

## Legal Framework of the Family Businesses in the Kingdom of Saudi Arabia

By

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### Abstract

Family businesses are the oldest and most common model in the economic organization and are considered the backbone of country economies. Therefore, the countries have been keen to develop charters and guidelines that include principles and controls ensuring the continuity thereof. One of those countries is the Kingdom of Saudi Arabia, where family businesses are one of the economic streams that affect economic development in the Kingdom, especially in the sectors of non-oil industries, trade, building, and construction. However, these companies face many challenges that threaten the existence and continuity thereof and force such businesses to regularize their status thereof to enhance their ability to continue, grow and compete (Diab, 2010, p. 452). Family businesses are subject to the general provisions in companies. However, the management is under the control of one family, and the family businesses do not have a specific legal form, but such businesses could be civil, commercial, industrial, or service companies, and adopt one of the legal frameworks stipulated in the Companies Law and do not go beyond these legal forms. The limited liability company and the closed joint-stock company are the best legal frameworks, which the family businesses can adopt, according to the results of the research. From this point of view, this research aims to identify the legal framework appropriate for family businesses, which accommodates the increase of the partners' number and ensures their continuity, and indicates the relationship between internal and external challenges and the continuity of family businesses and how to overcome such challenges. The research concluded that there is a relationship between the legal framework and the continuity of companies and that the closed joint-stock company is the appropriate legal framework that ensures the continuity of companies, and that there is a relationship between internal and external challenges and the continuity of family businesses.

**Keywords** Family businesses – legal framework, family charter, external challenges, internal challenges.

### Introduction

Family businesses are a global phenomenon that is not limited to one country only, as such businesses play an influential role in the national economic development of the countries to which they belong. Studies show that approx. 70% of commercial entities in many countries are family businesses, and it is one of the most important pillars of the GCC economies, especially in KSA, as it controls 90% of private sector companies according to the National Center for Family Business.

Given the importance of family businesses at the international level resulting from the impact thereof on the economy, and the seriousness of these companies' collapse, the World Bank's International Finance Corporation (IFC) has developed a Governance Guide for Family Businesses that includes controls, which should be observed by family businesses, in addition to defining the concept of these companies, advantages, and disadvantages thereof, the reasons

that lead to their collapse, and the factors that lead to their sustainability. Thanks to the influential role of family businesses in the growth of the national economy, where it represents 60% thereof, the Kingdom has been keen to develop templates for charters and constitutions adopted by family businesses to preserve them from collapse and ensure sustainability thereof. The Saudi Ministry of Commerce and Industry has developed Governance Guide for Saudi Arabian Family Businesses that includes controls that family businesses should observe to ensure sustainability and intergenerational succession.

## **Research Problem**

The research problem is to answer the following questions:

2.1. Q1. Do family businesses have their legal framework?

Is there a relationship between the legal framework and the continuity of companies?

Q2. What are the challenges faced by family businesses?

## **Importance of the Research**

The importance of the research comes from the importance of family businesses, which are considered the backbone of the economy in most countries, because with the rise of these businesses, the economy flourishes and grows, and on the other hand the failure of such businesses hurts the economy. Therefore, it is important to search for the appropriate legal framework for the continuity of family businesses in the Kingdom of Saudi Arabia.

## **Research Objectives**

The research aims to

- Study the relationship between the legal framework and the continuity of family businesses.
- Study the relationship between internal and external challenges and the continuity of family businesses.

## **Previous Studies**

By reviewing the intellectual production published in Arabic and English languages in the various databases, and related to the study of the legal framework for family businesses, it was found that there are (90) studies, and when the researcher reviewed those studies, she found that the studies that are closely related to the research topic are (30) studies, including the following studies:

The study by (Al Zumea, 2016), discussed the determination of the family businesses' legal nature, and the study concluded that family businesses that are not subject to legal regulation of companies face several difficulties, including the lack of their own governance rules, and the short life of those companies due to the conflicts that occur especially in the third generation.

The study by (Al Zahrani, 2019), discussed the importance of the legal transformation of family businesses in the Kingdom of Saudi Arabia into closed joint-stock companies and concluded that it is necessary to separate ownership from management and that the best legal

form to extend the life of the family businesses is to transform these companies into closed joint-stock companies.

The study (Al-Ghamdi, 2021), discussed the sustainability of family businesses in the Kingdom of Saudi Arabia and concluded that there are obstacles that prevent the continuity of companies, especially in the third generation, and that family businesses shall adopt the form of a limited liability company or a joint stock company if the number of partners therein and its capital are increased.

The study by (Matali et al., 2021), discussed the role of governance values in facing the challenges of family businesses, presented the experiences of some Arab companies, and concluded that these companies achieved positive results thanks to the application of governance, representing in building solid values focused on transparency and effective communication between various parties, and gaining the investors' trust.

By analyzing the previous studies, it is clear that these studies agree that there is no specific definition of family businesses, the existence of internal and external obstacles that represent challenges to their continuation, and the absence of a specific legal framework for family businesses. These studies concluded that determining a legal framework suitable for companies and applying governance mechanisms contribute to the sustainability of those companies, which is supported by the researcher.

## Research Hypotheses

The research question is addressed through the following hypothesis:

**Hypothesis (1):** There is a relationship between the determination of the legal framework and the sustainability of family businesses.

**Hypothesis (2):** There is a relationship between internal and external challenges and the sustainability of family businesses.

## Research Methodology

The researcher used the analytical descriptive method to answer the research questions.

## Research Plan

Before addressing the challenges faced by family businesses and the appropriate legal framework for the continuity of family businesses, the legal logic requires learning about the concept of family businesses and the development stages thereof as follows.

### *Concept of Family Businesses:*

There is no agreement on a specific definition of family businesses according to the published literature and reports (L. Mezghani 2016). There is no legal form called family businesses, as the Companies Law mentions the types of companies exclusively, but this term is applied to any company that has adopted a legal form from among the types of companies specified exclusively in the law and has a family nature, as it is not permissible to agree to establish or form a commercial company that does not adopt one of the legal forms, otherwise, this agreement is considered null and void.

Since there is no agreement on a specific definition, some concepts and definitions have been mentioned in previous studies, including that a family business is “a company owned by a family that is usually managed by it, and it was established by one or more persons and its tradename is derived from his name or the family name” (Hamdan, 2009, p. 2).

A family business is also defined as the “participation of more than one member of one family, either through establishment, inheritance or transferring the ownership of a company's capital, in the exercise of its activity across generations” (Kano, 2002, p. 2) and defined by the Ministry of Commerce's Governance Guide for Saudi Arabian Family Businesses as “a company wholly owned or controlled by a particular family” (Governance Guide for Saudi Arabian Family Businesses, 2013, p. 7).

By analyzing the previous definitions, it is clear that these definitions are consistent in terms of the content, which is that the element of capital ownership and management control is a criterion for being a family business (Dhafra, 2018, p. 52).

