M/34 dated 24/5/1433 AH, Article Forty-Four of the Law, which states:

"The arbitration award shall be deposited, whether the original award or a signed copy thereof, in the language in which it was issued, with the competent court within the period specified in paragraph (1) of Article Forty-Three, and a translation into Arabic shall be attached, certified by an approved authority if it is issued in a foreign language."

Article Forty-Five states: "The arbitral tribunal shall deliver to each of the parties a copy of the arbitration award within fifteen days from the date of its issuance."

Article Forty-Six states: "The competent court shall issue an order to execute the arbitration award, and the request for execution of the award shall be accompanied by the following:
1- The original arbitration award or a signed copy thereof.
2- A copy of the arbitration agreement.
3- An Arabic translation of the arbitration award certified by an approved authority if the award is issued in a language other than Arabic."

And based on the foregoing, and Article Forty-Four of the Law, and after reviewing the file and the documents, the court concluded that the competent court for depositing the arbitration award is the Court of Appeal, and since the claim was submitted via the Najiz portal through the Claims Audit Center without submitting it to the court.

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In addition to what we understand after reviewing additional conditions derived from the Saudi Electronic Transactions Law regarding the electronic form on which the arbitration award is based, (1)which are:

From this, it is clear that submitting the arbitration award via the Najiz portal and preserving it electronically, and that the deposit request is complete with a statement of the arbitration award data, and specifying the competent court with which the arbitration award is to be deposited, in accordance with what was stated, and based on it, the circuit decided that the request to deposit the arbitration award is accepted in form, and that the submission has taken place through the Claims Audit Center and meets the required conditions, as stated above.

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(1) Article Six states: “Without prejudice to what is stated in Article (Three) of this Law, if any law in the Kingdom requires that the document or record be in writing, then this requirement is fulfilled if it is in electronic form, subject to the following:

A- That the electronic record is retained in the form in which it was created, sent, or received, or in a form that can be proven to be an accurate representation of the information contained therein.

B- That the information is retained in a manner that allows it to be used and referred to later.

C- That the electronic record is retained with the information that enables identification of the originator and the addressee, and the date and time of sending and receiving.”

2- It is permissible for any person to rely on electronic records, data, or electronic signatures, and the evidentiary value shall be determined according to the conditions stipulated in this Law.

(2) Article Eight states: “It is permissible to accept electronic dealings, records, signatures, or documents, and they shall have evidentiary value if they meet the requirements stipulated in this Law.”

(3) Article Nine states: “Electronic dealings, records, and signatures shall have legal validity if they meet the conditions stipulated in this Law, and their probative value shall be determined according to the criteria of reliability and integrity.”

1. That the electronic arbitration award is preserved and sent in the form of an electronic record.
2. Preserving the electronic record in the form in which it was created, sent, or received, or in a form that can be proven to be an accurate representation of the content that was created, sent, or received.
3. That the electronic record is kept in a manner that allows its use and retrieval later.
4. That the electronic record is kept with the information that enables the identification of the originator and the addressee, and the date and time of its sending and receipt.

Then, after the completion of the deposit process, if an appeal is filed against it for nullity, and the person concerned files a nullity action against the arbitration award, and the nullity action is rejected and the award is upheld, then the competent Court of Appeal must issue an order to execute it. It must be executed, (1)whether the arbitration award is electronic or paper, and it is considered an enforceable instrument.

The competent judge may also issue an order to execute after rejecting the request for execution.(2)

The confidence relates to the following: the method used in creating the electronic record, or storing it, or sending it, or receiving it, and the integrity of the method used in preserving the information, and the method by which the identity of the originator was determined.

(1) Article Fifty-Two states: “If the court rules to confirm the arbitration award, it must order its execution, and its judgment in that shall not be subject to appeal, and if it rules to annul the arbitration award, its judgment shall be subject to appeal within thirty days from the day following the notification.”

(2) An example of this is a judicial ruling rejecting the request to execute an arbitration award, published on the official judicial portal:
https://sjp.moj.gov.sa
Text of the judicial ruling: “Praise be to Allah, and prayers and peace be upon the Messenger of Allah…”

Praise be to Allah, and prayers and peace be upon the Messenger of Allah. Thereafter, the Commercial Court in Riyadh convened based on case number 43387415 for the year 1443 AH. The facts of this lawsuit are summarized in that the plaintiff submitted this claim on the date 17/7/1443 AH through the Najiz portal under reference number 43387415, in accordance with the provisions of the litigation regulations stipulated in the Commercial Courts Law.

The case was scheduled for consideration, and the case file was referred to this circuit on 28/7/1443 AH, and the date of the first hearing session was set on 8/8/1443 AH. The plaintiff's attorney attended, as well as the defendant's attorney, and the arbitration panel members also attended. The statement of claim and its attachments were reviewed. It became clear from reviewing the documents contained in the file that the subject of the dispute is a dispute arising from a contractual relationship between the parties, and that the contract includes an arbitration clause stipulating that any dispute arising from this contract shall be resolved through arbitration within thirty days from the date of the dispute.

Since the arbitration panel has been formed and has considered the dispute and issued its arbitration award on 1/12/1443 AH, and since Article Fifty-Two of the Arbitration Law stipulates that no nullity action may be filed against the arbitration award after the lapse of the legal period, and since the arbitration award is required to be executed, and since it was established that the arbitration award is to be deposited with the competent court, and since the arbitration award was not deposited with the competent court, the court decided that it lacks jurisdiction to consider this claim.

The court ruled that the case be dismissed for lack of jurisdiction and that the plaintiff be directed to submit his request to the competent court, which is the Court of Appeal.

In the hearing session held on 28/11/1443 AH via visual communication, the plaintiff's attorney attended, and the defendant's attorney attended, and they were asked about the arbitration award, and the plaintiff's attorney stated that the arbitration award was issued in favor of his client, and the defendant's attorney stated that he was unable to attend due to technical reasons.

Accordingly, the court decided to dismiss the case for lack of jurisdiction and to refer it to the competent court.

the plaintiff attended… and the defendant's attorney also attended… and the court asked him to sign the judgment again, and he stated that he was unable to sign the judgment due to the refusal of the president of the arbitral tribunal to sign it, claiming that the procedures for depositing the arbitration award were completed, and that there is no violation of the regulations, and that the arbitration panel had deliberated and agreed on that opinion.

The court session was held for pronouncing the judgment due to the presence of a valid reason, and the case was ready for decision. The circuit decided to reject the lawsuit for the reasons mentioned, including that the dispute between the parties is based on an arbitration agreement, and therefore jurisdiction belongs to the Commercial Court, in accordance with Article Sixteen of the Commercial Courts Law issued by Royal Decree No. (93) dated 15/8/1441 AH.

Based on Article Thirteen of the Arbitration Law issued by Royal Decree No. (34) dated 24/5/1433 AH, which stipulates that if the arbitration agreement includes a condition referring disputes to arbitration, the court must decline to consider the case.

Since the plaintiff submitted a request to execute the arbitration award, and since the arbitration award was not signed by all members of the arbitral tribunal, and since signing the arbitration award is a necessary condition for its validity, and since the minutes of the case confirmed that one of the arbitrators refused to sign, and since Article Forty-Two of the Arbitration Law stipulates that the arbitration award must be signed by the arbitrators, and in the case of multiple arbitrators, the signatures of the majority are sufficient provided that the reasons for the absence of the remaining signatures are recorded,

and since the case file did not include any justification for the absence of the remaining signatures, the court decided to reject the request.(1)

In the session held on 27/11/1443 AH, it was found that the arbitral tribunal had not signed the judgment, and that the plaintiff was present, and it was confirmed that the signatures of the arbitral tribunal were incomplete, and therefore the court ruled to reject the request.

