

## Research Article

# THE PRACTICE OF BANKRUPTCY LAW IN SAUDI COURTS

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## ABSTRACT

**Background:** Recent years have seen a growing interest in bankruptcy law, both domestically in the Kingdom of Saudi Arabia and globally. A significant and concrete step in the larger legal and economic changes in the Kingdom of Saudi Arabia was the passage of the bankruptcy law in 2018. A key step is to understand how these relatively new rules are enforced in Saudi courts, as this offers insight into the practical legal processes that companies seeking to enter the Kingdom's market and scholars studying commercial law need to consider. This study aims to explore how bankruptcy law is implemented in the Saudi legal system and to outline the strategies Saudi judges use to interpret and enforce it when resolving conflicts.

**Method:** The study employs an inductive and analytical approach to examine judicial practices and rulings under Saudi Arabia's bankruptcy law and relevant legal texts. These methods enabled the collection and systematisation of relevant materials, including legal texts and bankruptcy cases stored in the Judicial Scientific Portal, which were carefully examined by top judicial authorities. The method used facilitated the division of bankruptcy cases into two distinct groups: procedural and substantive matters, drawing on the framework

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*underpinning the Saudi Bankruptcy Law. The advantage of this two-pronged approach is that it thoroughly examines judicial rationales in both procedural and substantive areas before developing recommendations.*

**Results and Conclusions:** *Examining and analysing the cases and procedures used in Saudi bankruptcy courts confirms the significance of uniform judicial application of bankruptcy law and the crucial role of specialised bankruptcy chambers in promoting procedural efficiency and consistency. The study highlighted that the unified judicial application of the bankruptcy law and its regulations should be reflected in upcoming legal updates to ensure consistency with judicial interpretation and the system's objectives. The research suggests that continuing to publish court rulings and decisions on bankruptcy cases contributes to understanding the applicable law and to developing solutions for emerging bankruptcy cases.*

## 1 INTRODUCTION

Recent years have witnessed increasing interest in bankruptcy law, both domestically and globally. This is, in fact, a testament to the shifting nature of legal and economic systems. The backbone of this growing interest is, in fact, several factors, such as the country's attempts to cast a wider net as part of Vision 2030,<sup>1</sup> its drive to open its doors to international investment, and its initiatives to create a better business environment. A significant and concrete step in the Kingdom of Saudi Arabia's larger legal and economic changes that can be mentioned here was the passage of the bankruptcy law in 2018.<sup>2</sup> This law was intended to serve three main purposes: i) preserving creditors' interests, ii) regulating bankruptcy proceedings, and iii) clearing the path for the processes of restructuring and liquidating insolvent people through offering the necessary legal treatment. A critical step here is to understand how these relatively new rules are applied in Saudi courts, as this provides insight into the real-world legal procedures that companies seeking to enter the Kingdom's market and academics studying commercial law must consider. This study examines how bankruptcy law is applied in the Saudi legal system and delineates the strategies Saudi judges adopt to interpret and enforce it in conflict situations. The study also aims to assess whether judicial interpretations of the law stand up to scrutiny in terms of consistency and coherence with its intended objectives, and to cast light on the hurdles the judiciary faces in effectively implementing the law.

The study also derives its importance from several factors. It concerns judicial precedents on the Saudi bankruptcy law, even though they are not officially recognised as legal principles. Nonetheless, they remain important resources for beneficiaries, including jurists, judges, attorneys, and politicians. Through analysing these precedents, the study sheds light

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1 Saudi Vision 2030 (25 January 2016) <<https://www.vision2030.gov.sa/en/>> accessed 3 February 2026.

2 Saudi Arabia Royal Decree No (M/50) of 28/05/1439H 'Bankruptcy Law' (adopted 14 February 2018) <[https://laws.moj.gov.sa/en/legislation/\\_ZXh1it653k5JuoCi4LEZQ](https://laws.moj.gov.sa/en/legislation/_ZXh1it653k5JuoCi4LEZQ)> accessed 3 February 2026.

on judicial reasoning and justifies its necessity in i) assisting statutory regulation and ii) setting the stage for future legal developments. The study also delves into a lateral examination and review of the most often cited judicial authorities operating under Saudi bankruptcy law. It is thus in line with the legislative objective of fostering consistency in judicial interpretation and making sense of the law's provisions. The study ultimately supports a clearer, more predictable legal and regulatory landscape for bankruptcy in Saudi Arabia. This, in turn, serves two purposes: i) building trust in the country's legal framework and ii) laying the foundation for growth in the commercial sector. When viewed through a theoretical lens, this study connects the dots between the letter of the law and its actual interpretation. That way, it offers a roadmap that could help lawmakers and regulators alike to fine-tune existing laws and policies. This, of course, sheds light on just how crucial judicial stability can be in several respects, such as paving the way for legal certainty, breathing new life into investor confidence, and ensuring the legal system holds its ground. What's more, the current study also examines how specialised bankruptcy chambers can play a central role in enhancing the speed and efficiency of judicial proceedings. It peels back the layers of how legal formalities are put in practice while probing how a legal system can genuinely uphold justice when the rules are carried out to the letter. Ultimately, the aim of this research is not solely to enrich scholarly efforts on Saudi bankruptcy law but also to furnish practical recommendations that can guide both practitioners and policymakers as they navigate the intricacies of the field.

The enactment of the Saudi bankruptcy law in 2018 was the most significant modification to Saudi Arabia's insolvency law. Thus, the purpose of this procedure is to achieve a less time-consuming and more reliable legal means of resealing and dissolving insolvent debtors, while protecting creditors' rights. However, only when the courts consistently interpret and enforce the law's provisions to advance legislative objectives are those objectives achieved. It's important to know that the judicial decisions rendered by specialised courts in matters related to bankruptcy law and its regulations are predominantly based on judges' interpretations of these laws, as they apply them to the cases and controversies submitted to them. The judicial discretion employed in applying or interpreting the law in conflicts constitutes a pragmatic interpretation of its provisions. These interpretations may establish precedents for future disputes concerning bankruptcy law and its regulations. This research, therefore, seeks to examine the published decisions of the Saudi bankruptcy courts regarding the law and its regulations to identify the most frequently adopted interpretations, both in form and substance, particularly where interpretations were not in the regulations or where there was variation. Against this background, this study aims to fill the existing gap by exploring how Saudi courts have understood and applied bankruptcy law, as well as the factors that Saudi judges rely on when making decisions in bankruptcy cases. The main question guiding this research is how the Saudi courts have implemented the provisions of the Bankruptcy Law in handling conflict and bankruptcy issues before them, and the key challenges and trends emerging in Saudi judicial practice. However, a dearth of empirical review of Saudi courts' practices in this area of law persists to date.

## 2 RESEARCH METHODOLOGY

To examine the landscape of Saudi Arabia's bankruptcy law, this study analyses judicial practices and rulings through an inductive and analytical lens. The research sheds special light on how Saudi courts apply bankruptcy law provisions to resolve disputes and insolvency cases. The current study draws on a wealth of case materials archived in the Judicial Scientific Portal, which have been closely scrutinised by high judicial bodies, lending them added gravitas.