### ***Characteristics of Family Business:***

#### ***Family Character***

The most important feature that distinguishes the family company from other companies is the joint ownership and management by the family members, as it begins with the founder's ownership and is a closed company limited to the founders of the company, and often the company adopts the legal form of a general partnership or a limited partnership and then other partners from the family share the ownership as a result of inheritance or retirement of the founder and the company turns into another legal form, which is the limited liability company that is preferred by many family companies to maintain personal consideration and not to allow the entry of non-family member partners because of the fear of incompatibility on the working mechanism thereof.

#### ***Loyalty and Teamwork***

(Al Zahrani, 2019, p. 19): As the social entity of the family and its economic level are linked to the company, there is a sense of belonging to the family and keenness to achieve one interest, which is the management of the company. Therefore, the family business prefers the legal form that allows it to impose restrictions on the exit and transfer of shares (Al-Ghamdi, 2021, p. 287). Article (161) of the Saudi Companies Law issued in 2015, which corresponds to Article (178) of the new Companies Law, stipulates the following: "The partner shall have the right to assign the share to any partner or others, provided that the remaining partners approve this assignment and each partner is allowed to recover the sold share." The appropriate legal form to ensure the continuity of the family business and its steadfastness in the arena of competition in the labor market is a closed joint-stock company, as this form allows trading of shares between shareholders without restrictions compared to companies that are based on personal consideration such as general partnership and limited partnership, and accommodate a large number of partners

- Respect of family head, especially in Arab countries, following the customs and traditions that support the presence of the family head and obeying him, and committing to his opinions ( (D. Miller, 2006, p. 80.).
- The good reputation of the family in the commercial environment is linked to the market confidence in the company, which gives it preferential opportunities in the sale and purchase transactions and provides it with the required funding to expand its projects.

- The management is keen to develop the company ensuring pass it to subsequent generations.
- Stability of management and decision-making mechanism, especially at the beginning of the establishment due to the simplicity of the administrative structure of the company.
- Exchange of experiences (Saud, et. al, 2018, p. 231) where many family members are integrated into the company at an early age, which qualifies them to work and lead company affairs in the future.
- Lack of formalizing the work organization rules and procedures.
- Transferring personal conflicts between family members from home to the work environment.

### ***Legal regulation of family businesses:***

By reviewing the laws of many countries, it was not found that there is a type of company called family companies, but it was called family business because the partners are relative, and their relations are based on personal consideration.

However, the Egyptian Civil Code set a special regulation for family ownership, which is similar to family companies, and most of its rules are derived from Swiss civil law, and Italian civil law, but it did not ignore the nature of the Egyptian environment, especially in the countryside, where tradition and custom play an influential role in keeping the family inheritance in the hands of the family head, who manages it on behalf of his common partners, and in rare cases, a family member may ask to divide the inheritance due to fear of breaking the prevailing custom, which may cause injustice in some cases, especially with the absence of an obligation on the family head (the Director) to provide a statement account for the partners, so the Egyptian legislator wanted to regulate the compulsory commonality based on an implicit agreement, such as the case of inheritance, and permits the exit of the partners who wanted that.

### ***Elements of Family Ownership in the Egyptian Civil Code:***

Article 851 of the Egyptian Civil Code stipulates the following: "Members of a single-family united by a common business or interest may agree in writing to create a family property. Such property shall be either an estate inherited by them in which they agree to make the whole or any part of such estate a family property, or any other property held by them which they agree to make part of such family property." Article (852) of the aforementioned law, in the first and second paragraphs, further stipulates that: "It may be agreed to create a family property for no longer than fifteen (15) years, provided that a partner may request the court to authorize such partner to dispose of his share in such property before the expiry of the agreed date, provided that such request is found to be well reasoned and justified. Where the lifespan of such property is not determined for a particular length of time, each partner may withdraw from such property after six months from the date of giving notice to the partners of his intention to dispose of his share." It is clear from the text of the aforementioned articles that the law defines family ownership in four pillars as follows:

#### ***First Pillar***

Concluding a written agreement and the writing herein is a condition of conclusion, not proof.

#### ***Second Pillar***

The partners shall be members of a family and the definition of the family is based here on the prevailing custom, as well as the concept of the family is determined in a flexible manner, where the spouses are considered members of the same family.



Third Pillar: The property shall be owned by the family, whether through inheritance or other property owned by the family members, and they want to add it to the family property.

Fourth Pillar: Setting a maximum period of ownership, which is fifteen years, but the text of the second paragraph of Article (852) included the hypothesis of not determining a particular length of time for ownership, where each partner may withdraw from such property after six months from the date of giving notice to the partners of his intention to dispose of his share, and it is permissible under an agreement of all partners after the expiry of the maximum period to renew the family property for another period.

The researcher's comment on family ownership in the Egyptian Civil Code and family companies:

It is clear from the extrapolation and analysis of the texts of the Egyptian Civil Code that there is a significant similarity between family ownership and family businesses in terms of the existence of a social purpose that emerges from customs and traditions, the linkage between family ownership and the family unit, and the financial purpose, which is profit, and the intervention of the Egyptian legislator and family property systems in the texts of the Civil Code to provide it with the legal protection to preserve the rights of family members, but the family property system does not establish a legal personality responsible for fulfilling rights and assuming liabilities, nor an independent name to deal with it away from the name of the family head, and the family property system does not accommodate large capitals. While family businesses create a legal person independent of the partners and are subject to the Companies Law according to the legal framework adopted by it, whether a civil or commercial company.

#### ***Legal framework of family businesses:***

We review the legal frameworks available for the family businesses to adopt the suitable legal framework as follows:

Most laws divide companies generally into civil companies and commercial companies.

#### ***Civil Companies***

It is a legal framework for companies aiming to gain profit and practice an activity of a civil nature such as agricultural works, real estate speculation, or investment in mines.

#### ***Commercial Companies***

The activity of these companies is based on one or more businesses, such as land and sea transport, construction contracting, and banking transactions.

The criterion for differentiating between civil and commercial companies is the same criterion that distinguishes between civil and commercial work (the Supreme Judicial Council).

The new Saudi Companies Law promulgated by Royal Decree No. (M/132) dated 1/12/1443 AH defines the forms of companies as follows:

#### ***a. General Partnership***

It is a company of two or more partners with natural or legal personalities, who are jointly and personally liable in all their assets for the company's debts and liabilities. A partner in this company shall acquire the capacity of a merchant. (A/35).

***b. Limited Partnership***

A limited partnership comprises two types of partners, one of which includes at least one natural or legal partner who is jointly liable in all his assets for the company's debts and liabilities (general partner(s)), and the other type includes at least one natural or legal partner whose liability is limited to the value of his share in the partnership's capital (limited partner(s)). A limited partner shall not acquire the capacity of the merchant. (A/51).

***c. Joint-Stock Company***

It is a company established by one or more natural or legal persons, and its capital shall be divided into negotiable shares. The company is solely responsible for the debts and liabilities arising from it or arising from its activity. The shareholder's responsibility is limited to the performance of the value of the shares to which he subscribed. Its issued capital must not be less than five hundred thousand riyals and the paid-up capital must not be less than one quarter at the time of incorporation (A/58, 59).

***d. Simplified Stock Company***

The law did not set a specific definition for it, but stipulated that the provisions of the joint-stock company shall apply to it according to its nature, except for the provisions stipulated in some articles of the law (A/138).