The judiciary has also made it permissible to challenge arbitration awards by filing a nullity action for arbitration awards, as we mentioned previously for the party claiming harm, and the system has defined its cases by way of limitation.(1)

Deliberation in secret, and based on what is stated in paragraph (2) of Article Fifty-Five of the Arbitration Law, which stipulates that: “An order to execute the arbitration award shall not be issued except after verifying the following: that it does not conflict with a judgment or decision issued by a court or committee that has jurisdiction to decide the subject of the dispute in the Kingdom of Saudi Arabia, and that it does not include anything that contradicts the provisions of Islamic Sharia and public order in the Kingdom, and if it is possible to separate the part that contains the violation, then the order may be issued to execute the remaining part.”

And since the arbitration award was issued in violation of public order, based on what was submitted by the plaintiff, the circuit finds that the request for execution must be rejected. Accordingly, the Court of Appeal ruled to reject the execution request for the reasons stated, and the ruling is final.

And Allah is the grantor of success, and prayers and peace be upon our Prophet Muhammad and his family and companions.

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(1) It is stated in Article Fifty of the Law: “A nullity action against the arbitration award shall not be accepted except in the following cases:

A- If no arbitration agreement exists, or if this agreement is void, voidable, or has expired due to the lapse of its term.

B- If one of the parties to the arbitration agreement, at the time of its conclusion, lacked legal capacity according to the law governing his capacity.

C- If one of the arbitration parties was unable to present his defense due to not being properly notified of the appointment of an arbitrator or of the arbitration proceedings, or for any other reason beyond his control.

D- If the arbitration award excluded the application of any of the substantive rules agreed upon by the parties to apply to the subject of the dispute.

E- If the composition of the arbitral tribunal or the appointment of the arbitrators was contrary to this Law or to the agreement of the parties.

F- If the arbitration award decided on matters not included in the arbitration agreement, however, if it is possible to separate the parts of the award related to matters subject to arbitration from those not subject to it, then nullity shall apply only to the latter parts.

If the period for filing an appeal by filing a nullity action against the arbitration award has expired, it shall not be executed except after issuing an execution order, and the execution shall not be considered except by virtue of an order issued by the competent Court of Appeal, (1)and this shall not be done except in accordance with the controls required for ordering the execution of the arbitration award in this case, which are:

The parts of the award relating to matters subject to arbitration may be separated from its parts relating to matters not subject to it, and thus execution is permitted for the first part alone.

C- If the arbitral tribunal was not constituted in accordance with the conditions that must be met, or if the award was based on arbitration procedures that were not agreed upon.

D- The competent court shall consider the nullity action against the arbitration award itself, if it includes what contradicts the provisions of Islamic Sharia and public order in the Kingdom, or if the dispute relates to matters that may not be arbitrated, or if the arbitral tribunal was formed in violation of this Law.

E- The arbitration agreement shall not expire due to the issuance of a judgment of nullity of the arbitration award, unless the parties agree otherwise, or a ruling is issued nullifying the arbitration agreement.

F- The competent court shall consider the nullity action in the cases referred to in this article without examining the subject matter of the dispute.

See also: Electronic Arbitration in International Trade Contracts by Dr. Khaled Mamdouh, pp. 432–433.

(1) The Enforcement Law states in Article Eleven: “No compulsory execution shall be carried out except on the basis of an enforceable instrument, and enforceable instruments include:
1- Judicial rulings and decisions issued by courts.
2- Arbitration awards.”

Also see: Conditions and Procedures for the Enforcement of Arbitration Awards by Dr. Faisal Mohammed Fahd, Dar Al-Hadara, Riyadh, first edition, 1441 AH; Electronic Arbitration in Electronic Commerce by Prof. Amina Janabi, p. 174; Electronic Arbitration in International Trade Contracts by Dr. Khaled Mamdouh, pp. 442–444.

1- A request for execution must be submitted to the competent Court of Appeal, including the required attachments, which are:
A- The original arbitration award or a certified copy thereof.
B- A copy of the arbitration agreement.
C- A translation of the arbitration award into Arabic if it is issued in a foreign language, certified by an approved authority.
D- Evidence of depositing the arbitration award with the competent court, as mentioned previously.(1)

2- The arbitration award must not conflict with any judgment or decision issued by a court or committee that has jurisdiction to decide the subject of the dispute in the Kingdom.

3- The arbitration award must not include anything that contradicts the provisions of Islamic Sharia that may not be waived or agreed otherwise, and it must also not conflict with the public order in the Kingdom of Saudi Arabia in terms of financial matters.

4- If it is possible to separate the part that contains the violation in the arbitration award, the execution order may be issued for the part that does not contain the violation, as long as separation is possible.

5- The party against whom the award is issued must have been properly notified in accordance with the procedures.

6- The request for execution must relate to matters within the jurisdiction of the Saudi courts.

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(1) Article Fifty-Three states: "The competent court shall issue an order to execute the arbitration award, and the request for execution of the award shall be accompanied by the following:
1- The original arbitration award or a certified copy thereof.
2- A copy of the arbitration agreement.
3- A certified Arabic translation of the arbitration award if it is issued in a foreign language.
4- Evidence of depositing the arbitration award with the competent court in accordance with Article Forty-Four of this Law."

Also see: Electronic Arbitration in Electronic Commerce by Prof. Amina Janabi, p. 175.

It is permissible to hear a nullity action against the arbitration award without the foreign arbitration awards.(1)

6- The electronic arbitration award must be issued in accordance with the conditions stipulated in the Saudi Electronic Transactions Law.(2)

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(1) Article Fifty-Five:

1- The arbitration award shall not be executed if an appeal is filed by filing a nullity action against the award.

2- An order to execute the arbitration award shall not be issued except after verifying the following:

A- That it does not conflict with a judgment or decision issued by a court or committee that has jurisdiction to decide the subject of the dispute in the Kingdom of Saudi Arabia.

B- That it does not include anything that contradicts the provisions of Islamic Sharia and public order in the Kingdom. If it is possible to separate the part that contains the violation, the execution order may be issued for the remaining non-conflicting part.

C- That the person against whom the award was issued has been properly notified of it.

3- It is not permissible to appeal against the order issued to execute the arbitration award, but it is permissible to submit a grievance against it to the competent authority within thirty days from the date of its issuance.

See also: Electronic Arbitration in International Trade Contracts by Dr. Khaled Mamdouh, pp. 342–343; Conditions and Procedures for the Enforcement of Arbitration Awards by Dr. Faisal Mohammed Fahd, p. 185; Electronic Arbitration in Electronic Commerce by Prof. Amina Janabi, p. 185; Electronic Arbitration in International Trade Contracts by Dr. Khaled Mamdouh, pp. 443–444; Legal Regulation of Electronic Arbitration by Prof. Abdel Sabour Abdel Qader, pp. 145–146.

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(2) Article Five states: “Electronic dealings, records, and electronic signatures shall have full legal validity, and they shall not be denied enforceability or probative value due to being wholly or partially in electronic form, provided that they meet the conditions stipulated in this Law.”

7- That it is possible to review the details of the electronic arbitration award.(1)

When the competent Court of Appeal considers the request submitted to it regarding the request to execute the arbitration award, after studying it, it will take one of two actions depending on the circumstances:

1- Issuing an order to execute the arbitration award. Once the order to execute the arbitration award is issued, it becomes final and not subject to appeal.

2- Issuing an order to refuse execution of the arbitration award.

