THE ROLE OF ELECTRONIC NOTIFICATION IN ACCELERATING THE LITIGATION PROCEEDINGS IN CIVIL LAWSUITS: (A COMPARATIVE STUDY)

a Thamir Salih Hamad, b Tayma Mahmoud Fawzi Al-Sarraf

ABSTRACT

Objective: The purpose of the article research of the topic is represented in showing the role of E-notification in accelerating the litigation proceedings in civil lawsuits, as it saves time, effort, and expense, as well as addressing the problems of traditional notification, and propose recommendations to complete the legal system concerned.

Method: In the current research, which is based on the analysis of legal texts, the analytical approach and the comparative approach were adopted. A comparison was made among the" Iraqi Civil Procedure Law No. (83) of 1969 amended by Law No. (10) of 2016", and the UAE Federal Civil Procedure Law No. (11). ) for the year 1992 amended by Law No. (15) for the year 2021 and its bylaw No." (57) for the year 2018 amended by Law No. (75) for the year 2021".

Results: Some valuable findings have been revealed such as The electronic notification is an effective way to accelerate the judicial proceedings because it prevents the recurrence of notification, and reduces the objection to the judgments in absentia due to the certainty of informing the defendant in addition to the ease of the notification process, regardless of the location of the defendants.

Conclusion: The research employs theories that Electronic notification is a result of the advancement of current communication techniques as well as the pervasive use of mobile devices and the Internet across a variety of aspects of economic and social life. Despite this development, the Iraqi legislator still maintains the same traditional means that he put in place when enacting the Civil Procedure Code. He excluded the electronic means from all judicial proceedings from the scope of the electronic signature law, including proceedings related to the judicial notification. On the contrary, the UAE legislator adopted electronic judicial notification in order to accelerate such civil litigation proceedings.

Keywords: electronic notification, civil procedure law.

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a Master Student in Private Law, College of Law, University of Mosul, Mosul Municipality Dir, E-mail: thamir.20wp18@student.uomosul.edu.iq, Orcid: https://orcid.org/0009-0004-3501-3570
b PhD in Private Law, College of Law, University of Mosul, E-mail: tayyy@uomosul.edu.iq, Orcid: https://orcid.org/0000-0001-6515-9918
RESUMO

Objetivo: A finalidade da pesquisa de artigo do tópico está representada em mostrar o papel da notificação eletrônica na aceleração dos processos judiciais em processos civis, uma vez que economiza tempo, esforço e despesas, bem como abordar os problemas de notificação tradicional, e propor recomendações para completar o sistema legal em questão.

Método: Na pesquisa atual, que se baseia na análise de textos legais, foram adotadas a abordagem analítica e a comparativa. Foi feita uma comparação entre a "Lei de Processo Civil Iraquiana No. (83) de 1969 alterada pela Lei No. (10) de 2016", e a Lei Federal de Processo Civil dos EAU No. (11). ) para o ano de 1992 alterado pela Lei No. (15) para o ano de 2021 e seu estatuto No.” (57) para o ano de 2018 alterado pela Lei No. (75) para o ano de 2021”.

Resultados: Foram reveladas algumas conclusões valiosas, como A notificação eletrônica é uma forma eficaz de acelerar os processos judiciais, pois impede a repetição da notificação e reduz a objeção aos julgamentos à revelia, devido à certeza de informar o réu, além da facilidade do processo de notificação, independentemente da localização dos réus.

Conclusão: A pesquisa emprega teorias de que a notificação eletrônica é resultado do avanço das técnicas de comunicação atuais, bem como do uso generalizado de dispositivos móveis e da Internet em uma variedade de aspectos da vida econômica e social. Apesar desta evolução, o legislador iraquiano continua a manter os mesmos meios tradicionais que pôs em prática aquando da promulgação do Código de Processo Civil. Excluiu os meios eletrônicos de todos os processos judiciais do âmbito de aplicação da lei da assinatura eletrônica, incluindo os processos relacionados com a notificação judicial. Pelo contrário, o legislador dos EAU adotou a notificação judicial eletrônica para acelerar esses processos de contencioso civil.