After the selection process is complete, the analysis divides the rulings into two distinct categories: procedural and substantive matters, in accordance the framework underpinning the Saudi Bankruptcy Law. The procedural realm covers the ins and outs of case management, including court jurisdiction and required licenses, as well as legal deadlines. By contrast, the substantive side addresses the core of bankruptcy matters, including debtor eligibility criteria, debt quantification, creditor entitlements, and the treatment of assets and liabilities.

The study is guided by two primary research questions: Which courts have jurisdiction over bankruptcy disputes? How do Saudi courts interpret and apply the provisions of the Bankruptcy Law in resolving disputes and handling bankruptcy cases? These questions provide the framework for examining decisions and offer insights into how the judicial system addresses bankruptcy issues.

In answering these questions, the study aims to achieve the following objectives: to provide an overview of the Saudi judiciary in general and of the bankruptcy-disputes-specific judiciary in particular, and to demonstrate the current state of judicial review of bankruptcy cases.

## 3 THE LEGAL AND REGULATORY FRAMEWORK

An analysis of the foundational framework governing the bankruptcy judiciary reveals that the primary sources shaping both research and practice in this domain are statutory laws, implementing regulations, and judicial precedents. The cornerstone of this framework is the Bankruptcy Law, enacted by the Council of Ministers, which serves as the primary legislative reference for both judicial and executive authorities, establishing the overarching legal principles and statutory requirements. This primary legislation is operationalised through the Implementing Regulation of the Bankruptcy Law—a comprehensive set of rules, procedural mechanisms, and guidelines issued by the competent governmental body and subject to Cabinet approval, which dictates the practical application of the statutory provisions.

Institutional governance is facilitated by the Bankruptcy Commission (EISAR), an independent governmental entity tasked with developing regulatory standards and

standardised documentation as stipulated by the overarching legislation. The Commission manages administrative liquidation procedures and oversees the credentialing of insolvency officeholders and experts.

Within the judicial sphere, the adjudication process is structured by the Rules Governing Bankruptcy Procedures in Commercial Courts. Promulgated pursuant to a resolution by the Ministry of Justice, these rules organise the judicial review of bankruptcy applications. Furthermore, the evidentiary threshold for such applications is codified in the Rules of Information and Documents Stipulated in the Bankruptcy Law and the Implementing Regulations Thereof, which mandate the specific documentation required for submissions to the judiciary. Additionally, the professional qualifications and conduct of practitioners are regulated by the Code of Licensing the Officeholders and Experts. Issued by the Bankruptcy Commission, this code delineates the licensing provisions, application requirements, and fiduciary obligations of bankruptcy trustees and experts.

The legislative acts and regulatory instruments analysed in this research are officially promulgated through primary Saudi legal repositories: the Laws and Regulations Portal ([boe.gov.sa](http://boe.gov.sa)), the Umm Al-Qura Official Gazette, and the National Centre for Archives and Records ([ncar.gov.sa](http://ncar.gov.sa)). The Laws and Regulations Portal serves as the central repository for updated legislation, accessible in multiple languages, including English. It should be noted, however, that international access to certain official governmental websites may occasionally be restricted due to security-related geo-blocking measures.

Regarding the judicial rulings, the research relied on appellate court decisions in bankruptcy cases from 2018 to 2022, as these were the only cases available for publication on the official website, The Scientific Judicial Portal. The literature also features another important contemporary study: Abdullah Turki Al-Hamoud's Treatises on bankruptcy cases, which focuses on the judicial implementation of bankruptcy legislation. The current study builds on Al-Hamoudi's work to offer a fresh perspective on judicial activity and a more accurate picture of the current state of bankruptcy law in Saudi Arabia. This is achieved by piecing together and breaking down some cases.

The study includes several important references that present the historical development of the judiciary in Saudi Arabia, up to the specialised bankruptcy judiciary. In this section, the research of two groups of researchers was selected:

The first is research on some public judicial employees, such as Saud Saad Al-Duraib and Ahmed Abdullah Al-Jaafari, as they are best suited to explain the systems of those bodies and their effects. The second is research by some interested in the Saudi judiciary, its transformations, and its systems, such as that of Ahmed Saleh Makhoul, Nasser bin Mohammed Al-Ghamdi, and Ayoub bin Mansour Al-Jarboa.

The current study examines the philosophical meaning and historical view of the term "judicial practice" and takes a closer look at related concepts such as "judicial precedents". Judicial practice, on the other hand, refers to the consistent application of reason in

handling cases. The works of Abdul Salam AlAsri and Muhammad Ibrahim Ali were selected because the authors are scholars of the Maliki school of thought and are more qualified to explain the Maliki terminology.

This study is crucial for understanding these concepts and their impact on judicial decisions in bankruptcy disputes. By doing so, it advances knowledge of the nature of these relationships and strengthens the conceptual foundation that can inform future judicial application and legislative development, enriching both.

## 4 THE PRACTICE OF BANKRUPTCY LAW IN SAUDI COURTS

Understanding the concepts in the title, along with related terms, is essential to understanding judicial reality and the methods judges use to interpret statutory texts. In this context, the intended meaning of the practice of bankruptcy law in Saudi courts is the established practice of bankruptcy circuit judges when interpreting articles of the Saudi Bankruptcy Law during the consideration and resolution of cases and disputes related to its implementation and its regulations.<sup>3</sup>

The term "established practice" refers to legal opinions that opposed the school's ideology but were maintained in good faith to protect the public or for practical necessity.<sup>4</sup> Initially, the term "established practice" originated in Andalus in response to the mandatory application of the Maliki school in legal and theological decisions, in which scholars and judges were strictly prohibited from deviating from the Maliki doctrine unless there were urgent circumstances, such as changes in customs or the emergence of new case types.<sup>5</sup> As mentioned before, the judiciary's interpretation of the Saudi Bankruptcy Law exemplifies the established practice in the Saudi judicial system.<sup>6</sup>

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3 These articles give an overview about the bankruptcy under Saudi system before enacting the law and after enforcement, Adam Al-Sarraf, 'The Wave of Insolvency Reform Across the MENA Region: Analysing Saudi Arabia's New Bankruptcy Law' (2018) 2 *The MENA Business Law Review* 34; Fahad Alarifi, 'The Bankruptcy Law of Saudi Arabia: Policy, Operation and Comparison' (2021) 7(3) *PSU Research Review* 201, doi:10.1108/PRR-02-2021-0011.

4 Abdul Salam AlAsri, *The Theory of Adopting Established Practices in Morocco within the Framework of the Maliki School* (Ministry of Awqaf and Islamic Affairs, Kingdom of Morocco, 1996) 102 [in Arabic].

5 *ibid.* Note that the book by Abu al-Walid Sulayman Al-Baji, one of the Maliki scholars of Andalusia, includes many examples of Established Practice in the Maliki school: Abu al-Walid Sulayman Al-Baji, *Chapters on Judiciary and an Explanation of Past Practices Among Jurists and Judges* (Library of Repentance 2002) [in Arabic]. See, Muhammad Ibrahim Ali, *The Terminology of the Maliki School* (Research Centre for Islamic Studies and Heritage Revival, Government of Dubai, 2002) 209 [in Arabic].

6 It can be said that the established practice is common in the Saudi judicial system. See, for example, Faisal Ibrahim Alnassir, 'The Practice of the Cassation Courts Contrary to the Hanbali School: A Collective Case Study' (PhD thesis, College of Education, King Saud University, 2017) [in Arabic].