If an order to refuse execution of the arbitration award is issued,(2) a grievance against it may be submitted to the competent Court of Appeal within thirty days from the date of issuance of the refusal order.(3)

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(1) Article Five of the Saudi Electronic Transactions Law states: "Information that results from electronic dealings shall not lose its legal validity or enforceability, provided that it is possible to access its details within the electronic data system specific to it, and to verify its authenticity."

(2) Article Fifty-Five of the Saudi Arbitration Law states: "It is not permissible to appeal against the order issued to execute the arbitration award, but it is permissible to submit a grievance against the order refusing execution within thirty days from the date of its issuance."

(3) See: The Understanding of Arbitration by Sheikh Abdullah bin Hussein; Electronic Arbitration in Electronic Commerce by Prof. Amina Janabi, pp. 175–182; Electronic Arbitration in International Trade Contracts by Dr. Khaled Mamdouh, p. 445.

In a question published on the official website of the Najiz platform in Saudi Arabia, the question states:

“Is it possible to execute a bond that does not contain the executory formula?”

The answer: No, it is not permissible. The enforcement judge must verify the existence of the executory formula on the enforceable instrument mentioned in paragraphs (1) and (2) of Article (9) of the Law, in accordance with what is stated in paragraph (1) of Article (34) of the Enforcement Law. The executory formula is not required for judgments that are subject to immediate enforcement, in accordance with Judicial Circular No. 5856/12 dated 18/11/1444 AH.(1)

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(1) Najiz Platform:
https://new.najiz.sa/applications/landing/faqs

Third Requirement

Conditions for Ordering the Execution of Foreign Arbitral Awards(1)

What is meant by a foreign arbitral award is an award issued by arbitration bodies or centers outside the Kingdom, which falls outside the jurisdiction of the competent Court of Appeal for arbitration cases within the Kingdom.

It is noted that the rules and provisions contained in the New York Convention regarding the recognition and enforcement of foreign arbitral awards impose an obligation on member states to recognize and enforce the awards issued therein, and arbitration awards are enforceable under this convention.(2)

In accordance with what has been stated in the Saudi Enforcement Law, the order to execute foreign arbitral awards within the Kingdom falls under the jurisdiction of the Saudi enforcement courts.(3)

Arbitral awards issued in a foreign country are submitted to the competent enforcement judge responsible for executing foreign judgments to verify that the enforceable instrument meets the conditions of execution, and he affixes the execution formula to it.(4)

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(1) See: Al-Tafhim by Sheikh Abdullah bin Hussein, p. 315.

(2) See: Electronic Arbitration in Electronic Commerce by Prof. Amina Janabi, p. 185.

(3) The Enforcement Law states in Article Nine: “No compulsory execution shall be carried out except on the basis of an enforceable instrument for a specified amount or specific performance, and enforceable instruments include: judicial rulings, decisions, arbitral awards, and authenticated instruments issued in a foreign country.”

(4) The Enforcement Law also states in Article Eleven: “Judicial rulings, decisions, arbitral awards, and authenticated instruments issued in a foreign country shall be submitted to the competent enforcement judge to verify that the instrument meets the conditions of execution, and he shall affix the execution formula to it.”

According to the opinion of a member of the Council of Senior Scholars in Saudi Arabia, and the author of the book *Al-Tafhim*, that the origin of this in Islamic Sharia is that it has original rulings called by the scholars "primary rulings" (*ahkam al-ʻazimah*), (1)and derived rulings from the primary rulings called "concessions" (*ahkam al-rukhsah*). The primary ruling is the obligation to judge by Sharia, and that it is not permissible for a Muslim to resort to other than Islamic Sharia. However, since Muslims today interact within a global environment in their trade and many of their transactions, and the need may arise that compels the Muslim who adheres to Sharia to move to the ruling of concession, it becomes permissible to execute what has not been issued by Sharia courts in countries that do not adhere to Sharia in their rulings, so that people's rights are not lost, and so that Muslims' rights are not violated if they resort to foreign courts. This is based on a principle of Sharia which states: "What appears is taken as reality in action."

If you are in a country whose rulings are executed within your country, then there is no harm in executing its rulings in your country, and this is considered a permissible path and an outlet of necessity, provided that two conditions are met:

1- That those foreign rulings intended to be executed do not include anything that contradicts the provisions of Islamic Sharia; otherwise, they are invalid.

2- That recourse to foreign courts is a necessity in the country, and it is permissible after verifying that they do not contradict Sharia, and this is done by the enforcement judge upon verifying the conditions.

The basis for this is what the jurists have decided regarding the permissibility of executing the rulings of the courts of the People of Justice in countries that rule by Sharia, and they have reasoned that so that the rulings of those who are separate from the subjects are not disrupted, and that the rulings of necessity take the position of necessity entirely, as derived from this.(2)

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(1) See: Al-Tafhim by Sheikh Abdullah bin Hussein, p. 315.

(2) See: Al-Tafhim by Sheikh Abdullah bin Hussein, pp. 312–316, and others in the book of arbitration.

Based on this, it is clear that the execution of foreign judgments under the Enforcement Law is consistent with what has been previously mentioned, as it permits the execution of foreign judgments and orders on the basis of reciprocity, after fulfilling the five mentioned conditions, which are:

1- That the courts of the Kingdom are not competent to consider the dispute in which the judgment or order was issued, and that the foreign courts that issued it are competent according to the rules of judicial jurisdiction established in their laws, and that the courts of the Kingdom are not competent to consider the dispute, such that it is not permissible for any court outside the country to consider a lawsuit concerning real estate that contradicts this judgment and does not apply in the Kingdom.

2- That the parties to the case in which the judgment was issued were properly represented and were enabled to defend themselves, and this does not prevent the issuance of the judgment in absentia if the party against whom the judgment was issued had been properly notified of the lawsuit in accordance with the prescribed procedures for notification in foreign countries.

3- That the judgment or order has become final in accordance with the law of the court that issued it.

4- That the judgment or order does not conflict with a judgment or order issued on the same subject by a competent judicial authority in the Kingdom.

5- That the judgment or order does not include anything that contradicts the provisions of public order in the Kingdom.(1)

Electronic arbitration in electronic commerce by Prof. Amina Janabi, p. 183.

(1) The Enforcement Law states in Article Eleven: “The enforcement judge shall order the execution of a foreign judgment or order on the basis of reciprocity, after verifying the following:

1- That the courts of the Kingdom are not competent to consider the dispute in which the judgment or order was issued, and that the foreign courts that issued it are competent according to the rules of judicial jurisdiction...”

In addition to these five conditions, the following are added:

A- That there is no existing lawsuit in the Kingdom previously filed regarding the lawsuit in which the foreign judgment or order was issued.

B- That the subject matter of the judgment is not among the cases that fall under the exclusive jurisdiction of the courts of the Kingdom according to its laws, such as real estate lawsuits and the like related to real estate within the Kingdom. Such cases may not be adjudicated by a foreign judgment within the Kingdom.

C- That there is an agreement between the Kingdom and the state issuing the judgment that provides for the execution of judgments.

D- That the enforcement judge verifies that the foreign state in which the judgment or order was issued applies reciprocity in executing the Kingdom's judgments.(1)

The provisions established in international conventions:

2- That the parties in the case in which the judgment was issued were properly represented and were enabled to defend themselves.

3- That the judgment or order has become final according to the law of the court that issued it.

4- That the judgment or order does not conflict with a judgment or order issued on the same subject by a competent judicial authority in the Kingdom.

5- That the judgment or order does not include anything that contradicts the provisions of public order in the Kingdom.

