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LEGAL COMMENTARY ON LAW NO. 21 OF 2021
PROMULGATING **THE LAW ESTABLISHING THE
INVESTMENT AND COMMERCE COURT**

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LEGAL COMMENTARY ON LAW NO. 21 OF 2021 **PROMULGATING THE LAW ESTABLISHING THE INVESTMENT AND COMMERCE COURT**

PREAMBLE

The Qatari legislator has always been keen to create and update many laws and legislations related to economic and commercial matters. These reviews and assessments of laws and legislations aim to stimulate trade and attract foreign investment to the State in a manner serving the State's vision of diversifying sources of income and achieving more economic prosperity.

His Highness the Amir Sheikh Tamim bin Hamad Al-Thani issued **Law No. 21 of 2021 promulgating the Law Establishing the Investment and Commerce Court**, consisting of 35 articles which shall come into force after 6 months from the date of its publication in the Official Gazette, after being approved by the Shura Council in April 2021.

Undoubtedly, the establishment of the Investment and Commerce Court is a new achievement in the Qatari economy after the

tremendous legislative development that the State of Qatar is witnessing to achieve the Qatar National Vision 2030, especially since the coming period requires the actual establishment of such specialized courts for its many advantages, the most important of which is the speedy settlement of disputes and the improved performance in achieving prompt justice and reviving the investment climate. It is the first stage in creating a specialized judicial system in the State with the aim of accelerating the pace of dispute settlement and strengthening the legally prescribed guarantees of litigants, in light of a lasting project sponsored by the Supreme Judicial Council to develop justice systems that extend for several years, and is based on several elements, most notably integration and coordination with various state agencies, with the aim of promoting the independence of the judicial system.



IMPORTANCE OF ESTABLISHING THE COURT

The issuance of **Law No. (21) of 2021** on the establishment of a court for commerce and investment matters as a means of resolving disputes certainly will enhance confidence in the Qatari economy among foreign companies and support the general investment climate in the State, which will lead to attracting more foreign investments and the encouraging more international companies to head to the Qatari market. The majority of major commercial deals and contracts in various fields require the presence of a specialized court that guarantees speedy litigation and judicial accuracy, as the speedy disposition of commercial cases contributes to driving growth and freeing companies and financial institutions to carry out their business and future projects.

The law establishing the Investment and Commerce Court together with the **Law No. (2) of 2017 promulgating the Arbitration Law in Civil and Commercial Matters and the Law No. 20 of 2021 on Mediation for the Settlement of Civil and Commercial Disputes**, came within a package of new Qatari economic laws and legislations

aiming to create an attractive investment environment for national and foreign investors. It is an additional advantage for the national economy, as resorting to traditional courts with their long and complex procedures impedes the interests of the parties to the conflict.

The issuance of **Law No. 21 of 2021 Establishing the Investment and Commerce Court**, will also enhance the rule of law and institutions following the regulatory and legal approach in their domestic and foreign transactions, and transactors will be able to find a specialized administrative place equipped with legal expertise to organize lawsuits related to commercial or investment disputes, especially since the State of Qatar has great experience in this field through its membership in the Arab Investment Court of the League of Arab States, where the State of Qatar assumed its presidency in 2019.

In addition to providing fair and impartial laws that follow regulations and objective procedures that guarantee the restoration of rights, stimulating the attraction of foreign capital, the State is working on transferring global expertise in the commercial, civil and financial fields to national companies with the aim of expanding the circle of constructive partnerships, and providing laws and legislations that stimulate investment in light of the great openness the State of Qatar is witnessing today, as Qatar has become a regional and international destination for investments.

ASSEMBLY AND ADMINISTRATIVE STRUCTURE OF THE COURT

President of Court

Article No. 2 of Law No. (21) of 2021 establishing the Investment and Commerce Court, authorizes the Supreme Judicial Council, upon a proposal by the Council's president, the right to appoint the president of the court by delegation, provided that the president of the court is a judge with a rank not less than a vice president of the Court of Appeal. The president of the court is ex officio appointed a member of the Supreme Judicial Council. The president of the court shall have one or more vice presidents, who replaces the president in his absence or when his position becomes vacant, and is assigned to the tasks specified by the president of the court.

The court consists of first instance circuits and appeal circuits, and the Supreme Judicial Council shall choose the circuits' judges. Judges' distribution to the circuits shall be by a decision of the president of the court based on the proposal of its general assembly.