The Saudi legal system has undergone various phases, including mandatory compliance and discretionary choices.<sup>7</sup> Initially, the mandate was for judges to make decisions based on the teachings of Imam Ahmad ibn Hanbal.<sup>8</sup> This process continued until the regulatory authority began codifying judicial rulings, requiring judges to decide cases in accordance with the system established the ruler.<sup>9</sup> This effort aimed to standardise judicial reasoning and guide judges in delivering verdicts within a defined framework.<sup>10</sup> Regarding bankruptcy, the judicial authority has limited the review of judgments from primary bankruptcy courts to a single appellate division within the Commercial Court in Riyadh, aiming to standardise legal interpretations of the system's provisions and make appropriate decisions on emerging bankruptcy issues. Over time, appellate judges' interpretations in bankruptcy cases have earned respect and admiration, especially when their foundations are strong and consistently applied. In such situations, it becomes challenging for lower court judges to stray from this practice without a valid reason.<sup>11</sup>

The Saudi judiciary functions under a dual jurisdiction model<sup>12</sup> that divides authority between the administrative judiciary, represented by the Board of Grievances,<sup>13</sup> and the

- 7 Saud Saad Al-Duraib, 'King Abdulaziz and the Establishment of the Rules of Judicial Organization in the Kingdom' (1985) 12(1) King Abdulaziz Foundation Journal 15, doi:10.46968/0326-012-001-002 [in Arabic]; Hussam bin Abdullah Al-Muhammad, 'The Development of the Judiciary and its Legal System in the Kingdom of Saudi Arabia - The Era of the Custodian of the Two Holy Mosques, King Salman Bin Abdulaziz: Analytical Inductive Study' (2023) 35(42) Journal of Jurisprudential and Legal Research 1971, doi:10.21608/jlr.2023.217091.1227 [in Arabic].
- 8 Al-Duraib (n 7) 20.
- 9 Such as the Family law and others. This requirement is according to the Saudi Arabia Royal Decree No (M/21) of 20/4/1421AH 'Law of Procedure Before Sharia Courts' (adopted 20 August 2000) <[https://hrlibrary.umn.edu/research/saudi-arabia/law\\_of\\_procedure.html](https://hrlibrary.umn.edu/research/saudi-arabia/law_of_procedure.html)> accessed 3 February 2026. Art. 1, which states: "Courts shall apply the provisions of Sharia to cases brought before them, as derived from the Quran and Sunnah, and State laws not conflicting therewith."
- 10 For more information on the history and diverse opinions about this topic, see: Abdul Rahman Ahmed Al-Jar'I, 'Codifying Islamic Rulings: Between Those Who Prohibit and Those Who Permit Them' (2006) 7 Journal of the Teachers' College of Abha 55 [in Arabic]; Tawfiq Ahmed Ali Al-Sanbani, 'Codification of the Provisions of Islamic Law, Its Guarantees and Controls, and the Practical Plan for Legal Codification' (2022) 2(2) Ibn Khaldoun Journal for Studies and Researches 24, doi:10.56989/benkj.v2i2.483 [in Arabic].
- 11 Abdullah bin Mohammed Al-Khunin, *Judicial Precedents* (Saudi Judicial Scientific Society Publications 2013) 18 [in Arabic] <<https://qadha.org.sa/ar/books/113>> accessed 3 February 2026.
- 12 Saudi Arabia Royal Decree No (A/90) of 27/8/1412H 'Basic Law of Governance', arts 51, 52 (adopted 2 March 1992) <<https://www.wipo.int/wipolex/en/legislation/details/7973>> accessed 3 February 2026. See also, Ikrami Bassiouni Khattab, 'The Reality of the Double Judicial System in Saudi Arabia: A Comparative Analysis' (2017) 24(3) International Review of Law 1, doi:10.5339/irl.2017.24 [in Arabic]; Amr Daoud Marar, 'Saudi Arabia: The Duality of the Legal System and the Challenge of Adapting Law to Market Economies' (2004) 19(1/4) Arab Law Quarterly 91, doi:10.1163/026805504774478427.
- 13 Saudi Arabia Royal Decree No (M/78) of 19/9/1428H 'Law of the Board of Grievances' (adopted 1 October 2007) <<https://www.wipo.int/wipolex/en/legislation/details/14607>> accessed 3 February 2026. See also, Ayoub M Al-Jarbou, 'The Saudi Board of Grievances: Development and New Reforms' (2011) 25(2) Arab Law Quarterly 117, doi:10.1163/157302511X551446.

general judiciary, represented by the Supreme Judicial Council, which addresses non-administrative disputes.<sup>14</sup>

The commercial courts, as part of the general judiciary, hear and resolve business disputes in accordance with relevant laws and are the first-instance courts affiliated with the general judiciary that specialise in adjudicating various commercial claims and disputes.<sup>15</sup> Bankruptcy circuits that handle bankruptcy-related disputes fall under the jurisdiction of the commercial courts.<sup>16</sup> Thus, in the title, Saudi courts refer to the judicial bodies that adjudicate disputes under the Bankruptcy Law and its regulations, known as bankruptcy circuits. These circuits address both procedural and substantive aspects, ensuring cases meet legal requirements. Exploring the structure of these commercial courts and their judges is essential to understanding how bankruptcy law is applied in practice. This topic will be examined as follows:

## 5 JURISDICTION AND ORGANIZATION OF COMMERCIAL COURTS

As mentioned above, commercial courts are part of the general judiciary that hears and resolves business disputes in accordance with relevant laws and rulings.

The Supreme Judicial Council oversees the courts and judges of the general judiciary, and issues related to regulations and systems.<sup>17</sup> Therefore, by the Council's decision, commercial courts are established in regions and governorates. In areas lacking established commercial courts, commercial circuits will be created within general courts until such courts are established in those regions.<sup>18</sup>

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14 Saudi Arabia Royal Decree No (M/78) of 19/9/1428H 'Law of the Judiciary' (adopted 1 October 2007) <<https://www.wipo.int/wipolex/en/legislation/details/14616>> accessed 3 February 2026. See also, Saud bin Saad Al-Duraib, 'The Judicial System in the Kingdom of Saudi Arabia in Light of Islamic Law and the Judicial Authority System' (PhD thesis, Imam Muhammad bin Saud Islamic University 1999) [in Arabic].

15 Saudi Arabia Royal Decree No (M/93) of 15/08/1441H 'Law of Commercial Courts', art 16 (adopted 8 April 2020) <<https://www.wipo.int/wipolex/en/legislation/details/20321>> accessed 3 February 2026. See also, Masoud Younis Atwan, 'Evolution of Means of Settling Commercial Disputes to Achieve the Vision of the Kingdom of Saudi Arabia 2030' (2025) 24 *The Journal of Jurisprudential and Legal Studies*, Sultanate of Oman 373, doi:10.70299/hji.i24.9 [in Arabic].

16 Saudi Arabia Minister of Justice Decision No (6421) of 17 November 2019 'Rules Governing Bankruptcy Procedures in Commercial Courts', art 3 <<https://laws.moj.gov.sa/en/legislation/xCbJni6ThD9OP5PQVEydMA>> accessed 3 February 2026.