In Article Twelve of the Law: "The provisions of the previous article shall apply to arbitration awards issued abroad."

Also see: Electronic Arbitration in Electronic Commerce by Prof. Amina Janabi, p. 183.

(1) Article Eleven of the Enforcement Law stipulates: "The foreign judgment or order requested to be executed must meet the following conditions:"

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The foreign arbitral award, according to what the Law has established, is subject to two conditions: the convention for the enforcement of judgments, and reciprocity. Neither of them suffices in place of the other; rather, both must be met together.(1)

The letter (م) is used for comparison and juxtaposition, and it has an original meaning of conjunction and participation. This does not contradict what was stated in the text of Article Eleven of the Enforcement Law regarding the execution of what is in conventions and treaties, as it is not permissible for the enforcement judge to execute a foreign judgment or order except on the basis of reciprocity. In this regard, adherence to reciprocity is necessary along with conventions and treaties together, as both complement each other, and there is no difference between them, and if there is a difference, it may be due to the wording of the article, and (م) indicates stronger conjunction.

A- The original arbitration award or a certified copy thereof.

B- A certificate stating that the judgment has become final, if this is stipulated in the judgment itself.

C- Proof of proper notification to the party against whom the judgment was issued, or a document proving that the judgment was issued in absentia but that the party was properly notified, and that the judgment is final.

It is required for the execution of a foreign judgment or order that there is no existing lawsuit in the Kingdom previously filed regarding the lawsuit in which the foreign judgment or order was issued.

This means that there must be no previous lawsuit in the Kingdom concerning the same subject.

Also, the foreign documents submitted for execution must be certified by the competent authorities in the country issuing the judgment, and then certified by the Ministries of Foreign Affairs and Justice, and translated into Arabic by a certified translation office.

It is not permissible to execute a foreign judgment or order in cases that fall under the exclusive jurisdiction of the courts of the Kingdom, such as real estate lawsuits related to real estate located within the Kingdom.

Article Eleven of the Enforcement Law states: “The foreign judgment or order requested to be executed must meet the following conditions:

The rule is to combine both, and then the execution of foreign judgments is permitted as an exception, not as a rule, and it is not obligatory, unless there is an explicit provision stating otherwise, according to the previously mentioned opinion.(1)

H- Submission of the documents related to the enforcement instrument.

These are the documents and papers that must be attached to the enforcement request submitted by the enforcement judge.

W- Authentication of the documents issued from a foreign country and their translation.(2)

Z- Verification of the application of these conditions by the competent enforcement judge for foreign judgments, and the placement of the execution seal on them.(3)

In all cases, it is not permissible to execute a foreign arbitration award unless it is verified that it does not conflict with any judgment or decision issued by a competent authority in the Kingdom, and that it does not contradict the provisions of Sharia and public order in the Kingdom, and that the party against whom it is issued has been properly notified in a correct and clear manner.(4)

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(1) See: Al-Tafhim by Sheikh Abdullah bin Hussein, p. 318.

(2) The implementing regulations of the Enforcement Law state in Article 14/1: "Documents issued from a foreign country must be authenticated by the official authorities in that country, and then authenticated by the Ministry of Foreign Affairs, and translated into Arabic by a certified translation office."

(3) Article Nine of the Enforcement Law states: "Judgments, orders, arbitral awards, and authenticated instruments issued in a foreign country shall be submitted to the competent enforcement judge to verify that the instrument meets the conditions of execution, and the execution seal shall be affixed to it."

(4) See: Al-Tafhim by Sheikh Abdullah bin Hussein, p. 315; Electronic Arbitration in International Trade Contracts.

Article Five of the New York Convention states the cases for refusing recognition and enforcement of an arbitration award, and it provides: “Recognition and enforcement of the award may be refused, at the request of the party against whom it is invoked, only if that party furnishes to the competent authority where recognition and enforcement is sought proof of one of the cases referred to in this article.”

This refers to cases of lack of capacity, if the agreement referred to in this article is not valid under the law to which the parties have subjected it, or if there is no indication of that, then according to the law of the country where the award was issued.

A- The party against whom the award is invoked was not properly notified of the appointment of the arbitrator or of the arbitration proceedings, or was otherwise unable to present his case.

B- The award deals with a difference not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration.

However, if the decisions on matters submitted to arbitration can be separated from those not so submitted, that part of the award which contains decisions on matters submitted to arbitration may be recognized and enforced.

C- The composition of the arbitral authority or the arbitration procedure was not in accordance with the agreement of the parties, or, failing such agreement, was not in accordance with the law of the country where the arbitration took place.

D- The award has not yet become binding on the parties, or has been set aside or suspended by a competent authority of the country in which, or under the law of which, that award was made.

2- Recognition and enforcement of an arbitration award may also be refused if the competent authority in the country where recognition and enforcement is sought finds that:

A- The subject matter of the dispute is not capable of settlement by arbitration under the law of that country.

B- Recognition or enforcement of the award would be contrary to the public policy of that country.

See: Electronic Arbitration in International Trade Contracts by Dr. Khaled Mamdouh, pp. 432–433; Legal Regulation of Electronic Arbitration by Prof. Abdel Sabour Abdel Qader, pp. 144–146.

arbitration in accordance with the law of that country, or if recognition or enforcement of the award would be contrary to the public policy of that country.(1)(2)

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(1) Convention on the Recognition and Enforcement of Foreign Arbitral Awards, New York 1958, United Nations version 2015, published on the United Nations website:
https://uncitral.un.org/ar/texts/arbitration/conventions/foreign_arbitral_awards

(2) The UNCITRAL Model Law on International Commercial Arbitration of 1985, Article Thirty-Five: "Recognition and enforcement: The arbitral award, irrespective of the country in which it was made, shall be recognized as binding and, upon application in writing to the competent court, shall be enforced, subject to the provisions of this article and of Article Thirty-Six. The party relying on an award or applying for its enforcement shall supply the duly authenticated original award or a duly certified copy thereof. If the award is not made in an official language of this State, the court may request the party to supply a translation thereof into such language."

Article Thirty-Six: "Grounds for refusing recognition or enforcement:

1- Recognition or enforcement of an arbitral award, irrespective of the country in which it was made, may be refused only:
A- At the request of the party against whom it is invoked, if that party furnishes proof to the competent court that:
(1) A party to the arbitration agreement was under some incapacity; or the agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law of the country where the award was made;
(2) The party against whom the award is invoked was not given proper notice of the appointment of an arbitrator or of the arbitration proceedings or was otherwise unable to present his case;
(3) The award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or contains decisions on matters beyond the scope of the submission to arbitration; however, if the decisions on matters submitted to arbitration can be separated from those not so submitted, that part of the award which contains decisions on matters submitted to arbitration may be recognized and enforced;
(4) The composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties, or, failing such agreement, was not in accordance with the law of the country where the arbitration took place;
(5) The award has not yet become binding on the parties or has been set aside or suspended by a court of the country in which, or under the law of which, that award was made."

Third Topic

Procedures for Executing the Electronic Arbitration Award

The Saudi Enforcement Law provides for the procedures for executing enforceable instruments,(1) including arbitration awards, as stated in Articles Thirty-Four, Thirty-Six, (2)and Forty, and as we have previously mentioned.

It is permissible, when refusing recognition, to limit the refusal to the part that relates to matters that fall within the scope of arbitration and its execution, if the composition of the arbitral tribunal or the arbitration procedures was not in accordance with the agreement of the parties, or, failing such agreement, was not in accordance with the law of the country where the arbitration took place, or if the arbitration award has not yet become binding on the parties, or if it has been set aside or suspended by one of the courts of the country in which the award was made, or under the law of that country, or if recognition or enforcement of the arbitration award would be contrary to the public policy of that country.