***e. Limited Liability Company***

It is a company established by one or more natural or legal persons, where its liability is separate from the financial liability of each partner or its owner. The company shall be solely liable for due debts and liabilities arising from it or arising from its activity. The owner of the company or the partner therein shall not be liable for such debts and liabilities except to the extent of their shares in the capital (A/156).

Some researchers (Mahmoud, 2011) believe that the limited liability company is an appropriate legal framework for family businesses, as it accommodates the financial capabilities of the family through small and medium enterprises, in addition to that the partner's liability is limited to his share in contrast to the joint liability of the general partner in the general partnership. It is not terminated upon the expiration of the personal consideration in case of the death, bankruptcy, insolvency, declaration of legal incompetence, or withdrawal of the partner, which allows all family members to enter the company, provided that the number of partners does not exceed fifty persons, and this leads to the continuation of the company through generations whereas the share of the deceased partner is transferred to the heirs.

It is clear from the above that the new Companies Law has introduced amendments to the companies forms that support family companies, as the partnerships in the old Companies Law expire under the Law in case of death, bankruptcy, insolvency, withdrawal, or exit of one partner, which threatens the continuity of the company. In the new Law, companies do not expire for the aforementioned reasons unless this is stipulated in the company's articles of incorporation. The canceled Companies Law limits the partners in the partnerships to natural persons only, but the new Law stipulates that the partners may be natural or legal persons, and the legal person determines who represents it in the management of the company.

After reviewing and analyzing the legal forms of companies, it becomes clear that the family businesses' selection for the appropriate legal framework is based on the stage that the company is going through. It may start by choosing a form of partnership in the initial stage of the company's life, and turns at a later stage to the form of joint stock or limited liability companies to cope with the global and local developments in the work environment. The

modern economy requires the concentration of large capital in economic units of small numbers and large volumes.

The joint stock company is the ideal form, as it absorbs large capital and the Saudi regulator considers it as the appropriate legal framework for family businesses for the ease of trading the company's shares between the partners, and the exit of shareholders, in addition to the existence of a specific regulatory framework to regulate the work of both the company's shareholders' assembly and its board of directors. The Saudi regulator has recommended choosing the form of "closed joint-stock company" for family businesses, provided that the number of shareholders is not less than five, and the capital is not less than two million riyals as a minimum (Governance Guide for Family Businesses, p. 11).

### **Challenges to the sustainability of family businesses (Saud et al., 2018, p. 233)**

Family businesses face internal and external challenges that hinder continuity thereof and we will review the stages of family businesses' growth to identify these challenges and learn how to overcome the same to ensure sustainability thereof.

#### ***Stages of Family Businesses:***

The family business goes through several stages that we will mention in the following to determine the stage at which the company may collapse likely as follows:

#### ***Stage 1: Founding Owners Stage (1st Generation):***

This stage is characterized by a small number of partners, and the sole authority to make decisions, especially if the founder is an individual who has established an enterprise in his area of experience and is dedicated to working to prove the presence of the company and its success at this stage.

There are no internal challenges at that stage, especially since the organizational structure of the company at that stage is simple and centralized and depends mainly on the founder who makes critical decisions (Diab, 2010, p. 18), and it is considered one of the most important stages on which the smooth transition to successive generations depends (Ghalab, et. al, 2019, p. 252), so the founder shall develop a clear road map, specifying how to manage the company after the death of one of the founders or his exit from the company (Al Zumea, 2016, 309) to ensure its sustainability.

#### ***Stage 2: Children Stage (2nd Generation):***

This stage is a fundamental transformation in the life of the family business where the ownership and management of the company pass to the children of the founders, if the founding generation is one person, the management and decision-making authority passes to the older brother if there is a cooperation between the children (Alghamdi, 2021, p. 201 et seq.).

When the first generation is more than one founder, the company faces the challenge of survival, which lies in distributing tasks among children according to clear policies that stimulate the transition from individual work to organized teamwork, encouraging team spirit and clarifying the mechanisms of communication between them (Mohammed, 2019, p. 41).

This stage is characterized by the fact that children are more educated than the first generation and have technical knowledge, but at the same time it constitutes a challenge if there is incompatibility and harmony between family members, especially if their numbers are



increased, and it needs to create effective communication channels between them to plan for the next stage and achieve a balance between the requirements of the family and the requirements of the business to ensure survival. Therefore, there is a need to apply the principles of governance to ensure transparency and the lack of differences (Hamza, et al., 2021, p. 28).

### ***Stage 3: Grandchildren and Children (3rd Generation):***

This stage is one of the most dangerous stages in the life of the family business and is very susceptible to collapse, and research and studies have revealed that it is an endpoint for many family businesses (Alghamdi, 2021, p. 281), due to the increase in the number of partners who are children and grandchildren belonging to different generations and branches of the family, and their intervention in the company's work, and the existence of a disparity between their ideas on how to manage the company, recruitment, and distribution of profits, and competition on who takes over the management, which creates conflict between those partners, and inheriting conflicts from the generation of children to cousins makes it more difficult and complex, which may lead to the collapse of the company and its sale. An example of a company that was sold due to family disputes is the "Pogo Marie Brizard" group in 1997 (Mohammed, 2019, p. 43 et seq.).

## **Challenges to the continuation and survival of family businesses (Saud et. al, 2018, p. 233)**

After reviewing and analyzing the stages of the family business growth, it is clear that there are internal and external challenges that hinder its progress, especially in the third stage of the company's life, which we will review in the following:

### ***Internal Challenges:***

- The intergenerational struggle for power and management (Abdul Razzaq, 2013, p. 194), where the family members compete for access to the management of the company, in addition to the desire to follow modern methods of management, which is rejected by the previous generation who follow the patriarchal style of management.
- Combining ownership and management.
- The legal structure represents one of the internal challenges because it does not respond to numerical developments and changes.
- Lack of qualifying the subsequent generations.
- Poor strategic planning.
- Lack of formalization in the dealings and decisions of the company (Taqqarat, et. al, 2019, p. 8, Governance Guide for Family Businesses, p. 21).

### ***External Challenges:***

- The inability of the company to provide the necessary funding for development and renewal prompted it to resort to external financing.
- Family members' objection to the entry of new partners.
- The impact of pandemics and crises such as the Coronavirus pandemic and the Ukrainian crisis on stock prices.
- The impact of pandemics and crises such as the Coronavirus pandemic and the Ukrainian crisis on the volume of activity.
- The impact of pandemics and crises such as the Coronavirus pandemic and the Ukrainian crisis on the company's priorities.

***Weaknesses of the family businesses:***

- The impact of the kinship relationship and emotions on the work progress of the company, especially in terms of employment (Abu Zeid, 2009, p. 13 et seq.), where it is based on kinship and not on competence and skill, negatively affects the company's sustainability.
- Compliments in taking decisions and overlooking mistakes due to fear of problems at work affect family relations.
- Lack of clear objective criteria that determine salaries and leaves.
- Absence of an employee's performance appraisal system that allows changing the management if its performance is inadequate.
- The transfer of emotions and family problems to the company's business undermines the strength of the company, especially in the absence of clear work rules and procedures.