First Instance Circuits

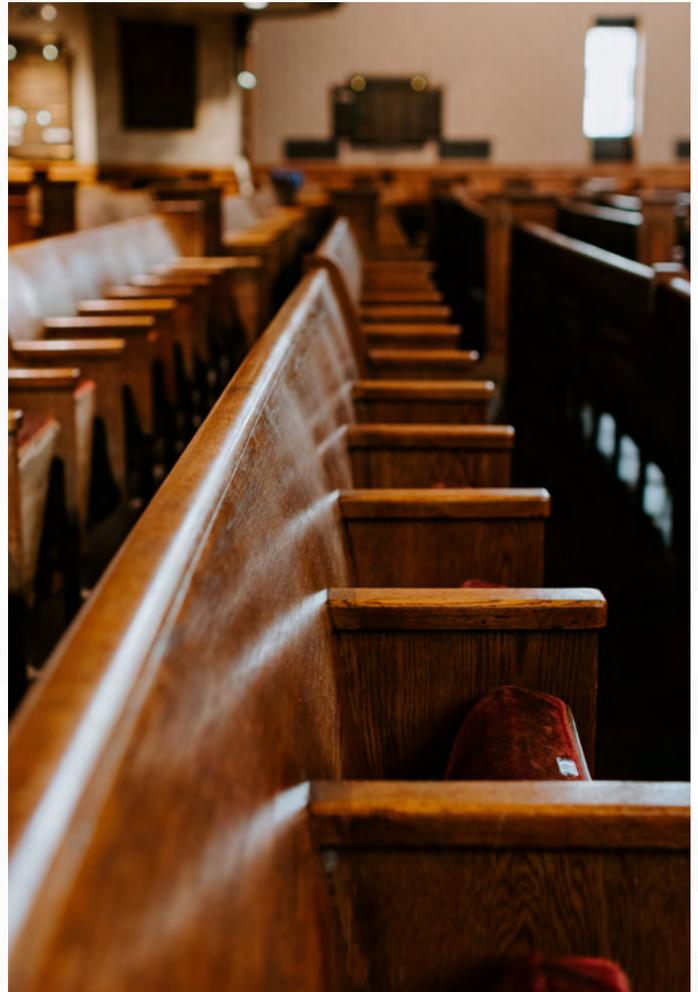
As per Article No. 5 of Law No. (21) of 2021, each of the first instance circuits shall be composed of three court judges, and each circuit shall be headed by its most senior member. The Supreme Judicial Council may delegate whomever it deems fit from the judges of the Court of Appeal to head one of the first instance circuits for a period of one year, renewable for a similar period or periods.

Appeal Circuits

Each of the appeal circuits shall be composed of three judges from the Court of Appeal, and each circuit shall be headed by its most senior member. The Supreme Judicial Council may delegate whomever it deems fit from be judges of the Court of Cassation to head one of the appeal circuits for a period of one year, renewable for a similar period or periods.

Individual Circuits

As per Article No. 8 of Law No. (21) of 2021 establishing the Investment and Commerce Court, one or more first instance circuits, formed by a single judge, may adjudicate lawsuits and disputes related to investment and commerce matters determined by the Board, with value not exceeding QAR 10,000,000.



Summary Judge

Article No. 9 of Law No. (21) of 2021, authorizes the president of the court to choose one or more judges from the court, with a rank not less than a chief judge in the Court of First Instance. The summary judge shall, on a temporary basis, and without prejudice to the right herein, hear urgent matters that are time-bound, and issue decisions on tentative orders and petitions.

Enforcement Judge

By a decision of the Supreme Judicial Council, one or more judges shall be delegated, under whose supervision the judgments issued by the court shall be enforced. The enforcement judge shall also be responsible for adjudicating all substantive and tentative enforcement disputes, no matter what they may be, and issuing decisions and orders related to enforcement, in accordance with **Article No. 32 of Law No. (21) of 2021 establishing the Investment and Commerce Court**.

Article No. 2 of Law No. (21) of 2021 stipulates that the court shall have an administrative director, and a sufficient number of administrative staff, clerks and translators, who shall have judicial capacity in crimes committed in their field of work, and a sufficient number of police officers and individuals shall be assigned to the court.

The court shall have a general assembly subject to the same provisions prescribed for general assemblies contained in the Judicial Authority Law, in accordance with **Article No. 6 of Law No. (21) of 2021**. Also, **Article No. 3 of the Law** stipulates that an independent headquarters shall be allocated to the court in which court sessions are held, equipped with the latest electronic means. It shall also have its own budget, to be attached to the budget of the Supreme Judicial Council, and the president of the court shall supervise its preparation and determine its spending.