It is also permissible, if a request is submitted to annul the arbitration award, for the court before which recognition and enforcement is sought to adjourn its decision, if it deems it appropriate, and it may also, upon the request of the party seeking recognition of the arbitration award or its execution, order the other party to provide appropriate security.

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(1) Article Thirty-Four states: “Execution shall be carried out based on a request submitted by the applicant for execution to the enforcement judge, according to the form specified by the regulations.”

(2) Article Thirty-Six: “The competent court shall verify the enforceable instrument referred to in paragraphs (1), (2), and (3) of Article Nine of this Law.”

(3) The enforcement judge shall verify the enforceable instruments mentioned in paragraphs (4), (5), (6), and (7) of Article Nine, subject to the following:
A- The enforceable instrument must be a document that has probative value.
B- The enforcement judge shall issue the execution order and affix the execution formula to it, and the debtor shall be notified of the execution order within ten days from the date of its issuance.”

The notification shall be published immediately in the daily newspaper with the widest circulation in the region of the court, and it shall be paid by the debtor if the right is established.

2- Coordination shall be carried out between the Ministry of Justice and the relevant authorities to clarify the addresses of persons whose addresses are unknown, such as their place of residence.

3- The court shall study the request, and if it becomes clear to it that the applicant has submitted it correctly, it shall issue an order to notify the debtor of the execution request, and the request shall be submitted directly to the court.

At the time of submission, the execution request shall include the following data:

A- The full name of the applicant, his profession or occupation, his place of residence, his nationality, and his national identity number, his place of work, and his residence address, and his permanent address if he does not have a place of residence.

B- The name of the person against whom execution is sought, his profession, his place of residence, and his work address.

C- The amount of the execution instrument, its number, the entity that issued it, and its date.

D- The date of submitting the request.

E- The type of the instrument and its description.

F- The bank account of the applicant for execution, and a copy of his IBAN number if the subject of execution is a financial amount.

Article 34/2 states: If it becomes clear to the enforcement judge that the execution request lacks the required data, the procedure shall be suspended.

Article 34/3: If the execution request is incomplete, the applicant shall be granted a period of thirty days to complete it, otherwise the request shall be rejected and its record shall be closed.

Article 34/4: If the applicant does not complete the request, he may submit a new request according to the approved form.

The applicant for execution must attach a copy of the execution instrument, and the instrument must include the execution formula referred to in paragraph (2) of Article (34).

It is also required that all ministries and other government agencies cooperate in executing the judgments issued by the courts, and all entities must implement the execution orders.

The execution instrument must include the execution seal referred to in paragraph (B) of this article, which is: “An instrument for execution stamped with the name of the judge, his signature, and the name of the court or enforcement department.”

Article 34/2 of the Enforcement Law requires placing the execution seal referred to in paragraph (B) of this article on the copy of the enforceable instrument attached to the request.

Article 34/3 states that notification of the debtor must be carried out.

Article 34/4: If the debtor refuses to sign the notification, the notification shall be recorded in the minutes, and after that, the notification shall be considered valid in his presence.

Article 34/5: If the debtor does not have a known place of residence or work, or if his address is unknown, notification shall be made through the region's governorate or the competent authority designated by the administration or governorate to notify the concerned parties.

Article 34/6: Notification shall be deemed effective upon its arrival to the addressee, or after the lapse of the period specified in paragraph (2) of this article.

Article 34/7: Notification shall not be repeated unless it is necessary, and it shall not be delayed beyond the period specified.

Article 34/8: Notification may be carried out electronically, and it shall be considered valid at any time of the day. If the notification is electronic, it must be in two identical copies, one original and the other a copy, including all the data related to the subject of the execution order, including the name, profession, place of residence, and the execution amount.

Article 34/9: The notification document must include the following data:

A- The full name of the applicant for execution, his profession or occupation, his place of residence, and his nationality.

B- The full name of the debtor and all available information about him, including his profession, occupation, and place of residence.

C- The details of the execution instrument, including its number, the issuing authority, and its date.

D- The execution document and its signature, and the proof of its issuance officially.

Article 34/10: The notification document shall be delivered as follows:

A- A copy of the execution order.

B- A copy of the execution instrument.

Article 34/11: Notification shall be delivered personally to the debtor or to his representative.

If the notification is not delivered personally, it shall be delivered to his residence or place of work, or to any person found at that location who is capable of receiving it.

Article 34/12: Notification may be made to companies, institutions, and government agencies according to the following:

A- Companies and institutions shall be notified through their authorized representatives or their managers.

B- Government agencies shall be notified through the official administrative authority.

The addressee of the notification: the wife, the children who have reached the age of majority, the cohabitants, the guardian, the custodian, or the manager—depending on the situation.

5- The debtor may not be notified in absentia except under the following conditions:
If the debtor's place of residence is in a foreign country, the notification shall be sent through the Ministry of Foreign Affairs, and the notification shall be deemed valid upon the expiration of a period of sixty days from the date of sending it, in accordance with the rules for notification outside the Kingdom.

If the debtor's address is unknown, the notification shall be made by publishing it in one of the most widely circulated newspapers in the region of the court, and the announcement shall be in accordance with the approved form.

The expenses of the notification shall be borne by the applicant for execution.

6- Upon submitting the execution request, after providing all the required data and means of communication, the applicant shall be notified of all procedures related to the execution request, and he shall be bound by their deadlines.

He must update his contact information, and the debtor shall be notified before taking any enforcement action.

If the applicant for execution refuses to comply, the circuit may require him to provide a financial guarantee or security to ensure his seriousness.

7- Article Forty-Six states: If the debtor does not pay within five days from the date of notification, the enforcement judge may take one or more of the following measures:

A- Preventing the debtor from traveling.

B- Suspending the issuance of powers of attorney directly or indirectly related to his funds.

C- Disclosure of his bank accounts and assets.

D- Seizing his movable and immovable assets.

E- Imprisonment of the debtor if necessary, in accordance with the provisions of this Law.

8- Disclosure of licenses and records of the debtor: commercial and professional, and obtaining information about them.

The enforcement judge shall take, in addition to what has been mentioned, the following procedures as necessary:

In a previous topic, we discussed the permissibility of enforcing electronic arbitration awards, which follows the same rules as the enforcement of traditional arbitration awards after fulfilling the previously mentioned enforcement conditions. We now move to the procedures taken by the competent enforcement department, which are as follows:

First: The execution request is submitted as an execution instrument request, either by the applicant for execution himself or by his authorized agent, and it is submitted according to a form prepared by the Ministry of Justice. It must include all necessary information about the applicant, the person against whom execution is sought, and the execution instrument.

1- Preventing government entities from dealing with the debtor and freezing his financial entitlements with them, and notifying any entity that has a financial relationship with the debtor to refrain from dealing with him.

2- Ordering the disclosure of the debtor's funds and those of his spouse and children, and transferring the funds to him or to those entitled to them, and if necessary, placing the funds under judicial custody until the dispute is resolved or the debt is settled, in accordance with the provisions of this Law.

3- Article Forty-Six: Based on this article and Royal Decree No. (M/53) dated 13/8/1433 AH, the following measures may be taken:

A- Travel ban.

B- Suspension of issuing powers of attorney.

C- Disclosure of bank accounts.

D- Seizure of funds.

E- Imprisonment of the debtor if necessary, according to the provisions of the Law.