17 Law of the Judiciary (n 14) art 6.

18 *ibid*, art 15. For more information about the law of governorates and regions in the Kingdom of Saudi Arabia, see Saudi Arabia Royal Decree No (A/92) of 27/08/1412H 'Law of Provinces' (2 March 1992) <<https://hrlibrary.umn.edu/research/saudiarabia/law-provinces.html>> accessed 3 February 2026.

The original jurisdiction assigned to commercial courts is as follows:

1. All primary and subsidiary commercial disputes between merchants.
2. Claims filed against merchants concerning their primary and subsidiary commercial activities.
3. Disputes arising between company partners.
4. All claims and violations related to commercial regulations, without prejudice to the Board of Grievances' jurisdiction.
5. Bankruptcy cases, including the interdiction of bankruptcy and its lifting.
6. Other commercial disputes.

This jurisdiction of commercial courts also applies to general courts in locations lacking commercial courts unless otherwise decided by the Supreme Judicial Council.<sup>19</sup>

Commercial courts follow a structure consisting of both first-instance and appellate circuits.<sup>20</sup> Parties dissatisfied with decisions at the first instance may appeal to the appellate circuits, challenging either the judgment rendered or the procedures followed.<sup>21</sup> Since courts handle a wide range of cases, the operation of Commercial Courts is divided into circuits based on their jurisdiction, either by case size or subject matter.<sup>22</sup> Bankruptcy circuits specialise in matters related to the application of bankruptcy law and its regulations.<sup>23</sup>

Following this overview of litigation levels, a detailed discussion of the commercial circuits, their judges, and their specific jurisdictions is warranted, in accordance with the relevant regulations and resolutions.

The Commercial Courts Law and its implementing regulations clarify the jurisdiction of first-instance circuits,<sup>24</sup> which includes:

- 1) The cases were either between merchants because of their main or ancillary business activity or initiated against merchants in commercial business contracts, so that when the primary demand in these cases exceeded one million riyals.<sup>25</sup>

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19 Law of Commercial Courts (n 15) art 35.

20 *ibid*, art 3.

21 Rules Governing Bankruptcy Procedures in Commercial Courts (n 16) art 5.

22 Law of the Judiciary (n 14) art 15. See also, Nasser Mohammed Al-Ghamdi, 'Specific Judicial Jurisdiction in Islamic Jurisprudence and the Saudi System' (2024) 36(2) *Journal of the Faculty of Sharia and Law at Assiut, Alazhar University* 984, doi:10.21608/jfsu.2023.233092.1160 [in Arabic].

23 Rules Governing Bankruptcy Procedures in Commercial Courts (n 16) art 3.

24 Law of Commercial Courts (n 15) art 15. See also, Ahmed Abdullah Al-Jaafari, 'The Organizational Development of Commercial Judiciary in the Kingdom of Saudi Arabia: Litigation Bodies and its Procedural Systems' (2023) 33 *Judiciary Magazine* 581 [in Arabic].

25 Ahmed Abdulaziz Bin Shabeeb, 'The Value Jurisdiction in the Commercial Court System: A Comparative Study' (2022) 28 *Qadha Magazine* 400 [in Arabic].

- 2) Litigation where the claims and requests are made by judicial receivers, trustees, liquidators, appointed experts, and similar people, inasmuch as such a dispute originates in the case lying within the jurisdiction of the court and is linked with a claim as specified in paragraph (1).
- 3) Compensation claims for damages resulting from previously adjudicated court cases, irrespective of the claim amount, when linked to claims specified in paragraph (1).
- 4) Analysis of urgent applications that are automatically forwarded to competent circuits and disposed of within three working days from forwarding. The following requests may be determined in the presence of the petitioner if the circumstances are so required, but in the absence of opposing counsel. Commercial Courts Law, Article 16, and Implementing Regulations, Article 34.

In cases not provided for in the Commercial Regulations or in the Treaties, Conventions, and Agreements, to which the Kingdom is a party, the rules of international jurisdiction in the Law of Civil Procedure apply in such cases as fall within the jurisdiction of the court.<sup>26</sup> This is in line with the Commercial Courts Law provided by Article 15.

When examining the judicial hierarchy, we can see that appellate circuits play a pivotal role in maintaining the integrity of the judicial system by reviewing judgments and decisions handed down by first-instance circuits.<sup>27</sup> These reviews are heard by either three-member or single-judge panels, with the nature of the case determining which panel hears the case.<sup>28</sup> It can also be observed that single-judge appellate circuits rise to the occasion for specific tasks, ranging from handling urgent appeals to issuing payment orders and procedural decisions regarding document inspection or retrieval. Regarding the jurisdiction and operational framework for these appellate circuits, they are firmly established, ensuring that legal proceedings remain.<sup>29</sup>

The Supreme Court, which serves as the highest court in the general judiciary, has both substantive and procedural jurisdiction, including appeals from judgments and decisions of the appellate circuits. It evaluates these rulings on their legal validity, application, and interpretation, as well as procedural adherence, without delving into factual descriptions or evidence assessment.<sup>30</sup> Acknowledging the need for a commercial judiciary at the Supreme Court, a commercial circuit within the Court was established to handle appeals from judgments of the Commercial appellate circuits.

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26 Law of Commercial Courts (n 15) art 15.

27 Law of the Judiciary (n 14) art 17.

28 *ibid*, art 22.

29 *ibid*. Mohammed Libya et al., 'Commercial Courts in the Kingdom of Saudi Arabia' (2020) 35(1) *Journal of the Faculty of Sharia and Law, Tanta University* 620 [in Arabic].

30 Law of the Judiciary (n 14) arts 11–14.

The judicial authority handling commercial cases operates through circuits, with experienced and well-informed judges assigned to oversee these matters.<sup>31</sup> The commercial circuits in all Litigation Levels (the Supreme, Appellate, and the First-Instance Circuits) consist of three judges, with one serving as the presiding judge. If a member is absent or unable to serve, the Chief Justice of the Court appoints a substitute judge from another circuit within the court.<sup>32</sup> The Chief Justice recommends the names of the circuit heads and members, then submits them to the Supreme Judicial Council for approval. Supreme Court judges are appointed by royal decree, on the recommendation of the Supreme Judicial Council, and serve as the Chief Justice of the Appellate Court.<sup>33</sup>

## 6 ESTABLISHED PRACTICE IN BANKRUPTCY ADJUDICATION

The earlier discussion about the Saudi judiciary, its courts, and judges served as an important introduction to this chapter. It will help gain a broader understanding and a more comprehensive view of the discussion in this chapter on the judicial practices used in bankruptcy courts. The established practice in bankruptcy courts is a practical interpretation of the articles introduced by the Saudi Bankruptcy Law, and it sets a precedent for future rulings.<sup>34</sup> It's important to note that regulations generally, and the Bankruptcy Law in particular, contain two main types of provisions:

First, procedural provisions address the parties to the case (the debtor and the creditor), court jurisdiction, legal timelines, official documents, and other legal processes. These are provisions that require consideration and verification before resolving conflicts outside the law's application.

Second, substantive provisions are typically examined and adjudicated after procedural requirements are satisfied to ensure compliance with statutory provisions and the intended objectives. These include matters related to debtor eligibility for bankruptcy procedures, due debts, security interests, contracts, and other substantive issues.