Palavras-chave: notificação eletrônica, direito processual civil.

1 INTRODUCTION

Electronic notification is an electronic means whose purpose is to inform the defendant of the actions taken against him. Therefore, the proceedings of judicial notification can be carried out by using one of the modern electronic means, either by phone, recent apps, or other means that satisfies the purpose. It differs from traditional notification in terms of the method in which it is used. It has a major role in accelerating the litigation proceedings in civil lawsuits, due to the speed and accuracy of the electronic notification process, as well as saving time, effort, and expense. It should be noted that the Iraqi legislator neglected using the electronic notification system, which necessitates amending the" Iraqi Electronic Signature and Electronic Transactions Law" with ad hoc texts that accommodate this system. The legal texts of notifications in the Civil Procedure Law should be amended as a preliminary step in order to enable the use of electronic means in notification to accelerate the litigation proceedings in civil lawsuits.
In the current research, which is based on the analysis of legal texts, the analytical approach and the comparative approach were adopted. A comparison was made among the "Iraqi Civil Procedure Law No. (83) of 1969 amended by Law No. (10) of 2016", and the UAE Federal Civil Procedure Law No. (11.) for the year 1992 amended by Law No. (15) for the year 2021 and its bylaw No." (57) for the year 2018 amended by Law No. (75) for the year 2021".

The definition of E-notification and its means The purpose behind notification is to inform the defendant to appear before the court, and to protect the right of defense. It is the first action that the court must take after filing the case after paying the legal fee. Since the electronic notification appeared as a result of the development taking place in society, it is necessary to shed light on the definition of electronic notification and distinguish it from the similar system in the first requirement, in addition to indicate the means through which the electronic notification process can be completed in the second requirement, according to the following:

Defining E-notification and distinguishing it from similar systems There are various definitions for the electronic notification by legislation, and electronic notification differs from the traditional one in several aspects. For the purpose of detailing, we have divided this requirement into two branches: the definition, and the most important points of difference. The second section dealt with similarities as follows:

Definition of electronic notification The Iraqi legislator did not define electronic notification because he did not consider it as a means of conducting the judicial notification process in the Civil Procedures Law, but rather removed it from the scope of the Electronic Signature and Electronic Transactions Law. In addition, he did not set a legal definition for the term (electronic). See Article" (3/Second/E) of the Iraqi Electronic Signature and Electronic Transactions Law No Article" (3/Second/E) of the Iraqi Electronic Signature and Electronic Transactions Law No. (78) of 2012 stating that “the provisions of this law do not apply to the following: (E)- court proceedings, judicial" notifications, summons to appear, search and arrest warrants and judicial rulings. As for the Emirati legislator, he defined electronic notification in Article (1) of the UAE Federal Ministerial Resolution Article (1) of the UAE Federal Ministerial Resolution No (260) of 2019 regarding the procedural guide for organizing litigation using electronic means and remote communication in civil procedures as “any judicial announcement using modern technology means.”
As for legal jurisprudence, E-notification was defined as “the official means by which a defendant of a specific incident is notified by sending a copy of the notice paper to him through contact with modern technology. (Asaway and Abu-Hiba, 2019). It shall have electrical, digital, magnetic, wireless, optical, electromagnetic, automated, optical or similar capabilities. This definition explicitly referred to the formality of the electronic notification, but it was faulty and required that a copy of the notification paper be sent to the defendant electronically. We see that it restricts its means, such as phone calls or SMS messages. This is what makes it an unsupportable definition. Another opinion defined it as “the adoption of new and modern means of notification, not to replace the traditional ways of notification, but to be a means of assistance in the notification process and to reduce legal disputes over the validity of notification. (Al-Shura’a, 2010).