4- Article Forty-Six also includes preventing government entities from dealing with the debtor and suspending his electronic services, and the details of imprisonment are mentioned in Article Forty-Six, in accordance with Articles Eighty-Two and Eighty-Three of the Law.

and the place of execution, and a separate execution request may be submitted for each execution instrument, unless the execution instruments are related to the same subject.(1)

Secondly: A copy of the execution instrument must be attached, along with bringing the original for review by an employee of the competent enforcement department.(2)

Thirdly: The competent enforcement judge examines the execution instrument and verifies the availability of the Sharia and legal conditions for its execution, including the presence of the executory formula on it. If the execution instrument is an arbitration award, it is an enforceable instrument as is the case with judgments of national arbitrators, and as for the judgments of foreign arbitrators, they must meet the legal and regulatory conditions so that they are considered an enforceable instrument, and the executory formula must be affixed to them with the phrase:

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(1) Article Thirty-Four states: "Execution shall be carried out based on a request submitted by the applicant for execution to the enforcement judge, according to the form specified by the regulations."

Also see: Najiz electronic platform: https://new.najiz.sa

Also see: Enforcement Law by Dr. Abdulaziz Al-Turki, 1435 AH, Madar Al-Watan Publishing, Riyadh, first edition; and Royal Decree No. (M/53) dated 13/8/1433 AH.

(2) Article Thirty-Six states: "The enforcement judge shall verify the executory formula on the enforceable instrument referred to in paragraphs (1), (2), and (3) of Article Nine of this Law, except as stated in paragraphs (4), (5), (6), and (7) of Article Nine, and the execution seal shall be affixed to it, including the phrase (execution instrument) accompanied by the name of the enforcement judge and his signature."

Also see: Najiz electronic platform: https://new.najiz.sa

Also see: Enforcement Law by Dr. Abdulaziz Al-Turki, p. 142.

(Execution instrument), preceded by his name and signature.(1)

Fourth: The enforcement judge issues an immediate order that includes notifying the person against whom execution is sought of the execution instrument and obligating him to execute. A copy of the execution instrument is attached to the notification, whether the notification is carried out by the applicant for execution or through judicial officers authorized to notify parties, where each citizen and resident in the Kingdom of Saudi Arabia shall have a known address, either in his place of residence or place of work, or any address approved by the Ministry of Justice in coordination with the competent authorities, which is officially called the "National Address" issued by the Saudi Post.

If notification cannot be made through the official notification authorities, and fifteen days have passed without being able to notify, the enforcement judge shall order notification by publication in the most widely circulated newspaper in the region of the enforcement department, and this shall be considered sufficient notification to the person against whom execution is sought.

If the person against whom execution is sought resides outside the Kingdom, an additional period of sixty days shall be granted, after which notification shall be made through the Ministry of Foreign Affairs. (2)

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(1) See: Article Thirty-Six: "The enforcement judge shall verify the executory formula on the enforceable instrument referred to in paragraphs (1), (2), and (3) of Article Nine of this Law, except as stated in paragraphs (4), (5), (6), and (7) of Article Nine, and the execution seal shall be affixed to it, including the phrase (execution instrument) accompanied by the name of the enforcement judge and his signature."

Also see: Najiz electronic platform: https://new.najiz.sa

Also see: Explanation of the Enforcement Law by Abdulaziz Al-Turki, p. 142.

(2) See: Article Thirty-Four: "The enforcement judge shall issue an order to execute, and the debtor shall be notified with a copy of the execution instrument in accordance with the procedures stipulated in the regulations."(

Fifth: After five days have passed from the date of notifying the person against whom execution is sought of the execution instrument and the execution order, without compliance with execution, the enforcement judge shall order disclosure of his financial assets, whether movable or immovable.

In the event that notification cannot be made for any reason, the period shall begin after the lapse of fifteen days from the date of publication in the newspaper, and the period shall be considered complete after the lapse of ten days. (1)

The benefit of this measure lies in allowing the enforcement judge—if this measure is met—to take the necessary regulatory procedures that are similar in nature to the sanctions imposed on the person against whom execution is sought, which are as follows:

First: Preventing the person against whom execution is sought from traveling outside the borders of the Kingdom of Saudi Arabia.

After twenty days have passed from the date of issuing the execution order, the enforcement judge shall order publication in the most widely circulated daily newspaper in the region of the court, and the debtor shall bear the cost of the publication, except for cases of proven entitlement.

Also see: Najiz electronic platform: https://new.najiz.sa

Also see: Enforcement Law by Abdulaziz Al-Turki, pp. 143 and 174.

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(1) See: Article Thirty-Four: “The enforcement judge shall issue an order to execute, and the debtor shall be notified with a copy of the execution instrument in accordance with the procedures stipulated in the regulations.

If the debtor does not comply within five days from the date of notification, or from the date of publication in the newspaper in case of inability to notify, the enforcement judge may take the necessary measures, including preventing travel.”

Also see: Najiz electronic platform: https://new.najiz.sa

Also see: Explanation of the Enforcement Law by Abdulaziz Al-Turki, pp. 143 and 174.

and notifying the Passport Department of the debtor's area, and this is done at the request of the creditor.

The enforcement judge may permit the debtor to travel after the issuance of the execution order if he provides a guarantee or sufficient bail, or if there is justification for lifting the travel ban, such as the need for treatment or to receive medical care outside the Kingdom.(1)

Second: Preventing the person against whom execution is sought from issuing general powers of attorney in financial matters.

This includes all entities such as ministries, the Ministry of Commerce, and others, and such a circular is issued between the parties through the chambers of commerce affiliated with them, preventing the debtor from executing by issuing a power of attorney to another person in such matters, so that he cannot manage his financial affairs after seizure is imposed on him.

As for non-financial powers of attorney, such as powers of attorney in personal status matters, they are not prevented because they are not related to financial matters.(2)

Third: Disclosure of the debtor's current and future assets to the extent of the required debt.

See: Article Forty-Six: "If the debtor does not pay or disclose sufficient assets within five days from the date of notification, or from the date of publication in one of the newspapers in case notification is not possible, the enforcement judge may take one or more of the following measures:

A- Preventing travel.

…"

Article 75 of the Enforcement Regulations: "Preventing the debtor from traveling shall be by order of the enforcement judge after notifying him of the execution order, and the debtor may provide a guarantee or bail determined by the circuit to compensate the creditor if it appears that the execution applicant is not entitled to his request."

Also see: Najiz electronic platform: https://new.najiz.sa

Also see: Explanation of the Enforcement Law by Abdulaziz Al-Turki, p. 174.

related to the execution instrument, and lifting the seizure on it, (1)and executing it according to its value, by addressing the entities that hold the debtor's funds, whether individuals, companies, public institutions, or government entities.(2)

Fourth: Disclosure of the debtor's commercial and professional licenses and records, which indicate the debtor's financial capacity based on the execution instrument, such as commercial licenses, licenses issued by the Saudi Industrial Development Fund, or licenses for practicing professional activities such as law, medicine, or other professional works.(3)

Fifth: Notification of the authority licensed to register credit information to suspend execution, such as financial institutions like the Saudi Central Bank or the Capital Market Authority, the Ministry of Commerce, and the electronic platform (SIMAH), or the commercial registry of the Ministry of Commerce, so that the debtor is notified that he is being pursued and prevented from dealing.

(1) The enforcement judge issues an order for precautionary seizure and seizure on the debtor's funds. The characteristics of precautionary seizure include:
1- It is a judicial procedure.
2- It is temporary.
3- It is a direct order.
4- It is imposed on the debtor's assets and aims to prevent the debtor from disposing of them.