COURT JURISDICTIONS

According to **Article No. 02 of Law No. (21) of 2021**, the Investment and Commerce Court shall have jurisdiction to adjudicate lawsuits and disputes that have become within its jurisdiction under the provisions of the aforementioned law, and which are filed with this court as of the date of its enforcement. The Courts of First Instance shall continue adjudicating lawsuits and disputes filed with them prior to the effective date of this law, and the Court of Appeal and the appeal circuits of the Court of First Instance shall also hear appeals filed regarding judgments issued in lawsuits and disputes filed with the Courts of First Instance prior to the effective date of this law.

Jurisdictions of first instance circuits

In accordance with **Article No. 7 of Law No. (21) of 2021 Establishing the Investment and Commerce Court**, except for lawsuits and disputes that fall under the jurisdictions of administrative circuits of the Court of First Instance and committees with judicial jurisdiction, the first instance circuits of the court



shall have the jurisdiction to adjudicate at first instance in the following commercial lawsuits and disputes:

- 1) Disputes related to commercial contracts, including contracts of commercial representation and commercial agencies.
- 2) Lawsuits arising between merchants and related to their commercial activities.
- 3) Lawsuits between partners or shareholders, or between any of them and the company, as the case may be, in commercial companies, including public joint-stock companies whose shares are listed for trading.
- 4) Disputes related to commercial assets.
- 5) Disputes related to the investment of non-Qatari capital in the economic sector.
- 6) Disputes related to maritime sales.
- 7) Disputes related to banking transactions, commercial papers, insurance companies, finance and investment companies.
- 8) Disputes related to bankruptcy and preventive bankruptcy arrangements.
- 9) Disputes related to patents, trademarks, industrial models, trade secrets, and other intellectual property rights.

- 10) Disputes related to protecting competition, preventing monopolistic practices and combating practices harmful to national products in international trade.
- 11) Disputes related to electronic commerce and its transactions.
- 12) Disputes related to Public-Private Partnerships (PPP).

The circuits of the Court of First Instance have also the jurisdiction to hear urgent matters and requests for decisions on tentative orders and petitions if filed by association.

The first instance circuits have also the jurisdiction to hear appeals against judgments and orders issued by the summary judge, and their judgments shall be unappealable, as stated in **Article No. 9 of Law No. (21) of 2021 Establishing the Investment and Commerce Court.**

Jurisdictions of appeal circuits

- 1) **Article No. 10 of Law No. (21) of 2021 Establishing the Investment and Commerce Court** states that the appeal circuits shall have jurisdiction to adjudicate the appeals regarding judgments and orders issued by the first instance circuits.
- 2) **Article No. 9 of Law No. (21) of 2021** assigned to the appeal circuits the task of hearing appeals against judgments and grievances against orders in urgent matters, and requests for decisions on petitions and tentative orders, if issued by the Court of First Instance, and their judgments shall be unappealable.
- 3) Hearing grievances against decisions and orders issued by the enforcement judge, and their judgments shall be final and unappealable, in accordance with **Article No. 32 of Law No. (21) of 2021.**



COURT'S E-SYSTEM AND THE CREATION OF THE "LAWSUIT MANAGEMENT OFFICE"

In accordance with **Article No. 13 and Article No. 14 of Law No. (21) of 2021** Establishing the Investment and Commerce Court, the court shall have an electronic system for registering lawsuits and requests for issuance of orders on petitions, tentative orders, writs of performance and other requests, in matters within the jurisdiction of the court, and all procedures and appeals against judgments and grievances against orders issued by the court circuits, provided that the submission of statements of claims and requests is made electronically, and payment of the prescribed fees is carried out electronically as well.

It is expected that the Qatar Investment and Commerce Court will witness a qualitative leap in the advanced work mechanisms and modern technical methods from archiving to electronic trial, electronic linkage between its departments, file transfer, remote litigation, provision of legal references and judicial precedents electronically, filing of cases and exchanging statements and statistics, which will help expedite the resolution of cases, alleviate the burden on the courts, and reduce the possibilities of tampering with lawsuit papers and documents.