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31 *ibid*, art 23.

32 *ibid*, arts 11, 15.

33 *ibid*, art 10.

34 It is important to note that all judicial decisions referenced in this chapter were obtained from the Saudi Ministry of Justice's Scientific Judicial Portal. See, *Regulations and Legislation: Legal Portal, Saudi Ministry of Justice*. <<https://laws.moj.gov.sa/ar/JudicialDecisionsList/1>> accessed 3 February 2026. Additionally, such cases can be found in a collection of articles and e-books on bankruptcy cases compiled by a lawyer and a bankruptcy trustee, Abdullah Khalid Al-Hamoudi, located on the blog "Code of Commercial Judgments". See, Abdullah Khalid Al-Hamoudi, *Articles on Bankruptcy Judiciary: A Collection of Rulings Issued on Applications for Approval of the List of Claims in Bankruptcy Proceedings* (Code of Commercial Judgments, 22 August 2022) [in Arabic] <[https://www.atahamoudi1.com/2022/08/blog-post\\_22.html](https://www.atahamoudi1.com/2022/08/blog-post_22.html)> accessed 3 February 2026.

Consequently, the established practice in the bankruptcy judiciary within this chapter is divided into two main sections: one addressing procedural practices and the other addressing substantive practices.

## 6.1. Procedural Established Practice in Bankruptcy Judiciary

The legislator requires that bankruptcy judges and their assistants address procedural issues before deciding on the merits of any bankruptcy-related case or violation. Therefore, procedural matters have been consistently emphasised by bankruptcy circuit judges, particularly the evaluation of the plaintiff's solvency, the contents of the lawsuit petition, and the proper notification of the defendant. Established practice in bankruptcy judiciary on some procedural matters will be explored as follows.

***1) A debt settlement request, along with the indication of the initiation of bankruptcy proceedings in the event of non-payment, must be made at least 28 days before starting bankruptcy***

Judicial Decision No. 821 of 2021, issued by the First Circuit of the Dammam Commercial Court, clarifies that the creditor must provide solid proof that he requested the debtor to pay the debt at least 28 days prior to initiating bankruptcy proceedings. Not only this, but also the request must spell out the possibility of initiating bankruptcy if the debtor fails to clear the debt. A similar principle was applied in Judicial Decision No. 3262 of 2020 in the First Circuit of the Dammam Commercial Court, demonstrating consistency in the judicial approach to bankruptcy procedural requirements.

***2) A creditor presents proof that the debtor received a demand for payment before starting bankruptcy proceedings***

In bankruptcy proceedings, a creditor must provide evidence that the debtor received a demand to pay debts before commencing the bankruptcy process. This requirement is outlined in judicial decision no. 2363 of 2021 at the Ninth Circuit of the Riyadh Commercial Court and in judicial decision no. 2387 of 2021. In these judicial decisions, the court found that the debtor failed to fulfil the legal obligation because the repayment request sent by mail served only as a notification of dispatch and lacked proof that the debtor received it. Additionally, the communication was sent to an unverified phone number that was not confirmed to belong to the debtor company's legal representative. Therefore, the court rejected the request for noncompliance with the specified legal procedures and regulations. Article 93 of the bankruptcy law, Article 48 of the law's implementation regulation, and Article 9 of the Information and Documentation Regulation guide the ruling. Taken together, these articles help ensure that creditors follow legal procedures to promote fairness and transparency in bankruptcy.

### **3) *Claims Arising from Bankruptcy Law Implementation Must Be Filed By an Attorney***

The courts require that bankruptcy claims be represented by an attorney, as set out in Articles 51, 52, and 56 of the Implementing Regulations of the Commercial Courts Law. A significant judicial decision addressing this requirement is Case No. 1695 of 2021 of the Riyadh Commercial Court, Ninth Circuit. This case affirmed that procedural issues, being preliminary in nature, must be resolved before considering the merits of the case. Since the petition was not filed by an attorney, and claims and violations arising from the implementation of bankruptcy law must be filed by an attorney under the Commercial Courts Law and its Implementing Regulations, the Circuit dismissed the petition for lack of jurisdiction. Similarly, in Case No. 208 of 2021, decided in the First Circuit of the Dammam Commercial Court, the ruling followed the same approach.

### **4) *Legal Training Certificate Does Not Confer Attorney Status***

The previous subsection highlighted that bankruptcy claims must be filed through an attorney, and that a legal training certificate does not suffice in place of an attorney's qualifications. Judicial Decision No. 853 of 2020 in the First Circuit of the Abha Commercial Court clarifies this point by stating that a plaintiff's representative holding a legal training certificate is not entitled to file a claim, as the certificate does not confer the status of an attorney. According to the statutory text, only licensed attorneys have the authority to file bankruptcy petitions and to plead in such cases. The course of action was firmly anchored in Article 20 of the Commercial Courts Law, as well as Articles 51 and 53 of its Implementing Regulations.

### **5) *The Commencement Petition is filed in the court located at the Debtor's principal place of business, as determined by commercial registration***

The laws governing bankruptcy procedures in business courts underscore the importance of geographical jurisdiction. Article (4) stipulates that "the territorial jurisdiction to evaluate the request is established by the court that holds jurisdiction over the principal location of the debtor's business, irrespective of whether the debtor is an individual or a legal entity." Judicial discretion has relied on the debtor's business commercial registry to determine the principal address and the appropriate court. In Judicial Ruling No. 2355 for the year 2021 in the Ninth Circuit of the Commercial Court in Riyadh, the court noted: " The formal aspects of the submitted request must be assessed prior to addressing the substance of the lawsuit; upon reviewing the commercial register, it was evident that the principal location is in Dammam." As the regulations governing bankruptcy proceedings in commercial courts assign jurisdiction to the court overseeing the debtor's principal business location, the Commercial Court in Riyadh lacked the authority to entertain this request. As a result, the court ruled that it lacked territorial jurisdiction.

## **6) *The Plaintiff must serve the Debtor with the Notification of Procedure Commencement Petition***

One procedural requirement in bankruptcy law and its regulations is the obligation to notify the debtor of a bankruptcy filing. This requirement is outlined in Articles 47, 92, and 93 of the bankruptcy law; Article 48 of the implementing regulations; and Article 9 of the information and documentation regulations. This obligation was also reaffirmed in Judicial Decision No. 119 of 2021 in the First Circuit of the Dammam Commercial Court, which states: "As the plaintiff had never served the notice, this fundamental precondition for initiating bankruptcy proceedings was not met, leading the court to dismiss the case on this basis."

### **6.2. Substantive Established Practice in Bankruptcy Judiciary**

This section discusses a sequence of varied material contentions that have become standard practices in bankruptcy judiciary. Of these matters, the stay of claims rule, in which one has seen exceptions created through judicial creativity. These exceptions are ways of setting limits to the general rule of staying claimed, in that the goals of fairness and compliance with the law shall not be violated. Furthermore, what the trustee is empowered to do with bankruptcy assets before claims are allowed is also an area of substantial legal concern. Other important issues related to the time when petitioners' sources of debt originated. Whether the competent court's decision on debt verification adequately satisfies the statutory notice to the debtor is also contentious. These considerations have been developed through numerous judicial experiences, emphasising the bankruptcy judiciary's role as both an interpreter of the law and a problem-solving authority.