However, it is a means of communicating with the defendants in the lawsuit and informing them of developments in the proceedings and lawsuits. This is what makes it unsupportable. We can define it as “a legally approved electronic means whose purpose is to inform the defendant of the measures taken against him”. Distinguishing electronic notification from the traditional one. In terms of purpose or objective:

Functional equivalence approach that electronic communications and documents serve the same function and purpose as conventional communications and documents (Pujiyono Suwadi, Reda Manthovani, Alizza Khumaira Assyifa 2023). Both of these notifications are similar in terms of the intended purpose, as notification, whether electronic or traditional, aims to deliver the judicial papers and the actions taken against the person. (Al-Dabas, 2020). In terms of formality:

Both of them are supposed to have the characteristics of the official document because it is an official means, which is impermissible to challenge it except by forgery (Shenawa, 2021).

This is one of the basic differences, where the electronic notification differs from the traditional paper-based notification in terms of the means by which each system is carried out (Al-Dabass, 2020). The reason for this is that the means used in electronic notification are advanced means that rely on modern electronic technologies, in contrast to the traditional means of communication that are too formal. In contrast, electronic notification has a major role in speedy access to justice, and facing the slowdown in litigation, so that it is impossible to imagine the issuance of a judicial ruling within the
legally specified time limits or within a relatively reasonable time without adopting the means of electronic notification. In terms of the litigation system:

It is not that easy that the notification process takes place in the form of traditional means in the electronic litigation system, because the latter is made in an integrated electronic environment, starting from the filing of the lawsuit and until the issuance of the judgment. On the contrary, the electronic notification can be resorted to either in the electronic litigation system or in the traditional litigation system.

Means of electronic notification Since the purpose of electronic notification is the same as that of traditional notification, namely to inform a recipient of the actions taken against him, whether in the petition for a lawsuit or the judgment rendered against him, the means of electronic notification may vary from those used when the notification process is carried out using traditional methods because it takes place in an advanced electronic environment. So, the question arises about the electronic means adopted by the legislator to complete the notification process. The Iraqi legislator has so far not adopted electronic means in developing our judicial system despite his enactment "of the electronic signature and electronic transaction law". It was better for him to address this problem in light of the development taking place in society and make up of this legislative deficiency by introducing the electronic notification system in our judicial system to accelerate the litigation proceedings (Al-Aboudi, 2018). Mahdi, M, S. (2022) (Article:21second of the Iraqi bylaw Supreme court).

It should be noted that the Iraqi legislator permitted the use of electronic notification in Article (21/Second) of the bylaw of the Federal Supreme Court Article (21/Second) of the bylaw of the Federal Supreme Court in Iraq No.(1)2022, by stating, “Second: The petition and related documents shall be notified to the defendant by his address or e-mail or by means of the proceedings stipulated in the aforementioned Procedure Law”. Through the above article, we find that the Iraqi legislator limited the notification process before the Federal Supreme Court to one electronic means, which is e-mail, in addition to the traditional means of notification stipulated in the Civil Procedures Law. This could be an advantage for him. Therefore, we see that the judge, whether in a civil or criminal case, cannot adopt electronic notification in the absence of a legal text that allows him to do so. Therefore, the notification is considered null, as well as the subsequent proceedings that result from it. This was confirmed by Erbil Court of Appeal in its decision that “when investigating and deliberating, it was found that the
discriminatory appeal submitted within the legal period is incorrect and contrary to the law. According to the paper-based notification, the woman was notified by telephone, and this is not legally permissible, and the notification is considered invalid, and it entails the invalidity of all decisions issued in the case. Accordingly, it was decided to repeal the decision and then it was issued by agreement. As for the UAE legislator Article (6/1/A) of the Regulations of the UAE Federal Civil Procedure Law No. (57) of 2018 in force, amended by Ministerial Resolution No. (75) of 2021. he explained the means of electronic notification in Article (6/1/A) of the regulatory regulation of the as follows:

The defendant shall be notified in any of the following ways:

A- Recorded audio or video calls, messages on the mobile phone, smart applications, e-mail, fax, or other modern technology means, or in any other way agreed upon by the two parties mentioned in these regulations.