Lawsuit Management Office

The court will witness the first application of the lawsuit management system in the State of Qatar, and will act as a model for all courts of different jurisdictions and degrees. The lawsuit management system is a system developed by the Qatari legislator and is intended to, according

to the definition of the Qatar International Court, "obligate the plaintiff when filing his claim to attach to all documents, evidence and proofs supporting his claim to the statement of claim, and shall not be allowed to submit any new document during the litigation if that document was in his possession when filing the claim. The defendant, when responding to the statement of claim, shall deposit his defense or response memorandum, accompanied by all documents, evidence and proofs supporting his defense or response to the claim and refuting the evidence of the plaintiff, and shall not be allowed to submit any new document during the litigation if that document was in his possession when depositing his defense or response memorandum". This system aims to prepare the lawsuit under judicial supervision and reduce judicial procedures in the stage prior to referring the lawsuit to the judge. This may be considered the first step towards resolving the dilemma of slow litigation in the State courts.

In accordance with **Article No. 16 of Law No. (21) of 2021** establishing the Investment and Commerce Court, the Supreme Judicial Council shall issue a decision defining the working procedures and mechanisms in the Lawsuit Management Office. The president of the court shall form the Lawsuit Management Office, and shall appoint a chief judge to be selected from the court judges. A number of consultants may be appointed to assist the chief of the office by



a decision of the head of the Supreme Judicial Council based on a proposal by the president of the court.

A sufficient number of judges, assistant judges, legal and administrative assistants shall be appointed in the office. The Lawsuit Management Office may, in order to perform its tasks, seek the assistance of experts and specialists it deems appropriate.

Law No. (21) of 2021, assigned the Lawsuit Management Office specific tasks, which are as follows:

- 1) Verifying the payment of fees and the initiation of the lawsuit preparation proceedings by making sure that all documents necessary for the settlement of the case are included, as well as ascertaining the accuracy of the names and information of the parties and their addresses in the statement of claim and translating them into Arabic if in a foreign language, and the names and information of witnesses and their addresses if necessary, within a period not exceeding 3 days from the date of filing the lawsuit electronically - **Article No. 17 of Law No. (21) of 2021**.
- 2) Notifying the plaintiff electronically, in the event of non-payment of the prescribed fees, or a lack of the aforementioned documents or data, in order to complete them within a period not exceeding 10 days from the notification date - **Article No. 17 of Law No. (21) of 2021**.

- 3) Serve the summons and supporting documents electronically to the defendant, or his representative, within a period not exceeding 3 days from the date of payment of fees, and completion of data and documents - **Article No. 18 of Law No. (21) of 2021**.

- 4) If the office finds that the lawsuit requires a writ of performance to be issued, it shall refer it to the competent circuit to issue the writ of performance directly - **Article No. 18 of Law No. (21) of 2021**.

- 5) After the defendant submits his response electronically within 30 days from the date of his serving, the Lawsuit Management Office shall notify the plaintiff, or his representative, electronically of the defendant's response within a period not exceeding 3 days - **Article No. 19 of Law No. (21) of 2021**.

The plaintiff has the right to comment on the defendant's response within 15 days from the date of notifying the plaintiff of the defendant's response electronically, and the defendant has the right to comment on the plaintiff's response within a period not exceeding 10 days from the date of his notification electronically - **Article No. 20 of Law No. (21) of 2021**.

- 6) The Lawsuit Management Office may refer any matter related to the lawsuit or the dispute to the court for adjudication.

It is worth noting that the law has authorized the circuit competent to hear the lawsuit or the head of the Lawsuit Management Office, as the case may be, to shorten or extend the aforementioned periods for serious reason in its discretion, and the total extension periods may not exceed 45 days. The law also forbids any of the parties to the lawsuit, after the expiry of such periods, to submit any new memoranda, documents or requests, unless the court allows so for serious reasons in its discretion - **Article No. 23 of Law No. (21) of 2021**.



LAWSUIT ADJUDICATION PROCEEDINGS

The **Law No. (21) of 2021 Establishing the Investment and Commerce Court**, requires that the lawsuit file be referred electronically to the competent circuit on the first day following the completion of the aforementioned proceedings. In accordance with **Article No. 29 of the Law**, the court shall adjudicate of its own motion or at the request of one of the parties to the lawsuit on matters related to jurisdiction, conditions for accepting the lawsuit and all formal defenses before adjudicating on the subject matter of the lawsuit or deputizing experts, and it may take the measures it deems appropriate, such as instructing the parties to the lawsuit to provide clarifications necessary on those matters.

The law also requires the competent circuit, if it decides to issue a preliminary ruling in the lawsuit, to do so within a period not exceeding 10 days from the date of referring the case to the circuit. In the event that the circuit decides to set a date for hearing the lawsuit, it shall do so within a period not exceeding 15 days from the date of the referral - **Article No. 24 of Law No. (21) of 2021**.