See: Execution procedures on the debtor's funds, research prepared by Ibrahim Saleh Al-Suwaid, p. 185; Enforcement Law by Abdulaziz Al-Turki, p. 177.

(2) Also see: Najiz electronic platform: https://new.najiz.sa

(3) Also see: Explanation of the Enforcement Law by Abdulaziz Al-Turki, p. 175.

so that dealing with him is suspended in the future, and those financial institutions restrict the enforcement authorities from having any assets belonging to the debtor—whether present or future—so that execution may be carried out against them.(1)

Sixth: Preventing government entities from dealing with the debtor, and what is meant by dealing is financial dealing or contracting for sale and purchase with the debtor, such as entering into tenders or submitting requests to purchase lands offered by government agencies, or obtaining loans from financial institutions. This also includes dealings that may involve violations of regulations or harm to his family, such as preventing him from issuing a national ID or registering a newborn, or documenting his marriage, and the like.(2)

Seventh: Preventing financial institutions from dealing with the debtor, such as the Saudi Central Bank and banks affiliated with it, and institutions related to them, including preventing him from opening accounts, withdrawing funds, or issuing checks, letters of guarantee, financial transfers abroad, or applying for loans and facilities.(3)

Eighth: Ordering disclosure of the funds of the spouse or children, or persons suspected of concealing the debtor's funds, such as the accountant, agent, friend, or partner, in case of suspicion that they are assisting him in hiding or smuggling his funds, as it is possible that something of his funds is in their possession.

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(1) See: Najiz electronic platform: https://new.najiz.sa — Also see: Explanation of the Enforcement Law by Abdulaziz Al-Turki, p. 175.

(2) See: Najiz electronic platform: https://new.najiz.sa — Also see: Explanation of the Enforcement Law by Abdulaziz Al-Turki, p. 176.

(3) See: Najiz electronic platform: https://new.najiz.sa — Also see: Explanation of the Enforcement Law by Abdulaziz Al-Turki, p. 176.

his fixed or movable assets, or the funds that are in the possession of persons in their names, and the like. If anything from the debtor's funds appears registered in another person's name, this shall be proven before the judge of the subject matter, unless the nominal owner acknowledges that it belongs to the debtor by a considered statement without contesting it in his presence, after which seizure and execution shall be carried out on it without the need for a judicial ruling.(1)

Ninth: Imprisonment of the debtor due to refusal to execute without excuse for insolvency, and he shall be notified of imprisonment for failure to comply with execution, in accordance with Article Eighty-Three of this Law.(2)

This shall be by a ruling issued by the enforcement judge, and it is subject to appeal. If the refusal is due to insolvency and this is proven, imprisonment shall be for a period not exceeding five years, by a ruling issued by the enforcement judge. The debtor may be imprisoned for a period not exceeding five years, renewable for a period not exceeding three months, in accordance with Articles Eighty-Three and Eighty-Four of this Law, (3)provided that:

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(1) See: Najiz electronic platform: https://new.najiz.sa — Also see: Explanation of the Enforcement Law by Abdulaziz Al-Turki, p. 176.

(2) Article Eighty-Three:
Subject to the provisions of this chapter—imprisonment of the debtor— the debtor may be imprisoned if it is proven that he refrains from execution, and the imprisonment shall continue until execution is completed.

(3) Article Eighty-Six:

1- If the debtor claims insolvency and it becomes clear to the enforcement judge that he is concealing funds, the enforcement judge shall issue an order to imprison him for a period not exceeding five years.

2- The enforcement judge shall summon the debtor within a period determined according to paragraph (1) of this article, to appear before him, to investigate his financial status.

3- If large amounts of money are established for the debtor, they shall be assessed and divided according to the types of debts and the debtor's conditions.

The absence of any impediment to enforcement imprisonment as stated in Article Eighty-Four of this Law.(1)(2)

It should be noted that enforcement imprisonment, which is intended to compel the debtor to execute, is not limited to a specific duration in the Law, and several amendments have been made to this procedure, the latest of which is to suspend enforcement imprisonment for a specified period. As for imprisonment for the purpose of verification,(3)

this is carried out in coordination with the Ministry of Interior and the Ministry of Finance.

(1) Article Eighty-Four:

Enforcement imprisonment shall not be applied to the debtor in the following cases:

1- If he has sufficient funds to fulfill the debt, upon which seizure and execution can be carried out.

2- If he provides a bank guarantee or sufficient bail, or presents a guarantor acceptable to the court.

3- If he is bankrupt, in accordance with the provisions of this Law.

4- If the debtor is a woman, or if she is pregnant, or if she has a child under the age of two.

5- If there is a medical report from the competent medical authority proving that he suffers from a disease incompatible with imprisonment.

6- If he is elderly, or if he is over seventy years of age.

(2) See: Najiz electronic platform: https://new.najiz.sa — Also see: Explanation of the Enforcement Law by Abdulaziz Al-Turki, pp. 176–177.

(3) Issued by the Saudi Press Agency on Tuesday, 14/8/1441 AH:
"By order of the Custodian of the Two Holy Mosques King Salman bin Abdulaziz Al Saud—may Allah protect him—regarding the suspension of enforcement of judicial rulings and final decisions issued against citizens in private rights cases, including suspension of execution of judgments and orders, and the suspension of enforcement procedures, so that children may be able to visit their parents in cases of family disputes, provided that all necessary precautionary measures are taken until the date announced by the competent committee."

The insolvency of the person against whom execution is sought shall not exceed five years, as stated in the Law.

One of the enforcement judges and the author of the book *Explanation of the Enforcement Law* believes that the jurists permitted imprisoning the procrastinating debtor and left it to the judge's discretion to choose the appropriate penalty to compel him to fulfill the obligation.(1) Imam Ibn Taymiyyah said: "If the debtor is capable of payment and refrains, he is punished by imprisonment until he fulfills it." He also said: "The amount of punishment is not limited; rather, it is left to the ijtihad of the judge according to his knowledge and ability, if it is not restricted by specific limits."(2)

The jurists have mentioned several methods to compel the procrastinating debtor to fulfill his obligation, including:

1- The judge may pay the debt on his behalf by force:
If the debtor has funds of the same type as the debt owed, the judge may take it from him by force and give it to the creditor.

2- The judge may imprison him until he pays:
Ibn Taymiyyah said: "If the debtor is capable of payment and refrains, the judge may imprison him until he pays, because this is considered compulsion."(3)

Coronavirus and the lifting of exceptional circumstances for the pandemic.

(1) See: Explanation of the Enforcement Law by Dr. Abdulaziz Al-Turki, p. 177.

(2) *Al-Fatawa al-Kubra* by Imam Ibn Taymiyyah, may Allah have mercy on him, Vol. 29, p. 389, Dar Al-Kutub Al-Ilmiyyah, first edition, 1408–1987.

(3) Previous reference by Ibn Taymiyyah.

C- Degrading him verbally as a form of reprimand:

Ibn Taymiyyah said: "If the one who owes the right is able to fulfill it, and the owner of the right asks him to fulfill it and he refuses, then he is rebuked verbally and compelled to fulfill it."(1)

D- Discrediting his testimony and rejecting it:

Some of the Maliki jurists stated that the testimony of a procrastinating debtor should be rejected absolutely if he is capable but refuses.

E- Empowering the creditor to rescind the sale contract with the debtor:

Most jurists have stated that the creditor has the right to rescind the contract if the debtor delays without excuse in fulfilling the contractual obligation.

F- Imprisonment of the debtor:

The majority of jurists agreed that the debtor may be imprisoned if he refuses to fulfill the debt despite being able to do so.