Through the above text, we find that the UAE legislator mentioned a very advanced position, as he permitted using modern means to conduct notification, and made it an original and independent method. However, he did not cancel the traditional notification rules due to the urgent need for them at the present time. Thus, the UAE legislator outperformed the Iraqi, who was characterized by flexibility in terms of legislative drafting to keep pace with the development that took place as a result of the information revolution. Simultaneously, it is difficult for him to keep the fax method, and consider it a modern means, while it has become useless at the present time, because it is a traditional method compared to the e-mail method and modern applications such as WhatsApp...etc.

The freedom to sue is a fundamental part of civil rights (Nguyen Vinh Hung, Tran Cong Thinh, Nguyen Thi Khanh Ly 2023). however In Iraq, the judiciary suffers as a result of the process of judicial notifications, because the Iraqi legislator still counts on traditional means of notification, which directly affected the delay in adjudicating civil lawsuits before the courts. The notification process has become one of the main reasons for slowing down litigation, due to the defects that characterize traditional notification. Inaccuracy when performing the process of notification or deliberate delay by the person who was notified or not carrying out it, or giving fictitious addresses to the defendant and other things are among the defects and problems associated with the process of traditional judicial notification. However, neither "the Electronic Signature and Electronic Transaction Law" nor the most recent amendment to the Civil Procedures
Law, Law No. (10) of 2016, attempted to address this issue or deal with the procedural delay.

2 THEORETICAL FRAMEWORK

The research employs theories that Electronic notification is a result of the advancement of current communication techniques as well as the pervasive use of mobile devices and the Internet across a variety of aspects of economic and social life. Despite this development, the Iraqi legislator still maintains the same traditional means that he put in place when enacting the Civil Procedure Code. He excluded the electronic means from all judicial proceedings from the scope of the electronic signature law, including proceedings related to the judicial notification. On the contrary, the UAE legislator adopted electronic judicial notification in order to accelerate such civil litigation proceedings.

3 METHODOLOGY

In the current research, which is based on the analysis of legal texts, the analytical approach and the comparative approach were adopted. A comparison was made among the" Iraqi Civil Procedure Law No. (83) of 1969 amended by Law No. (10) of 2016", and the UAE Federal Civil Procedure Law No. (11) for the year 1992 amended by Law No. (15) for the year 2021 and its bylaw No." (57) for the year 2018 amended by Law No. (75) for the year 2021".

4 RESULTS AND DISCUSSION

The UAE legislator, who adopted the idea of electronic notification, he permitted the notification process by modern means. Therefore, it is necessary to shed light on the experience of UAE law in adopting this system to reduce procedural slowness, both in terms of its role in shortening time, effort and costs, and in terms of eliminating the slowness of the traditional notification process and its problems. Therefore, we will divide this topic into two requirements: we deal in the first requirement: achieving procedural economy, and in the second requirement: facilitating notification proceedings and eliminating their problems, according to the following:

- Achieving procedural economics
- Facilitating notification procedures and eliminating their problems
Procedural economy means that the judicial proceedings must be achieved in the shortest time, less effort, and less expenses when trying to reach a fair and urgent judgment in a civil lawsuit (Al-Nadawi, 1987). This is what distinguishes electronic notification, as it is achieved in a short time, as a result of the high speed in obtaining notification and delivering all data required to the defendant in a short time (Al-Matrawdi, 2021).

This speed in completing the electronic notification process was as a result of the development of modern electronic means that are employed in the notification process (Hamid, 2012). Undoubtedly, this matter has positive effects on how quickly justice is delivered as desired, on how quickly rights holders who have been subject to court protection may enjoy their rights, and on how trust in the legal system is maintained. In other words, electronic notification does not take much time, because it does not require, in some means, more than just a press of a button (Al-Matrawdi, 2021). This reflects the impact of the speedy conduct of the notification process, and then reduces the problem of slow litigation proceedings because it ensures that notification reaches the defendant faster than the traditional one, and eliminates many of the problems caused by traditional notification.