#### **1) *Creditors with Pre-Procedure Debts May Not Pursue Enforcement Actions Against Debtor, Nor Resume Enforcement Proceedings for 24 Months Following Procedure Termination***

Generally, the suspension of claims remains in effect until the court either denies the request to commence the proceedings or issues a ruling terminating it. However, in the event of liquidation, this suspension should be extended for an additional 24 months following the court's order terminating the procedure, in accordance with the judicial precedent in Case No. 14782 of 2018 and Case No. 8474 of 2019 of the Ninth Division of the Commercial Court in Riyadh.

The rationale was as follows:

The court holds that, pursuant to Article 181 of the bankruptcy law and Article 21 of its implementing regulations, although the suspension of claims against the debtor formally ends upon the completion of the procedure, creditors with claims arising before the procedure commenced are prohibited from submitting enforcement requests against the debtor. Additionally, they cannot initiate enforcement actions against the debtor within 24 months after the proceedings

conclude. Moreover, to allow the debtor to participate in any commercial or professional endeavours within the specified term, all enforcement measures against the debtor's bank accounts must be rescinded.

## **2) *Travel Ban and Asset Freeze Orders Exempt from Claims Suspension Decision***

Bankruptcy law has the unique feature of providing an extraordinary remedy that can halt any claim that might weaken the effectiveness of a settlement or restructuring plan. Nevertheless, the broad scope of the terms used in Articles 1 and 97 of the law necessitated legal interpretation to clarify some exceptions. An example of this clarification is Judicial Decision No. 2344 of 2021: the case of the Ninth Circuit of the Riyadh Commercial Court. Under Article 1, claims suspension refers to the suspension of all legal measures against the debtor, the debtor's assets, or the debt guarantor by any authority. This suspension remains in effect until a court judgment rejects the commencement petition or concludes the procedure. Generally, claims suspension covers all active cases against the debtor or debt guarantor in any judicial or quasi-judicial forum. However, orders such as travel bans and asset freezes remain in effect until the court ruling in the bankruptcy case nullifies them. This exception was granted under Article 10 of the Regulatory Rules for Bankruptcy Proceedings.

## **3) *Request for Multiple Distributions of Bankruptcy Estate Proceeds Prior to Final Claims Validation***

The legislator's intent in these articles 116 and 196 can be inferred from Judicial Decision No. 6368 of 2021 issued by the Ninth Circuit of the Riyadh Commercial Court when the trustee's application to a court for permission to distribute part of the liquidation funds in his possession to the employees, under Article 116 of the bankruptcy law, was considered. The court noted that debts owed to creditors take precedence under Article 196 of the law, and that when priority creditors receive all estate proceeds, employees may not even be paid. Therefore, the early approval of the distribution to employees will cause the trustee to violate the ranking order. The court also observed that the legislation aimed to ensure equal protection for creditors. Since the claims list remains unapproved, it is impossible to definitively determine whether the employees are entitled to the amounts allocated for distribution. Based on these reasons, the court denied the trustee's petition.

## **4) *Proposal Reformulation After Voting and Subsequent Re-voting***

The Bankruptcy Law prescribes specific procedures and timeframes for drafting settlement or reorganisation plans and voting on them. Therefore, the Ninth Circuit of the Riyadh Commercial Court, in its Judicial Decision No. 1711 of 2021, ruled that the trustee's request for a re-vote on a modified proposal was inappropriate because the voting had been conducted at the scheduled time, and there were no grounds for reformulating the proposal and conducting subsequent votes more than once after the initial voting process was completed. The ruling also addressed whether the trustee was justified in relying on

Paragraph 4 of Article 46 of the Implementing Regulations when it was impossible to hold the first vote. The court stated that this paragraph did not provide a basis for the petition since voting had already occurred. The First Circuit of the Dammam Commercial Court also aligned with this reasoning in Decision No. 214 of 2020, thereby affirming the consistency of these principles in this jurisdiction and elsewhere.

**5) *Debtor's Cease to Manage Assets Supersedes the Requirement for Temporary Seizure of Assets in His Custody or Held by Third Parties***

One consequence of commencing liquidation is the loss of the debtor's legal authority to manage and decide the fate of the property, which is transferred to the bankruptcy trustee. This is outlined in Bankruptcy Law Articles 96, 100, and 210, the Bankruptcy Law Implementing Regulations Article 5, and the Regulatory Rules for Trustees and Experts' Work Article 27. Accordingly, when the bankruptcy trustee petitioned the Circuit to issue an order of precautionary attachment of the debtor's property in his possession or with third-party debtors under Article 96 of the Bankruptcy Law, which authorizes the court to take precautionary measures against the debtor, Judicial Decision No. 1879 of 2021 from the Ninth Circuit of the Riyadh Commercial Court stated that once liquidation procedures are initiated, the law strips the debtor of asset management and appoints a trustee; these procedures give the trustee control over the debtor's assets without the need for the precautionary attachment outlined in Article 100 of the bankruptcy law.

**6) *Debtor's Debts Arising After the Expiration of a Commercial Activity License***

Any natural debtor is subject to bankruptcy law if they meet statutory requirements, such as having a valid commercial activity license. This requirement helps verify whether the debtor is engaged in a lawful business and protects creditors. The need for this requirement is clearly explained by Judicial Decision No. 195 of 2021 of the Fourth Circuit of the Jeddah Commercial Court, which states that the debts in question were incurred after the commercial activity license had ceased to be active. The debtor's conduct was considered inconsistent with protecting regulatory interests and creditors' funds and therefore lacked good faith. According to Article 99 of the bankruptcy law, the court may dismiss the petition for the debtor's misconduct and failure to comply with the applicable regulations. This decision demonstrates that the court continues to support regulatory requirements and protect creditors' interests.

**7) *Enforcement Court Decision Mandating Debt Payment Does Not Constitute Payment Notification nor Substitute for Creditor's Demand to Debtor***

A procedural requirement for starting bankruptcy proceedings is the creditor's official request for payment, following the specified legal process. Other activities, even if recognised by official entities like an enforcement court, do not serve as valid substitutes. Therefore, Judicial Ruling No. 826 of 2021 and Ruling No. 3262 of 2020, issued by the First Division of the Commercial Court in Dammam, stress the importance of adhering to the

legal notification process. This process requires the creditor to provide documented proof requesting the debtor to pay the debt at least 28 days before submitting the formal request to start the procedure. The decision was based on Article 93 of the bankruptcy law and Article 48 of its implementing regulations.

#### **8) *Permissibility of Plaintiff's Withdrawal of Bankruptcy Procedure Commencement Petition***

One of the principles of bankruptcy is that filing for it is optional, not mandatory. Therefore, bankruptcy proceedings can be initiated by a debtor, a creditor, or any interested party, and the petition can be modified or withdrawn based on the petitioner's or interested party's situation or needs. This principle is demonstrated by judicial decision No. 660 of 2021, issued by the Ninth Circuit of the Riyadh Commercial Court, in which a creditor requested the initiation of liquidation procedures and, a few weeks later, withdrew its petition. The court approved the petition's withdrawal under Article 92 of the Civil Procedure Law. This decision confirms that bankruptcy matters are discretionary, and a petitioner has the right to halt the process if they choose to do so.