In order to ensure the speedy adjudication of lawsuits and disputes, **Article No. 28 of Law No. (21) of 2021**, stipulates that it is not permissible to adjourn the lawsuit more than once for the same reason, provided that the period of adjournment does not exceed 25 days, and in all cases, the adjournment must be granted for exceptional or unexpected circumstances.

In all cases, the circuit must settle the lawsuit and disputes within a period not exceeding 90 days from the date of the referral, and the law allowed the circuit to extend that period for 45 days for serious reasons in its discretion - **Article No. 24 of Law No. (21) of 2021**.

Article No. 25 of the Law permits the court, if it finds that certain documents or information are required to settle the lawsuit, to notify the party required to submit them electronically, within a period not exceeding 10 days, or any other period it specifies.

Consistent with the court's electronic system, **Article No. 25 of Law No. (21) of 2021**, Establishing the Investment and Commerce Court allowed the court to allow any of the parties to the lawsuit, their representatives, witnesses or experts to appear before the court through any means of electronic visual communication, provided that the court verifies the identity of the person.

In accordance with **Article No. 3 of the Decree promulgating the law establishing the Investment and Commerce Court**, the provisions of the **Law No. 20 of 2021** on Mediation for the Settlement of Civil and Commercial Disputes shall apply to the lawsuits and disputes over which the Investment and Commerce Court has jurisdiction. In the event that it is not possible to implement the electronic procedures provided for in the **Law No. (21) of 2021 Establishing the Investment and Commerce Court**, the court or the Case Management Office, as the case may be, and in accordance with **Article No. 33 of Law No. (21) of 2021**, may apply the provisions in force in the Civil and Commercial Procedure Law No. 12 of 2005, taking into account the periods stipulated in the **Law No. (21) of 2021**.

The provisions of the Civil and Commercial Procedure Law shall be applicable to all that is not provided for in **Law No. (21) of 2021 establishing the Investment and Commerce Court**.

DEPUTATION OF EXPERTS

The **Article No. 33 of Law No. (21) of 2021**, grants the court the authority to depute an expert in the lawsuit if it deems necessary. In this case, the law obligates the court to acknowledge any terms previously agreed upon between the parties, otherwise the court would depute another expert. The law does not require the expert deputed in the lawsuit to be enrolled on the List of Experts in accordance with the provisions of **Law No. (16) of 2017**. In all cases, the expert must submit his report electronically in the lawsuit file within the period specified by the court, provided that this period does not exceed 60 days, unless the court decides to extend it for a period not exceeding 15 days, for serious reasons at its discretion.

Finally, it is noted that **Article No. 26 of Law No. (21) of 2021 Establishing the Investment and Commerce Court**, allows each party to the lawsuit to file an expert report electronically before referring the lawsuit to the court, and this report may be filed after the date of the referral if the court agrees.

The law does not require that the expert issuing the report be enrolled in the List of Experts in accordance with the provisions of **Law No. (16) of 2017**. In all cases, the court must allow the other party to comment electronically on the expert's report within a period not exceeding 15 days from the date of being notified electronically of the filing. This period may be extended for a similar period.