The process of judicial notification is one of the important stages on which the validity of the civil litigation depends (Obeid, 2019). The stage of judicial notification of the defendant, especially in remote places, takes a lot of time if it is done by traditional means, which may result in postponing the case many times, until the notification process is carried out, in addition to repeating it. All of this takes judicial time and slows down the proceedings, unlike if notification was not conducted by modern means. The notification can be delivered to the defendant quickly and accurately. Electronic notification also contributes to reducing the expenses and costs of conducting the notification process, because it is done through electronic means. Hence, it contributes to lower reporting expenses. It neither requires more persons, nor those who carry out the notification repeatedly to the place where the notification process is required to be carried out, nor the payment of the fees for that transportation. Therefore, it contributes to reducing the increase in costs and financial burdens to limits that cannot be underestimated (Al-Dabas, 2020).

In other words, electronic notification achieves the procedural economy, which is based on the principle of just and urgent justice, i.e. quick, low-cost justice. Due to the
absence of material costs required to carry out the electronic notification process, costs are reduced in two ways: first, there is no need to transfer funds to the location where the notification process will take place, and second, fewer employees will be needed. (Al-Matrawdi, 2021). Conducting the judicial notification process by traditional means entails high expenses, especially when the location of the defendant is in a remote location. This process may be repeated more than once. All of this contradicts the principle that seeks to achieve the law of pleadings, which is quick, efficient, and low-cost justice.

Finally, E-notification contributes to the realization of the principle of economy of proceedings by saving effort, whether for judges and their assistants who are responsible for notification, or for the opponent, who is often the plaintiff requesting judicial protection. One of the most important features of the electronic notification is that it saves effort, especially when the defendant’s addresses are incorrect, unclear, or even unreal, and the notification plaintiff is unable to complete or clarify that statement. (Al-Matrawdi, 2021). Therefore, it has become necessary for the Iraqi legislator to resort to judicial notification by electronic means because of its role in achieving the principle of economy in judicial proceedings. Saving effort, time, and expenses are the most prominent features that result from resorting to modern means to conduct the judicial notification process, which contributes to reducing the negative effects resulting from traditional notification, which is the slowdown in litigation proceedings. This is what we will explain next.

Notification is one of the most important reasons for the slowness of proceedings in our judicial system, because the Iraqi legislator still relies on traditional means in completing the judicial notification process. These means pose many problems in contrast to the electronic notification system, which contributes to the development of the judicial facility and limits the procedural slowdown, because of its characteristics that are capable of eliminating the problems resulting from notification by traditional means. This is what prompted the UAE legislator to adopt the electronic notification system and apply it in the civil judiciary facility. Therefore, electronic notification works to eliminate the problems of traditional notification through the following:

Electronic notification eliminates the problem of repeated judicial notification. One of the drawbacks facing the traditional notification, which affects the proceedings of the case and resolving it quickly. The re-notification is one of the most important reasons for slowing down the proceedings, as the traditional notification contributes to repeating
the notification more than once, until the desired legal effect is achieved. This will only be done after going through long proceedings that take a lot of time to repeat the notification. The notification at the end may be out of time. This means that the court may have to conduct the judicial notification process by publishing in the newspapers. Undoubtedly, this last process requires a long and exhausting time for the court and the litigants alike. As a result of traditional notification, procedural slowdowns are achieved (Hamid, 2012). One of the cases in which it is imagined to repeat the traditional notification is what is understood from the text of Article (21/2) of the Iraqi Civil Procedure Code (Article (21/2) of the Iraqi Civil Procedure Code in force).

The aforementioned article stated, “2- If the defendant has chosen a place for notification or mentioned an address in the contracts and documents of the lawsuit, and it was found during notifying that he had moved to another place or address. The reporter then shall make a statement and return the paper to the court to make the notification according to the new statement submitted if the destination to which information was transferred is known. If it is unknown, then it shall be notified in accordance with the (first) paragraph.