## **Sustainability of Family Businesses**

After reviewing the internal and external challenges and analyzing the weaknesses that constitute obstacles leading to the collapse of most family businesses. We review ways to overcome these aspects and ensure the sustainability of family businesses as follows:

***Legal Structure:***

The success of a family business starts with taking a legal form appropriate to its current and future situation. The legal framework is one of the challenges facing the family business, and to overcome this challenge, the founders shall develop a plan to restructure the company to turn it into a legal form that makes it able to face potential economic and regulatory changes in the labor market and accommodate the numerical increase of partners and the volume of capital.

According to the Corporate Governance Guide for Saudi Arabian Family Businesses, it can be a limited liability company and then turn into a closed joint-stock company, or a joint joint-stock company of a public subscription, keeping the largest percentage of capital, which qualifies it to form the boards of directors and tighten control of the company's executive team performance.

The transformation of the family company into a joint stock company helps to maintain its continuity and enable it to play its role in the development of the economy by establishing large economic entities able to compete and face emergency crises as a result of the availability of qualified administrative cadres and the distribution of responsibilities.

***Separate ownership from management:***

The combination of ownership and management was one of the internal challenges facing the family business, and to overcome that challenge, the relative separation of ownership from management is carried out to ensure the continuation of the family business, regardless of its legal form, as the company avoids the negative effects that result from the difference of opinion between partners (Alghamdi, 2021, p. 330) and selects appropriate manager in terms of the expertise necessary to manage the company and bear responsibility before the partners concerning conducting these tasks, and the partners have the right to dismiss him if he is not suitable for management (Al-Hajj, 2017, p. 50).

***Establishing the principle of disclosure and transparency at the company:***

Disclosure and transparency are among the most important principles of governance that ensure the sustainability of family businesses. The financial position of the company shall be fully disclosed and made available to all partners to review to consolidate a sense of confidence among the partners.

***Amicable resolution of disputes between partners:***

The recourse of the partners to the court to resolve the disputes that arise between them leads to severing ties and the liquidation of the company. Therefore, the partners shall adopt amicable methods to resolve the differences that arise between them to ensure the continuity of the company.

From this point, the Chamber of Commerce and Industry in the Kingdom of Saudi Arabia in Riyadh has established the National Center for Family Business to support family businesses, enhance their competitiveness and ensure their sustainability for the significant impact thereof on the Saudi national economy. One of its objectives is to contribute to the amicable settlement of disputes that may arise between partners, thus contributing to protecting the future thereof. The establishment of this center that supports family businesses strongly is credited to the Kingdom.

***Qualifying a new generation of partners in the management of the family businesses:***

The generation of founders shall involve their children in the work, inform them of all the information and make them aware of the nature of the market, and give them experience on the methods of dealing with customers and crises, to qualify and prepare them to take over the management, and maintain the continuity of the company.

***Developing a charter of the family businesses:***

The Family Charter is a legal framework that defines the rights and duties of each member of the family under a written document that regulates relations between partners belonging to the same family, and they have control of the Board of Directors (Governance Guide for Family Businesses, p. 16). The document helps to remove disputes that arise between partners in a friendly and agreed-upon manner in advance, which enhances the sustainability of the company.

***Family Charter Characteristics (Governance Guide for Family Businesses, pp. 16-19):***

- is a family document of a commercial nature that regulates the family ownership of the company.
- All members of the family shall agree on this charter and consult with each other thereon so that each member of the family shall be aware of the provisions of the charter.
- Expert houses may be consulted on the development of the charter to ensure its legal form.
- A flexible document that allows modification according to future changes, but the update is done according to controls that ensure transparency and clarity and support trust in the family.
- The goal is how to manage the family business institutionally according to the governance standards.
- The charter is an integral part of the company's articles of incorporation.
- Good drafting of the charter helps to make partners aware of the current and future property management mechanism.

***The relationship between the family charter and the sustainability of family businesses (Mohammed, 2002, p. 18):***

The Family Charter enhances the governance of family businesses and ensures the sustainability thereof as follows:

- The Family Charter helps create an effective family connection between family members, establishing a good organizational structure that contributes to resolving issues related to rights and responsibilities and protects the company from randomness in decision-making.
- The family charter is linked to the rules of wealth management and the strategy of transfer between generations, and families differ in determining the strategy they follow based on the financial goals that they seek to achieve.
- The charter defines the areas of allocating the family assets and separating the wealth of the family from the wealth of the company.
- The family charter is linked to the governance of ownership, as the company selects the appropriate legal structure based on the data, its future vision of the company, the objectives of the company, and the participation of qualified owners from among the family members in the equity and shares of the company and the number of the family company owners.
- The Board of Shareholders is one of the most important controls of the Family Charter, which is related to the governance of family businesses, as it acts as a family council and oversees the performance of the family businesses' Board of Directors and binds its members to the priorities of the family. The shareholders' document determines how the company is managed, determines the rights and obligations of shareholders, and regulates the shareholders' relationship, ownership limits, and privileges.
- The family charter clarifies the strategy of succession in the company, it serves as a legal framework that includes guidelines clarifying who is in charge of management, as well as addresses unexpected circumstances in the company such as death and diseases that hinder the founder from management and ensures the selection of qualified and suitable people for management. The family charter contributes to reducing conflicts at the moment of transfer of power because the criteria are clear in advance.

## **Statistical Analysis of Questionnaires**

### ***Study Sample:***

The study sample consists of (50) individuals, including thirty-two male employees in a family company, 8 male employees in a non-family company, 9 female employees in a family company, and 1 female employee in a non-family company.

### ***The Aspect of the Questionnaire***

There is an impact of internal and external challenges that face family businesses on sustainability thereof. The aspect includes 12 questions (from 1 to 12).

Distribution of the questionnaire forms: The questionnaires were sent electronically to male and female employees, and the number of questionnaires filled by male employees reached 12 questionnaires, while the number of questionnaires filled by female employees reached 38 questionnaires, and 55 questionnaires were analyzed statistically.

### ***Statistical Analysis Plan:***

- Reorder and coding of data: Where the electronically collected data was downloaded and entered into Microsoft Excel.

- Preparing data: By preparing and defining the variables and entering the responses in a form that is compatible with the SPSS software.
- Measuring the reliability and validity of the questionnaire.
- Making frequency tables that include frequencies and percentages of demographic variables
- Make a set of graphs reflecting demographic variables.
- Calculate the mean and standard deviation for each of the questionnaire questions.
- Calculating the mean and standard deviation for each of the questionnaire aspects.

### ***Measuring the reliability and validity of the questionnaire***

After the questionnaire has been formulated in its initial form, it should be subjected to reliability and validity tests.

Measuring the reliability of the questionnaire: The reliability of the questionnaire means that it gives the same result if the questionnaire is redistributed more than once under the same conditions and circumstances, or in other words, that the reliability of the questionnaire means the stability of the questionnaire results, and not to change it significantly, if it is redistributed to the sample members for several times during certain periods, and the reliability of the study questionnaire has been verified using Cronbach's Alpha coefficient.