## **7 CONCLUSIONS**

This study provides a comprehensive analysis of the judicial application of bankruptcy law within Saudi courts, delineating the adjudicative approaches to insolvency and commercial disputes. Judicial interpretation serves as a critical mechanism in dispute resolution, and this research highlights its pivotal role in elucidating the practical implementation of statutory provisions. The codification of Saudi legal sources into binding, systematically structured articles has significantly enhanced procedural applicability and fostered standardized judicial reasoning. Consequently, the key findings underscore the critical importance of uniform statutory application and the indispensable role of specialized bankruptcy courts in promoting procedural efficiency and adjudicative consistency.

Based on these findings, this study advances the following recommendations:

- 1) Established judicial interpretations of the Bankruptcy Law and its implementing regulations should be formally integrated into future legislative amendments. This will ensure alignment between statutory objectives and actual adjudicative practice.
- 2) The Supreme Court should leverage the unified judicial application of the Bankruptcy Law to issue authoritative bankruptcy principles. These principles would establish binding precedents for emerging cases and serve as an essential doctrinal guide for legal practitioners and scholars.
- 3) The bankruptcy framework should undergo systematic and regular revisions to remain responsive to evolving economic realities, market conditions, and novel judicial precedents.

- 4) The sustained publication and widespread dissemination of bankruptcy-related court decisions across multiple official channels must be prioritized to clarify the applicable law and promote jurisprudential predictability.

## REFERENCES

1. Alarifi F, 'The Bankruptcy Law of Saudi Arabia: Policy, Operation and Comparison' (2021) 7(3) PSU Research Review 201, doi:10.1108/PRR-02-2021-0011
2. Al-Asri AS, *The Theory of Adopting Established Practices in Morocco within the Framework of the Maliki School* (Ministry of Awqaf and Islamic Affairs, Kingdom of Morocco 1996) [in Arabic]
3. Al-Baji AWS, *Chapters on Judiciary and an Explanation of Past Practices Among Jurists and Judges* (Library of Repentance 2002) [in Arabic]
4. Al-Duraib SS, 'King Abdulaziz and the Establishment of the Rules of Judicial Organization in the Kingdom' (1985) 12(1) King Abdulaziz Foundation Journal 10, doi:10.46968/0326-012-001-002 [in Arabic]
5. Al-Duraib SS, 'The Judicial System in the Kingdom of Saudi Arabia in Light of Islamic Law and the Judicial Authority System' (PhD thesis, Imam Muhammad bin Saud Islamic University 1999) [in Arabic]
6. Al-Ghamdi NM, 'Specific Judicial Jurisdiction in Islamic Jurisprudence and the Saudi System' (2024) 36(2) Journal of the Faculty of Sharia and Law at Assiut, Alazhar University 984, doi:10.21608/jfsu.2023.233092.1160 [in Arabic]
7. Al-Hamoudi AK, *Articles on Bankruptcy Judiciary: A Collection of Rulings Issued on Applications for Approval of the List of Claims in Bankruptcy Proceedings (Code of Commercial Judgments, 22 August 2022)* [in Arabic] <[https://www.atahamoudi1.com/2022/08/blog-post\\_22.html](https://www.atahamoudi1.com/2022/08/blog-post_22.html)> accessed 3 February 2026
8. Ali MI, *The Terminology of the Maliki School* (Research Centre for Islamic Studies and Heritage Revival, Government of Dubai, 2002) [in Arabic]
9. Al-Jaafari AA, 'The Organizational Development of Commercial Judiciary in the Kingdom of Saudi Arabia: Litigation Bodies and its Procedural Systems' (2023) 33 Judiciary Magazine 541 [in Arabic]
10. Al-Jarbou AM, 'The Saudi Board of Grievances: Development and New Reforms' (2011) 25(2) Arab Law Quarterly 117, doi:10.1163/157302511X551446
11. Al-Jar'I ARA, 'Codifying Islamic Rulings: Between Those Who Prohibit and Those Who Permit Them' (2006) 7 Journal of the Teachers' College of Abha 55 [in Arabic]
12. Al-Khunin AM, *Judicial Precedents* (Saudi Judicial Scientific Society Publications 2013) [in Arabic]

13. Al-Muhammad HA, 'The Development of the Judiciary and its Legal System in the Kingdom of Saudi Arabia - The Era of the Custodian of the Two Holy Mosques, King Salman Bin Abdulaziz: Analytical Inductive Study' (2023) 35(42) *Journal of Jurisprudential and Legal Research* 1971, doi:10.21608/jlr.2023.217091.1227 [in Arabic]
14. Alnassir FI, 'The Practice of the Cassation Courts Contrary to the Hanbali School: A Collective Case Study' (PhD thesis, College of Education, King Saud University 2017) [in Arabic]
15. Al-Sanbani TAA, 'Codification of the Provisions of Islamic Law, Its Guarantees and Controls, and the Practical Plan for Legal Codification' (2022) 2(2) *Ibn Khaldoun Journal for Studies and Researches* 24, doi:10.56989/benkj.v2i2.483 [in Arabic]
16. Al-Sarraf A, 'The Wave of Insolvency Reform Across the MENA Region: Analysing Saudi Arabia's New Bankruptcy Law' (2018) 2 *The MENA Business Law Review* 34
17. Atwan MY, 'Evolution of Means of Settling Commercial Disputes to Achieve the Vision of the Kingdom of Saudi Arabia 2030' (2025) 24 *The Journal of Jurisprudential and Legal Studies, Sultanate of Oman* 368, doi:10.70299/hji.i24.9 [in Arabic]
18. Khattab IB, 'The Reality of the Double Judicial System in Saudi Arabia: A Comparative Analysis' (2017) 24(3) *International Review of Law* 1, doi:10.5339/irl.2017.24 [in Arabic]
19. Libya M and others, 'Commercial Courts in the Kingdom of Saudi Arabia' (2020) 35(1) *Journal of the Faculty of Sharia and Law, Tanta University* 620 [in Arabic]
20. Marar AD, 'Saudi Arabia: The Duality of the Legal System and the Challenge of Adapting Law to Market Economies' (2004) 19(1/4) *Arab Law Quarterly* 91, doi:10.1163/026805504774478427
21. Shabeeb AA, 'The Value Jurisdiction in the Commercial Court System: A Comparative Study' (2022) 28 *Qadha Magazine* 341 [in Arabic]

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## АНОТАЦІЯ УКРАЇНСЬКОЮ МОВОЮ

Дослідницька стаття

## ПРАКТИКА ЗАКОНОДАВСТВА ПРО БАНКРУТСТВО В СУДАХ САУДІВСЬКОЇ АРАВІЇ

**Ахмед Фагехі**

АНОТАЦІЯ

**Вступ.** *Останніми роками спостерігається зростання інтересу до законодавства про банкрутство як усередині країни Королівства Саудівська Аравія, так і в усьому світі. Значним і конкретним кроком у масштабніших правових та економічних змінах у*

Королівстві Саудівська Аравія стало ухвалення закону про банкрутство у 2018 році. Ключовим є розуміння того, як ці відносно нові правила застосовуються в судах Саудівської Аравії, оскільки це дає уявлення про практику, яку повинні враховувати компанії, що прагнуть вийти на ринок Королівства, та науковці, що вивчають комерційне право. У цій статті досліджується, як законодавство про банкрутство реалізується в практиці судів Саудівської Аравії, та окреслюються стратегії, які використовують саудівські судді для його тлумачення та застосування під час вирішення спорів.