We draw the conclusion from this article that using traditional methods of notification causes litigation to go more slowly since the defendant may include his address in documents or contracts, especially when doing business with departments. The reporter proceeds to the location specified in the contract to complete the process if, for example, the breach of contract results in the filing of a lawsuit by the opposing party. The plaintiff for notice then cites the address in the contract. All this requires time and effort, in addition to the costs of transporting the person reporting to that address. If the reporter finds that the defendant has moved to another location, then he shall make a statement and return it to the court to instruct the plaintiff to submit a new statement that includes the address of the defendant. This all takes too long. If the reporter submits a new statement, the court shall re-notify. This requires the expenses of moving the reporter back and leading to repeating the action more than once. This is all a drain on the judicial time for the life of the case. If the notification was done by electronic means, it would only take a little time, especially if the phone number of the defendant was mentioned, in addition to the lack of the need for the plaintiff to move to that address. The action may be performed by any modern electronic means. Thus, we find that electronic notification eliminates the problem of repeated notification to an extent that cannot be underestimated.
This is what the UAE legislator has adopted. Electronic judicial notification could also reduce the cases of objection to the judgment in absentia, because it achieves the actually informing for the defendant, in contrast to the traditional notification. It may only achieve virtual science, as if the notification paper was delivered to one of those who lived with him without the latter handing it over to him (Al-Hudafy, 2021).

According to the Iraqi Civil Procedure Law, which stipulates in Article (18) “The document required to be notified shall be delivered to the same person, in the event that he is outside his place of residence, or it shall be delivered at his place of residence to his wife, or whoever is residing with from his relatives, in-laws, or those who work in his service. The paper may also be delivered to his employees at his place of work. (Article (18) of the Iraqi Civil Procedure Code in force).

We find through the above article that the Iraqi legislator took the verification of the certain (actual) knowledge of the defendant when receiving the notification paper from the plaintiff personally. Simultaneously, hypothetical science was realized when it permitted its delivery to the persons specified in the above article, and it did not even require some persons to be of their majority.

This means that in the case of hypothetical notification, the person who received the notification paper may not deliver it to the same person who is required to be notified, or the person may damage it because he has not at reached does not appreciate its importance, and then he does not appear on the date specified for the pleading. The pleading for a right takes place in absentia, as it is a presumptive amount according to the law. If he is notified of the ruling issued against him in absentia, he resorts to appealing against it. This means bringing the dispute back to the same court, and then depleting judicial time and accumulating lawsuits. As for electronic notification in all its means, which the UAE legislator adopted, as we have passed previously. Certain knowledge has been achieved because the notification reaches the defendant personally, whether on his e-mail, personal phone, or on Whats App...etc. The defendant would have real knowledge of the case, and then he should attend the pleading against him in his presence. Thus, the electronic notification reduces the cases of objection to the judgment in absentia.

It should be noted that the realization of certain knowledge through electronic notification is another benefit, which is not to repeat judicial notification, because the purpose of repeated notification is to inform the defendant, If it was not actually done,
then notification could be achieved if the process was done by electronic means (Al-Hudafy, 2021).

Electronic notification also prevents the bad intention of the defendant. In the traditional notification, the problem arises of the bad intent of the plaintiff, as the notification plaintiff deliberately mentions a fictitious or unreal address for the defendant so that the court is forced to notify him by publishing in the newspapers and then not enabling the defendant to submit his answer statement in order to confront his opponent legally and rightly to defend himself (Hamid, 2012).

We see that such a problem would arise in electronic notification, because the latter is done regardless of the location of the defendant, so the problem of whether the address is real or not does not arise. Here, the bad intent of the notification plaintiff is limited to push, in order to push the court to report by publication. One of the problems raised by traditional notification is when the defendant is abroad. This is one of the most important reasons that delay the settlement of civil lawsuits in our judicial system, while such a problem would not arise if electronic notification was adopted by modern means. The reason is that this means has become popular among individuals, whether they are citizens or foreigners, regardless of their whereabouts. (Al-Hudafý, 2021). Therefore, it is better to develop such means to face the obstacles facing traditional notification, but rather to make the UAE legislator informing people who are abroad by electronic means an original means to start with, Article (7 / 6) of the regulations of the UAE Federal Civil Procedures Law in force. This is what is understood from the text of Article (7/6) of the Regulations of the Civil Procedures Law, which states, “6- The notification for the persons who have a known domicile and who could not be notified by technical means or through private companies or the method agreed upon by the parties shall be sent to the Ministry of Justice. We find that the position of the UAE legislator is too modern and works to limit the slowness of litigation proceedings. We urge the Iraqi legislator to follow the UAE approach and amend Article (23 / 1) of the Civil Procedure Code to be as follows: (1- If the defendant is an Iraqi or a foreigner residing outside Iraq, he shall be notified by the reference registered mail or by any electronic means).