<b>Reliability Statistics</b>			
<b>Cronbach's Alpha</b>	<b>Cronbach's Alpha Based on Standardized Items</b>	<b>N of Items</b>	<b>Item</b>
.848	.883	12	The aspect of the Questionnaire

It is clear from the above table that the reliability coefficient (Cronbach's Alpha) for the aspect of the questionnaire and the reliability coefficient (Cronbach's Alpha) for all the questionnaire phrases are high, and this indicates that the study tool has great reliability, which makes us fully confident in the validity of the questionnaire and its ability to analyze and interpret the results of the study.

### ***Construct Validity***

Construct validity is one of the measures of the study tool validity, as it measures the extent of achieving goals that the tool seeks to reach, and the construct validity shows the extent to which the sub-aspects of the study relate to the main aspect, as well as the extent to which the aspect of the questionnaire relates to the total score of the questionnaire combined paragraphs. Accordingly, we calculated the Pearson correlation coefficients between the questionnaire aspect score and the total score of the questionnaire.

<b>The aspect of the Questionnaire</b>	<b>Correlation coefficient</b>	<b>Sig</b>
The aspect of the Questionnaire	.929**	<.001

\*\*Correlation is significant at the 0.01 level (2-tailed).

### ***Statistical Analysis of Questionnaire:***

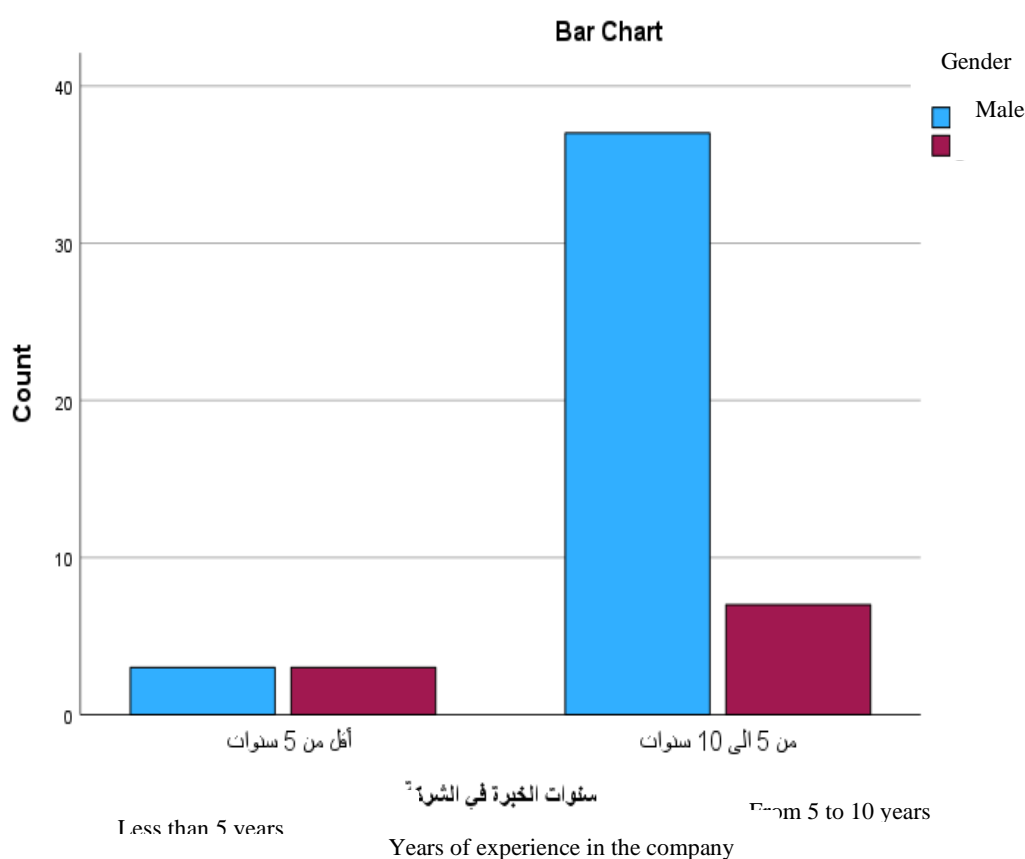
First: Descriptive Statistics: Descriptive statistical methods, which include frequency tables and percentages, were used to describe the characteristics of the study sample.



**Years of Experience of the Study Sample:**

		Gender		Total
		Male	Female	
Years of Experience in the Company	Under 5 years	3	3	6
	From 5 to 10 years	37	7	44
Total		40	10	50

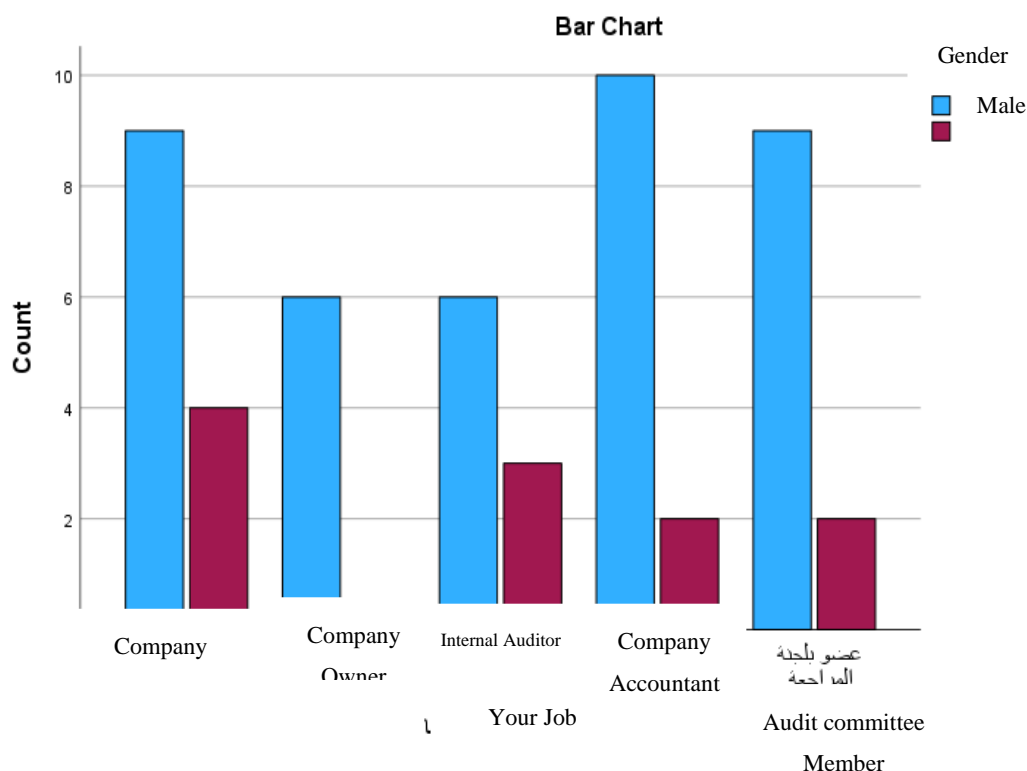
It is clear from the above table that the sample includes 3 male employees having experience of fewer than 5 years, 37 male employees having experience from 5 to 10 years, 3 female employees having experience of fewer than 5 years, and 7 female employees having experience from 5 to 10 years. The distribution of the male and female employees in the sample in terms of the years of experience can be illustrated through the following chart:



**Jobs of the sample individuals:**

		Gender		Total
		Male	Female	
Job	Company Manager	9	4	13
	Company Owner	6	0	6
	Internal Auditor	6	3	9
	Company Accountant	10	2	12
	A member of the audit committee	9	2	11
Total		40	11	51

It is clear from the above table that the sample includes 9 male employees working as company managers, 6 male employees working as company owners, 6 male employees working as internal auditors, 10 male employees working as company accountants, 9 male employees working as audit committee members, 4 female employees working as company managers, 3 female employees working as internal auditors, 2 female employees working as company accountants, and 2 female employees working as audit committee members. The distribution of the male and female employees in the sample in terms of the job can be illustrated through the following chart:



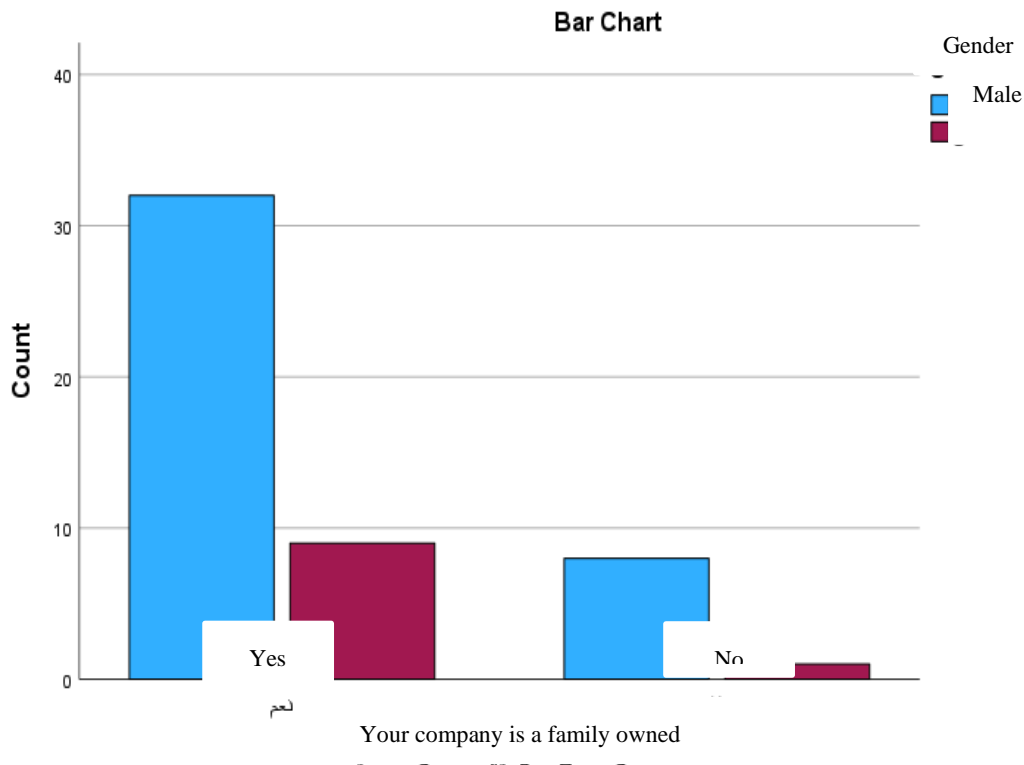
***Company type in terms of being a family business:***

**The company you work therein is a family business Crosstabulation**

		Gender		Total
		Male	Female	
The company you work therein is a family business	Yes	32	9	41
	No	8	1	9
Total		40	10	50

It is clear from the above table that the sample includes 32 male employees working in family businesses, 8 male employees working in non-family businesses, 9 female employees working in family businesses, and 1 female employee working in non-family businesses.

The distribution of male and female employees within the sample in terms of company type can be illustrated through the following chart:



**Analysis of Questionnaire Elements:**

**Clarification of the 5-point Likert scale used in the study:**

Where the variable that refers to the options (strongly agree, agree, neutral, disagree, strongly disagree) is the ordinal scale and the number entered in the software is ((strongly agree= 5, agree= 4, neutral= 3, etc...), then weights refer to scales, then we calculate the arithmetic mean (weighted mean), which is the result of 4 divided by 5. Where 4 represents the number of spaces (by calculating the period length, as from 1 to 2 is the first space, from 2 to 3 is the second space, from 3 to 4 is the third space, and from 4 to 5 is the fourth space), and 5 refers to the number of choices. When dividing 4 by 5, the period length has resulted, and equal 80.9 and the distribution shall be as the following table:

<b>The Direction of Opinion 5-point Likert scale</b>	
<b>Mean</b>	<b>Direction of Opinion</b>
From 1 to 1.79	Disagree
From 1.80 to 2.59	Disagree
From 2.60 to 3.39	Neither agree nor disagree
From 3.40 to 4.19	Agree
From 4.20 to 5	Strongly agree

Below are the results of the questionnaire aspects, as there is an impact of internal and external challenges that face family businesses on sustainability thereof and all its elements (12 elements).