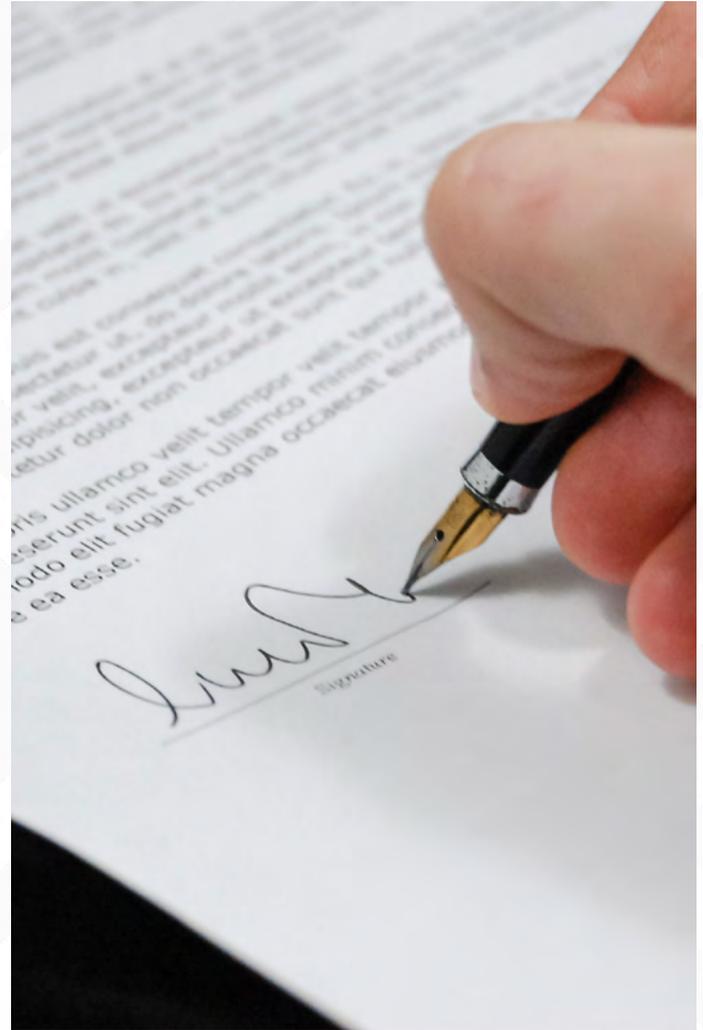
JUDGMENTS, ENFORCEMENT OF JUDGMENTS AND APPEALS

Article No. 31 of Law No. (21) of 2021, obligates the court to notify the parties to the lawsuit electronically of the judgments and decisions issued, and it also permits any of the parties to the case to obtain a paper copy of the judgments and decisions.

In the event that the defendant or his legal representative attends any session or submits documents and memoranda electronically, or has been properly served, the judgment that terminates the litigation shall be considered in presentia in accordance with **Article No. 32 of Law No. (21) of 2021**.

By virtue of the **Article No. 32 of Law No. (21) of 2021 Establishing the Investment and Commerce Court**, the enforcement of judgments issued by the court shall be carried out under the supervision of one or more judges referred to as the "enforcement judge" delegated by a decision of the Supreme Judicial Council for a period of one year, renewable for a similar period or periods. The enforcement judge shall also have the jurisdiction to adjudicate all substantive and tentative enforcement disputes, no matter what they may be, and issuing decisions and orders related to the enforcement.

It is worth noting that **Article No. 12 of Law No. (21) of 2021** ordered the establishment of one or more circuits in the Court of Cassation called the «Investment and Commercial Disputes Circuit», with jurisdiction to adjudicate appeals against judgments issued by the appeal circuits of the court. The Court of Cassation may rule with the cassation of the appealed judgment in terms of the subject matter.



As for the deadlines and dates for appeal and challenge, the law has set them as follows:

- ◆ The deadline for appealing judgments and writs of performance issued by the first instance circuits is 15 days from the date of serving the concerned parties - **Article No. 11 of Law No. (21) of 2021**
- ◆ The deadline for appealing judgments issued in urgent matters and grievances against orders on petitions and tentative orders is 7 days from the date of serving the concerned parties - **Article No. 11 of Law No. (21) of 2021**.
- ◆ The deadline for appealing by cassation against judgments issued by the appeal circuits of the court is 30 days - **Article No. 12 of Law No. (21) of 2021**.

CONCLUSION

The establishment of an Investment and Commerce Court, undoubtedly, provides reassurance to investors and makes the State of Qatar an attractive destination for foreign investments in line with the State's vision for the future, bearing in mind that practical experience has proven that the International Court had a prominent role in negotiation and settling disputes, however it did not enjoy the influence and mechanisms that specialized courts enjoy.

The establishment of this court is the fruit of the wise Qatari leadership's keenness on keeping pace with all regional and international experiences and considering them when drafting the law. Said leadership is able to benefit from the successful experiences of others and crystalize them in the form of modern legislation that develops with the times, while also avoiding the observed failures of other systems. The

national legislative identity is being solidified in the texts of the law, and continues to qualify Qatari cadres in the investment and commercial fields as well as the legal sector at large. These developments contribute to a swift movement towards the implementation of the Qatari vision on the ground.

The Qatari judicial system now owns a national judicial and administrative cadre equipped to work in the court, and this cadre initially bears a great responsibility, given the aspirations that national and foreign investors have for this court, in addition to the large jurisdictions that may pose a challenge at the beginning. Therefore, during the next 6 months, this national cadre must be well-prepared, equipped and have their skills sharpened to ensure a successful start for the Investment and Commerce Court to achieve the desired purpose.



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