Finally, in the event that one of the instances in which the court had to use this technique is successful, the court must notify the parties by posting a notice in the media, which slows down the proceedings. Once the court has spent a lot of time and effort determining that there is no other way to inform the individual except in this manner. The
issue of newspaper publication arises, which might take some time as a result of non-publication, after which the pleading is delayed, and so on. To overcome this problem, the UAE legislator created what is known as electronic publishing as a means to facilitate the notification process in the event that it is not possible to conduct the electronic notification process by one of the electronic means stipulated in Article (6/1) of the regulatory regulation. The latter stipulated in Paragraph (3) of the same article above that:

3- If it is not possible to announce what is required to be announced in accordance with Clause (1). From this article, the matter shall be presented to the case management office or a competent judge for investigation by at least one of the relevant authorities, and then announcing it by listing it on the court’s website or by publishing it in a widely circulated daily newspaper. We can see that the lawmaker from the UAE’s perspective deserves support since it reduces procedural delays and tries to hasten the resolution of civil litigation. Therefore, we urge the Iraqi legislator to amend the text of Article (21/1) of the Civil Procedure Code and add the following paragraph at the end (...or by publishing it on the court's website).

5 CONCLUSION

It is normal that the Iraqi legislator did not address the definition of electronic notification, because it is still confined to the rules of traditional notification in the Civil Procedure Law, in addition to removing electronic notification from the scope of the Electronic Signature Law. The law of the UAE legislator has adopted electronic notification and made it an original and independent method. According to the Article (1) of the Ministerial Resolution regarding the procedural guide for organizing litigation using electronic means and remote communication in civil proceedings No. (260) of 2019 E-notification is defined as “any judicial declaration using modern technology means.”

Legal jurisprudence differed in defining electronic notification. Finally, we deduced that it was (a legally approved electronic means whose purpose is to inform the defendant of the actions taken against him).

The significant difference between the two notifications lies in the method by which the judicial notification process is carried out. This method of electronic communication is characterized by modernity. This is what makes it our system that achieves speed and accuracy in notifying the person who is required to be informed, and then achieves economy in proceedings.
The electronic notification has been adopted by the Iraqi legislator in the bylaw of the Federal Supreme Court No. (1) for the year 2022, and the method by which it is done is recorded by e-mail only.

The electronic notification is an effective way to accelerate the judicial proceedings because it prevents the recurrence of notification, and reduces the objection to the judgments in absentia due to the certainty of informing the defendant in addition to the ease of the notification process, regardless of the location of the defendants.

We urge the Iraqi legislator to amend the articles related to judicial notification in the Civil Procedure Law No. (83) of 1969 in force by adding a second paragraph to the text of Article (13) of the above law, as follows: (2- Notification can be made via recorded audio or video calls, text messages via a mobile phone, smart applications, e-mail, social media, or other technical or electronic means. We also urge the legislator to amend the text of Article (21/1) of the Civil Procedure Code and adding the following paragraph to its end (…or by publishing on the court’s website) and also amending Article (23/1) of the Civil Procedure Code to be as follows: (1- If the defendant is an Iraqi or a foreigner residing outside Iraq, the said party shall be notified by reference registered mail or by any electronic means.

We urge the Iraqi legislature to repeal the text of Article" (3/Second) of the Electronic Signature and Electronic Transactions Law No. (78) of 2012" because it contradicts with the updates that the Iraqi society is undergoing in light of the growth of the Internet and contemporary communication tools. It is urged to make this matter a preliminary step until a law on civil electronic pleadings is enacted and a paragraph is added to Article (3/First) of the above law (the provisions of this law apply... to the judicial notifications).

We urge the Iraqi legislature to set up the required technical framework and to provide legal protection for the use of methods in court as well.
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