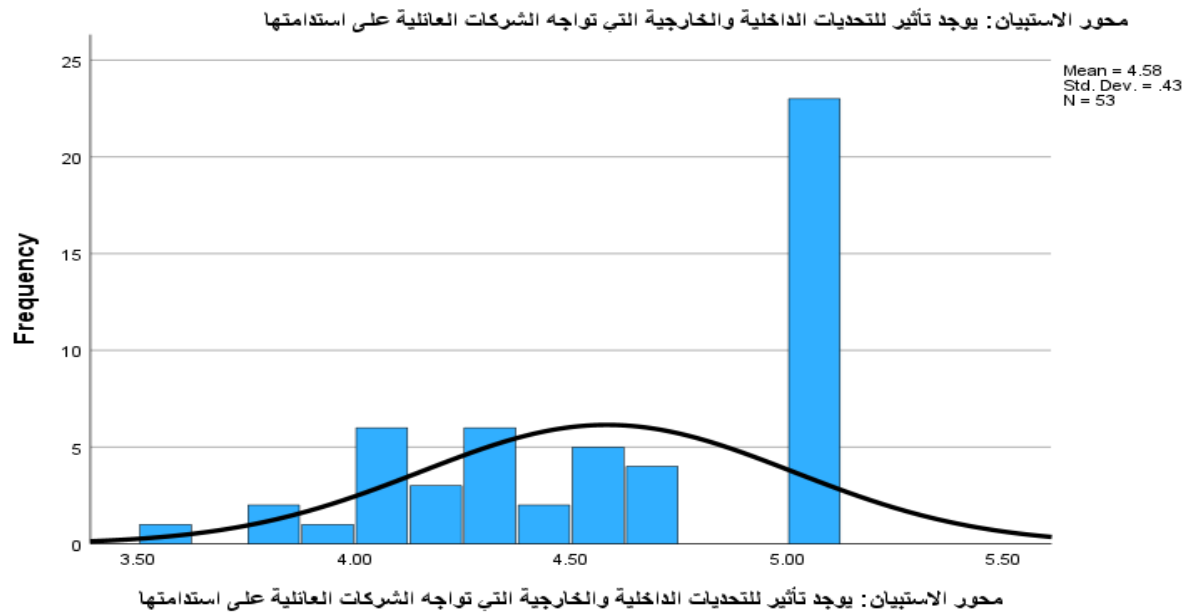
## Descriptive Statistics Frequencies

Items	Strongly Agree	Agree	Neither agree nor disagree	Disagree	Strongly Disagree	Mean	Std. Deviation	Opinion
Conflict over governance between generations is one of the internal challenges.	41	12				4.77	.423	Strongly Agree
The absence of mechanisms that ensure the continuity of the company after the death of the founder is one of the internal challenges.	39	14				4.74	.445	Strongly Agree
The lack of qualifying subsequent generations is one of the internal challenges.	37	15	1			4.68	.510	Strongly Agree
Lack of formalization in the dealings and decisions of the company is one of the internal challenges.	37	15	1			4.68	.510	Strongly Agree
Lack of future planning for the company's business is one of the internal challenges.	39	10	3		1	4.62	.765	Strongly Agree
Combining ownership and management is one of the internal challenges.	38	15				4.72	.455	Strongly Agree
The legal structure represents one of the internal challenges because it does not respond to numerical developments and changes.	33	16	1		3	4.43	.991	Strongly Agree
The required funding is one of the external challenges.	30	17	5			4.48	.671	Strongly Agree
Family members' objection to the entry of new partners is one of the external challenges.	33	15	4		1	4.49	.800	Strongly Agree
The impact of pandemics and crises such as the Coronavirus pandemic and the Ukrainian crisis on stock prices is one of the external challenges.	29	13	7		4	4.19	1.161	Agree

The impact of pandemics and crises such as the Coronavirus pandemic and the Ukrainian crisis on the volume of activity is one of the external challenges.	34	15	3	1	4.53	.775	Strongly Agree
The impact of pandemics and crises such as the Coronavirus pandemic and the Ukrainian crisis on the company's priorities is one of the external challenges.	36	16	1		4.66	.517	Strongly Agree
Internal and external challenges facing family businesses affect their sustainability.					4.5829	.43007	Strongly Agree

It is clear from the above table that the final result of the questionnaire aspect is the option “strongly agree”, which refers to the satisfaction of male and female employees on the impact of internal and external challenges facing family businesses on their sustainability.

The following chart illustrates the frequency distribution of the questionnaire aspect:





Questionnaire Aspect: There is an impact of internal and external challenges that face family businesses on sustainability thereof.

**Third: ANOVA Test**

ANOVA test shall be used in verifying the significance of differences between the averages of the three groups or more in one dependent variable. It is done in one shot and conducted by adopting paired comparison between all averages using a T-test. This analysis shall be conducted to assess the extent of significant differences in the directions of the questionnaire aspect according to demographic variables as the following:

**1- ANOVA Test among the directions of the questionnaire aspect according to the type**

The hypotheses are formulated as the following:

- Null hypothesis - There are no significant differences among the directions of the questionnaire aspect according to the type.
- Alternative hypothesis: - There are significant differences among the directions of the questionnaire aspect according to the type.

		ANOVA				
		Sum of Squares	Df	Mean Square	F	Sig.
Aspects of the Questionnaire	Between Groups	.253	1	.253	1.386	.245
	Within Groups	9.111	50	.182		
	Total	9.364	51			

It is clear from the data in the table that there are no significant differences between the directions of the aspect represented in the impact of internal and external challenges facing family businesses on their sustainability according to the type at a significance level of 5%.

**ANOVA Test among the directions of the questionnaire aspect according to the job**

The hypotheses shall be formulated as the following:

- Null hypothesis - There are no significant differences among the directions of the questionnaire aspect according to the job.
- Alternative hypothesis: - There are significant differences among the directions of the questionnaire aspect according to the job.

		ANOVA				
		Sum of Squares	Df	Mean Square	F	Sig.
Variable	Between Groups	.175	1	.175	1.123	.294
	Within Groups	7.642	49	.156		
	Total	7.818	50			

It is clear from the data in the table that there are no significant differences between the directions of the aspect represented in the impact of internal and external challenges facing family businesses on their sustainability according to the job at a significance level of 5%.

***ANOVA Test among the directions of the questionnaire aspect according to the company type in terms of being a family business or not***

The hypotheses shall be formulated as the following:

- Null hypothesis There are no significant differences among the directions of the questionnaire aspect according to the company type in terms of being a family business or not.
- Alternative hypothesis: There are significant differences among the directions of the questionnaire aspect according to the company type in terms of being a family business or not.

		ANOVA				
		Sum of Squares	Df	Mean Square	F	Sig.
Variable	Between Groups	.754	1	.754	4.457	.040
	Within Groups	8.287	49	.169		
	Total	9.040	50			

It is clear from the data in the table that there are significant differences between the directions of the aspect represented in the impact of internal and external challenges facing family businesses on their sustainability according to the company type in terms of being a family business or not at a level of 5%.

		ANOVA				
		Sum of Squares	Df	Mean Square	F	Sig.
Variable	Between Groups	.058	1	.058	.325	.571
	Within Groups	8.718	49	.178		
	Total	8.776	50			

It is clear from the data in the table that there are no significant differences between the directions of the aspect represented in the impact of internal and external challenges facing family businesses on their sustainability according to the application of the governance mechanisms at a significant level of 5%.

***Estimation of regression model and its significance test***

The study used the multiple regression analysis method to estimate three models as the following:

***Questionnaire aspects and elements regression model***

The regression coefficients of the twelve elements included in the questionnaire aspects are estimated and the results are as the following:

Model	Coefficients			T	Sig.
	Unstandardized Coefficients B	Std. Error	Standardized Coefficients Beta		
(Constant)	1.776E-15	.000		.000	1.000
Conflict over governance between generations is one of the internal challenges.	.083	.000	.082	13010888.261	<.001
The absence of mechanisms that ensure the continuity of the company after the death of the founder is one of the internal challenges.	.083	.000	.086	9641030.762	<.001
The lack of qualifying subsequent generations is one of the internal challenges.	.083	.000	.099	13527285.844	<.001
Lack of formalization in the dealings and decisions of the company is one of the internal challenges.	.083	.000	.097	12016045.916	<.001
Lack of future planning for the company's business is one of the internal challenges.	.083	.000	.148	23173156.300	<.001
Combining ownership and management is one of the internal challenges.	.083	.000	.086	18264665.607	<.001
1 The legal structure represents one of the internal challenges because it does not respond to numerical developments and changes.	.083	.000	.192	45103322.487	<.001
The required funding is one of the external challenges.	.083	.000	.129	19910229.075	<.001
Family members' objection to the entry of new partners is one of the external challenges.	.083	.000	.154	30211309.444	<.001
The impact of pandemics and crises such as the Coronavirus pandemic and the Ukrainian crisis on stock prices is one of the external challenges.	.083	.000	.224	38455950.946	<.001
The impact of pandemics and crises such as the Coronavirus pandemic and the Ukrainian crisis on the volume of activity is one of the external challenges.	.083	.000	.150	22658075.296	<.001
The impact of pandemics and crises such as the Coronavirus pandemic and the Ukrainian crisis on the company's priorities is one of the external challenges.	.083	.000	.100	14239216.133	<.001

a. Dependent Variable: variable1

The above table refers to the significance of each element of the questionnaire aspect and its significant impact on the questionnaire aspects results.