G- Beating the procrastinating debtor:

Ibn Taymiyyah said: "There is no disagreement among scholars that the one who is obliged to fulfill a debt and is capable of doing so but refuses, may be punished until he fulfills it."

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(1) *Majmu' al-Fatawa* by Sheikh al-Islam Ahmad ibn Taymiyyah, Vol. 29, p. 414, compiled and arranged by Abd al-Rahman ibn Muhammad ibn Qasim, Dar al-Wafa Publishing, Saudi Arabia, first edition, 1405–1985.

by beating."(1) He also said, commenting on the hadith: "(2)Delay by a wealthy person is injustice, and his punishment is permissible."(3)

And punishment is not limited to imprisonment, rather beating is among the most apparent forms of it after imprisonment.

H- The judge may sell the debtor's property:

The jurists have stated that the judge may sell the procrastinating debtor's property by force, and this is done in cases where imprisonment is not sufficient, or if the debtor continues to refuse to fulfill his obligation, or if the judge deems it appropriate to resort to selling the property instead of imprisonment.(4)

And as a substitute for the original electronic arbitration award, it is preserved and documented as an official record.

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(1) *The Judicial Methods and Governing Methods* by the author: Muhammad bin Abi Bakr bin Saad bin Shams al-Din Ibn al-Qayyim al-Jawziyyah, p. 91, publisher: Dar al-Bayan, Mecca, first edition, without date.

(2) Narrated by Al-Bukhari in the Sahih, under the chapter of "Punishment for Delay by the Wealthy," Hadith No. 1188, commentary and authentication by Muhammad Zuhair bin Nasir al-Nasir, Dar Tawq al-Najat, first edition, 1422 AH, p. 431, Volume 4.

(3) *The Judicial Methods*, p. 92.

(4) See: *The Kuwaiti Fiqh Encyclopedia*, issued by the Ministry of Awqaf and Islamic Affairs, Kuwait, Vol. 38, p. 116; Dar Al-Salasil, Kuwait, first edition, 1403–1983.

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in the register of execution instruments at the court.(1)

If the subject of execution is the execution of an act and the person against whom execution is sought refrains from performing it, and does not comply with execution within five days from the date of notification in accordance with the provisions of this Law, the enforcement judge shall carry out execution using the competent authority (the police) to carry out what is required from the execution procedures, unless the applicant for execution requests that the debtor himself carry it out, or the enforcement judge may impose a coercive fine on the debtor himself, where the enforcement judge issues a decision imposing a daily fine not exceeding ten thousand riyals to be deposited in the court's account for each day of delay.

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(1) Article Forty-Eight states: "The original execution instrument shall be replaced by what has been executed, and the instrument data shall be recorded in the register of execution instruments at the court."

8/1- If the subject of execution is an act, the circuit may require the applicant for execution to carry it out, if execution is possible.

8/2- If execution is not fully completed on the instrument, the original shall be returned to the person against whom execution is sought, and if the instrument is not registered in the registers of this Law, the data of the execution instrument shall be recorded in the execution register.

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(2) Article Forty-Six states: "If the subject of execution is the execution of an act and the debtor refrains from performing it, and does not comply within five days from the date of notification, the enforcement judge may execute it using the competent authority (police), unless the applicant for execution requests that the debtor perform it himself."

Also see: Najiz electronic platform: https://new.najiz.sa in which the person against whom execution is sought is notified of execution, and the enforcement judge has the right to cancel the fine or part of it if the person against whom execution is sought complies with execution.(1)

To submit a request for executing an electronic arbitration award to the Enforcement Court, it must be done through the Saudi Najiz electronic platform, as a request for financial execution or a direct execution request depending on the case of the award, as clarified in the frequently asked questions published on the Najiz platform, which are as follows:

What is meant by an execution instrument? (A judgment issued by a foreign country when submitting a request for financial execution)

It is a document issued by a court or arbitration body outside the Kingdom, including the text of its judgment/decision obligating the payment of a specific amount of money in one or multiple installments, in accordance with the conditions for executing foreign judgments under the Enforcement Law.

What is meant by an execution instrument? (A judgment issued by a foreign country when submitting a direct execution request)

The meaning of a judgment issued by a foreign country differs when submitting a direct execution request according to the main types of execution instruments, which are as follows:

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(1) Article Forty-Six states: "If the subject of execution is an act, the enforcement judge shall carry it out using the competent authority, unless the debtor performs it himself, and if he does not perform it, the enforcement judge shall issue a decision imposing a daily fine not exceeding ten thousand riyals to be deposited in the court's account for each day of delay."

Also see: Najiz electronic platform: https://new.najiz.sa

General: It is a document issued by a court/arbitration body outside the Kingdom containing the text of its judgment/decision obligating the performance of an act or refraining from an act, in accordance with the conditions for enforcing foreign judgments under the Enforcement Law.

Monetary: It is a document issued by a court/arbitration body outside the Kingdom containing the text of its judgment/decision obligating the sale of a property or movable asset by auction, in accordance with the conditions for enforcing foreign judgments under the Enforcement Law.

What is meant by an execution instrument? (A judgment alternative to an execution order when submitting a request for financial execution)

It is a document issued by a court/arbitration body containing the text of its judgment/decision obligating the payment of a specific amount of money in one or multiple installments, certified by the Court of Appeal.

What is meant by an execution instrument? (A judgment alternative to an execution order when submitting a direct execution request)

The meaning of a judgment alternative to an execution order differs when submitting a direct execution request according to the main types of execution instruments, which are as follows:

General: It is a document issued by a court/arbitration body containing the text of its judgment/decision obligating the performance of an act or refraining from an act, certified by the Court of Appeal.

Monetary: It is a document issued by a court/arbitration body containing the text of its judgment/decision obligating the sale of a property or movable asset by auction, certified by the Court of Appeal.

Eviction: It is a document issued by a court/arbitration body containing the text of its judgment/decision obligating the eviction of a property, certified by the Court of Appeal.(1)

Najiz platform: https://new.najiz.sa/applications/landing/faqs

Conclusion:

At the conclusion of this research, I praise Allah for His guidance and support, and I ask Him for success and ease. To the honorable reader, I present the most prominent results that this research has reached, as follows:

1. The Saudi Enforcement Law does not stipulate the conditions and procedures for enforcing electronic arbitration awards, but rather it only stipulates the conditions and procedures for enforcing traditional arbitration awards.
2. The Saudi Enforcement Law, the Saudi Electronic Transactions Law, and the Saudi Arbitration Law, through their texts, rules, and complementarity, allow the derivation of the permissibility of applying the conditions and procedures for enforcing traditional arbitration awards to electronic arbitration awards.
3. The practical reality in recent years has increasingly moved towards issuing electronic arbitration awards and fully enforcing them electronically through the Saudi Najiz platform affiliated with the Saudi Ministry of Justice.
4. Electronic arbitration awards have been issued and orders for their enforcement have been executed by the Saudi Courts of Appeal.

As for the most prominent recommendations, they are as follows:

1. Issuing additional regulatory provisions specifically addressing the enforcement of electronic arbitration awards within the Saudi Enforcement Law and the Saudi Arbitration Law, to avoid leaving the matter subject to individual interpretation.
2. Taking into account the Saudi Electronic Transactions Law alongside the Saudi Enforcement Law and the Saudi Arbitration Law before issuing any electronic arbitration award intended to be enforced within the Kingdom of Saudi Arabia.
3. Issuing additional regulatory provisions addressing cases of forgery that may occur in electronic documents, especially with regard to electronic arbitration awards.

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