**Методи.** У дослідженні використовується індуктивний та аналітичний підходи для вивчення судової практики та рішень згідно із законодавством Саудівської Аравії про банкрутство. Ці методи дозволили зібрати та систематизувати відповідні матеріали справ про банкрутство, що зберігаються на Судовому науковому порталі, які були переглянуті вищими судовими органами. В результаті було розділено справи про банкрутство на дві окремі групи, які зфокусовані на процесуальних та матеріальних питаннях і спираються на систему, що лежить в основі Закону Саудівської Аравії про банкрутство. Перевагою такого підходу є те, що в результаті узагальнюються обґрунтування як у процесуальній, так і в матеріальній сферах, для подальшого застосування під час розробки рекомендацій.

**Результати та висновки.** Проведене дослідження судової практики в справах, що розглядаються в судах Саудівської Аравії, підтверджує важливість єдиних підходів до застосування судами законодавства про банкрутство та вирішальну роль спеціалізованих палат з питань банкрутства у сприянні процесуальній ефективності. У дослідженні підкреслюється, що єдині підходи до застосування судами законодавства про банкрутство мають бути відображені в майбутніх реформах для забезпечення узгодженості із судовим тлумаченням та цілями правової системи країни. Результати дослідження демонструють, що продовження публікації судових рішень у справах про банкрутство сприяють належному застосуванню чинного законодавства та більш ефективному процесу вирішення справ про банкрутство.

**Ключові слова.** Саудівське законодавство, спеціалізована судова система, тлумачення права, подвійне судочинство, застосовне право, матеріальні та процесуальні положення про банкрутство.

## ABSTRACT IN ARABIC\*

مقال بحثي

# المعمول به في قضاء الإفلاس السعودي

أحمد حسين أحمد فقيهي

### :الخلفية

الأحكام التي تصدرها المحاكم المختصة في النزاعات الناشئة عن تطبيق نظام الإفلاس ولوائحه، تقوم في الأساس على اجتهاد من قضاة تلك المحاكم في تنزيل الملائم من نصوص النظام على القضايا والنزاعات المعروضة.

وذلك الاجتهاد القضائي في تنزيل النصوص على النزاعات أو في تفسيرها قبل تنزيلها على الوقائع، يمكن أن يعتمد عليه ووصفه بالتفسير الواقعي لأحكام النظام، والاستئناس به كسوابق قضائية فيما قد يجد من نزاعات ونوازل ذات علاقة بالنظام ولوائحه.

وحيث إن معرفة المعمول به يحتاج إلى جمع واطلاع على الأحكام القضائية المنشورة ثم تحليلها واستخراج المتكرر منها، لذا جاء هذا البحث ليعرض بعضاً من مما استقر قضاء الإفلاس السعودي على الأخذ به تجاه النزاعات الناشئة عن تطبيق النظام ولوائحه، سواء في الجوانب الشكلية والإجرائية أو في الجوانب الموضوعية مع التركيز على الأحكام التي غاب تفسيرها في لوائح النظام أو كان تفسيرها محل اختلاف واجتهاد.

### :المنهجية

يعتمد البحث على المنهج الاستقرائي والتحليلي وذلك من خلال جرد الأحكام القضائية المنشورة في موقع البوابة العلمية القضائية، واستخراج المواد التي تشابه حكم القضاة فيها، وجمع مستندهم في أخذهم بتلك الأحكام.

\*. The publication metadata in Arabic is presented as submitted by the authors.

يلي ذلك حصر المواد التي تكرر الحكم بمقتضاها في عدة سنوات، لكي يتم الاعتماد على المتأخر منها تاريخياً، لكونه أقرب للمراجعة أو التأييد من قبل الدرجات القضائية العليا.  
وأخيراً تصنيف المواد الشكلي منها والموضوعي وفق تقسيم النظام مع مراعاة التقسيمات القضائية.

### النتائج والاستنتاجات:

يمكن تلخيص نتائج البحث فيما يلي:

المعمول به أو ما جرى به العمل في قضاء الإفلاس يراد به معرفة التطبيق القضائي على النزاعات والمخالفات الناشئة عن تطبيق أحكام نظام الإفلاس ولوائحه.  
ومعرفة المعمول به يفيد في إدراك نصوص النظام وأهدافه من خلال تفسير وتطبيق السلطة القضائية لتلك النصوص وإنفاذها في الواقع.  
وحيث إن كثيراً من الأحكام القضائية منشورة في البوابة العلمية القضائية التابعة لوزارة العدل؛ فذلك يساعد المهتمين على استشراف الأحكام القضائية على نوازل الإفلاس المستقبلية.  
حرر النظام المصطلحات المهمة المتعلقة بالإفلاس، كالإفلاس والمدين والمفلس ونحوها، ونص على تعريفها وإيضاحها في المادة الأولى من النظام، دفعاً للاختلاف الذي قد ينشأ أثناء إطلاقها على أشخاص الإفلاس، وتسهيلاً للجهات التنفيذية والقضائية في إنفاذ الأحكام.  
واستكمالاً للجهد التنظيمي المتميز في إصدار النظام وفق احتياجات المجتمع وتطلعات المستقبل، عمدت السلطة القضائية لإكمال المسيرة بتخصيص دوائر قضائية مختصة بالإفلاس والنظر في نزاعاته تحت مظلة المحاكم التجارية، ثم اتبعت ذلك بقواعد إجرائية تنظم العمل في تلك الدوائر.  
المعمول به في قضاء الإفلاس يركز على حصر ما استقر الاجتهاد القضائي على العمل به سواء في الإجراءات الشكلية التي جرى العرف القضائي على اعتبارها والتأكد من استكمالها أو لأقل النظر في موضوع النزاع أو المخالفة.  
ونظراً لتعدد دوائر الإفلاس في عدد من مناطق المملكة، مما قد ينتج عنه اختلاف في وجهات النظر، لذا كان التركيز على القضايا التي نالت الاعتماد والمصادقة من قبل أعلى درجة قضائية في قضاء الإفلاس وهي دوائر الاستئناف في المحكمة التجارية بالرياض.

### التوصيات

تعاون السلطتين التنظيمية والقضائية في الاستفادة من الاجتهاد القضائي الناشئ من الفصل في منازعات نظام الإفلاس ولوائحه في تعديل النظام وتطويره بما يتوافق مع متطلبات الواقع وتطلعات المستقبل.

استكمال السلطة القضائية مشروعها في نشر الأحكام القضائية المتعلقة بالإفلاس ولوائحه ليعم الاستفادة منها في معرفة المعمول به قضاءً وإدراك التفسير القضائي لنصوص النظام، ويستشرف من خلالها الأحكام القضائية في النوازل المستقبلية.

مبادرة المحكمة العليا لإصدار مبادئ قضائية متعلقة بالإفلاس وأحكامه في ضوء السوابق القضائية الناشئة عن تطبيق نظام الإفلاس ولوائحه.

#### **:الكلمات المفتاحية**

المعمول به قضاء، الإفلاس، نظام الإفلاس، السلطة القضائية، ما جرى به العمل