### ***Questionnaire aspect regression model***

Questionnaire aspects regression model in terms of public opinion was estimated and the results are as the following:

Model	Coefficients				o	Sig.
	Unstandardized Coefficients		Standardized Coefficients			
	B	Std. Error	Beta			
1	(Constant)	-7.550E-15	.000		.	.
	variable1	.500	.000	.566	.	.
	variable2	.500	.000	.518	.	.

a. Dependent Variable: variable

The above table refers to the significance of the questionnaire aspect and its significant impact on the results of public opinion.

Based on the collection of the previous results, the study concludes the importance of studying the relationship between the definition of the legal framework and the sustainability of companies and then building a proposed concept of the legal framework for the sustainability of family businesses.

## Conclusion

A high percentage of family businesses collapsed, especially in the third generation, which prompted many people to search for a solution to ensure the sustainability of these companies. Therefore, our study is an attempt to search for solutions that ensure the continuation and survival of these companies. We have reached several results that can be summarized as follows:

### Results

- There is no agreement on a specific definition of family businesses.
- There is a relationship between the determination of legal framework and the sustainability of businesses.
- Restructuring the company by following the steps of transformation to a legal form appropriate to the labor market qualifies it to sustain its position in competition with other companies in the light of the free economy.
- The closed joint-stock company is the appropriate legal form for the application of the governance principles that help enhance confidence, regulating the relationship between partners and the mechanism of management, employment, and profit sharing.
- The lack of separation between ownership and management is an internal challenge that may lead to the collapse of the family business.

## References

- Abu Zeid, Sana, IFC Governance Guide for Family Businesses, IFC, Washington, 2009, pp. 13-14.
- Al Zahrani, Yousef Ahmed Al-Qasim, the Importance of the Legal Transformation of Family Businesses in the Kingdom of Saudi Arabia to Closed joint-stock Companies and the Effects Arising from It, Journal of Humanities and Administrative Sciences, Majmaah University, KSA, Center for Publishing and Translation, 2019, No. 17.
- Al-Hajj, Mahassan Ali Khalil, the Role of Governance in the Continuity and Success of Family Businesses, an Applied Study on Saudi Family Businesses, Journal of Accounting, Auditing, and Governance, 2017, Volume 2, Issue 4, pp. 35 – 62.

- Alghamdi, Hamdan Darwish, Sustainability of Family Businesses, Taif University Journal for Human Sciences, KSA, Volume 2021, Volume 7, Issue 29.
- Al Zumea, Fahad Ali, Family Businesses: The Challenge of Survival and the Role of Governance Rules in its Continuity, Essay, Kuwait International Law School, 2016, p. 301.
- Guidance Charter for Family Businesses, pp. 7-9.
- Taqarrat, Yazeed, Salima, Ben Zuma, Halima, Mersli, Activating the Governance Mechanism as a Strategic Option for the Sustainability of Family Businesses, Future Journal of In-depth Economic Studies, Algeria, 2019, Volume 2, Issue 1, p. 8.
- Hamza, Gharbi Essa, Badroni, the Contribution of Applying Governance Principles to the Continuity of Family Companies, Journal of Economics and Finance, Mohamed Boudiaf University, M'Sila, Algeria, 2021, Volume 7, Issue 1, pp. 23-34.
- Diab Abdel Hamid bin Ahmed, the Challenges Facing Family Companies in light of the Accession of the Kingdom of Saudi Arabia to the World Trade Organization, Field Study on the Governorate of Jeddah, Benha University, Egypt, Faculty of Commerce, 2010, Volume 30, Issue 1.
- Corporate Governance Guide for Saudi Arabian Family Businesses, the Ministry of Commerce and Industry, 2013, p. 7.
- Saud, Wesila, Qassimi, Kamal, Governance of Family Establishment in Algeria, Case Study of the Nca Rouiba Foundation, Illiza Journal of Research and Studies, Resistant University Center Sheikh Amoud bin Mukhtar Elizi, Algeria 2018, issue 3, p. 231.
- Dhafra, Fayez Awad, Measuring the Impact of Intellectual Capital in Supporting the Competitiveness of Saudi Family Businesses, Journal of North African Economics, Chlef University, Algeria 2018, Volume 14, Issue 19, p. 52.
- Abdul Razzaq, Moulay Lakhdar Abdul Razzaq, Family Corporate Governance, Submission presented to the International Forum on the Mechanisms of Corporate Governance and the Requirements for Achieving Sustainable Development, 25–26 November 2013, University of Ouargla, Algeria, p. 194.
- Ghalab Fateh, Zeroukhi Fayrouz, Maimoun Al-Taher, the Problem of Controlling the Sustainability of Family Companies from the Perspective of Corporate Governance, an Analytical Study, Journal of Development and Applied Economics, M'Sila University, Algeria, 2019, Volume 3, Issue 1.
- Kano, Khaled Mohammed, Continuity in Family Businesses, Family Businesses in the Arab World Forum, Bahrain, 2002, p. 2.
- Mohammed, Abu Bakr Abdel Aziz, the Role of Law in Ensuring the Survival of Family Businesses, Journal of Legal and Economic Research, Beni Suef University, Egypt, Faculty of Law, 2019, issue 31.
- Mohammed, Abdul Majeed Mohammed, the Organizational Dimension in Family Businesses, Family Businesses in the Arab World Forum, Reality and Development Prospects, Jeddah, Saudi Arabia, 2002, p. 18.
- Mahmoud, Atef Ibrahim, Regulatory and Legal Forms in Arab Family Businesses, Arab Organization for Administrative Development, Cairo, Egypt, Dar Al-Manzuma, 2011.
- Matali, Laili, Kahwaji, Amina, Makdoud, Wahiba, the Role of Governance Values in Facing the Challenges of Family Businesses, Experiences of some Arab Companies, Journal of Zayan University Research, Algeria, 2021, Volume 6, Issue 1, pp. 214-230.
- Center for International Private Enterprise, List of Terms related to Corporate Governance, Cairo, Egypt, 2003, p. 3.



Centre for International Small Enterprises, Global Corporate Governance Forum, February 2011.

L. Mezghani 2016, la transmission de l'entreprise familiale à sfax unite de recherche et de gestion des entreprises .

Irene Mandl et al, Overview of Family Business Relevant Issues, Final Report, European Commission, Enterprise and Industry Directorate – General, KMU FORSCHUNG AUSTRIA, Vienna, 2008, p. 10.

D. Miller, I. le Breton-miller 2006, family governance and firm performance: agency, stewardship, and capabilities, family business review, 19 (1), p. 80.