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Enforcement of Foreign Judgments in Egypt: Legal Requirements, Procedures and Judicial Jurisdiction under the Egyptian Code of Civil and Commercial Procedure and Court of Cassation Principles

Introduction

With the growing volume of international commercial and civil transactions and the increasing number of legal relationships extending beyond national borders, the enforcement of foreign judgments in Egypt has become an important subject in private international law. This is particularly relevant where a judgment has been rendered by a foreign court and the successful party seeks to recover their rights from assets or property located within the Arab Republic of Egypt.

The mere fact that a judgment has been rendered by a foreign court does not, in itself, permit compulsory enforcement against assets located in Egypt. Egyptian law requires compliance with specific legal conditions and procedures before a foreign judgment may be recognised for enforcement and granted enforceable status within Egyptian territory.

The Egyptian legislator has regulated this matter under Articles 296 to 301 of the Egyptian Code of Civil and Commercial Procedure. These provisions establish the legal framework governing the enforcement of foreign judgments and orders, specify the conditions that must be satisfied, and determine the court competent to consider an enforcement application, subject to the provisions of applicable international treaties and conventions.

The Egyptian Court of Cassation has further clarified the scope and application of these rules, particularly with regard to the international jurisdiction of foreign courts, proper service of process, the finality of foreign judgments, and the distinction between enforcing a foreign judgment and relying on its res judicata effect before Egyptian courts.

This article examines the general legal framework governing the enforcement of foreign judgments in Egypt, the applicable substantive and procedural requirements, and the principal judicial principles established by the Egyptian Court of Cassation.

I. The Legislative Framework Governing the Enforcement of Foreign Judgments in Egypt

The Egyptian Code of Civil and Commercial Procedure establishes a specific framework for the enforcement of judgments and orders issued by foreign courts under Articles 296 to 301. These provisions prescribe the rules that must be observed before a foreign judgment may be granted enforceable status in Egypt.

1. The Principle of Reciprocity

Article 296 of the Egyptian Code of Civil and Commercial Procedure provides that:

> *"Judgments and orders rendered in a foreign country may be ordered to be enforced under the same conditions prescribed by the law of that country for the enforcement of Egyptian judgments and orders therein."*

This provision reflects the principle of reciprocity in the enforcement of foreign judgments. Accordingly, the enforcement of a foreign judgment in Egypt is linked, under the general domestic rules, to the conditions imposed by the law of the state in which the judgment was rendered for the enforcement of Egyptian judgments and orders within its territory.

Consequently, determining whether a foreign judgment may be enforced in Egypt involves more than verifying compliance with the conditions prescribed by Egyptian law. It also requires examining the position adopted by the law of the state of origin regarding the enforcement of Egyptian judgments, within the scope of Article 296.

2. The Competent Court and Applicable Procedure

Article 297 determines the court competent to consider an application for an enforcement order and specifies the applicable procedural route. It provides that:

> *"The application for an enforcement order shall be submitted to the Court of First Instance within whose jurisdiction enforcement is sought, in accordance with the ordinary procedures for filing an action."*

Accordingly, jurisdiction to consider an application for granting a foreign judgment an enforcement order lies with the Court of First Instance within whose territorial jurisdiction enforcement is sought. The application must be filed in accordance with the ordinary procedures for bringing an action.

A foreign judgment cannot therefore be submitted directly to the enforcement authorities for compulsory execution. A judicial order authorising its enforcement in Egypt must first be obtained.

3. The Legal Conditions for Enforcing a Foreign Judgment

Article 298 sets out the conditions that the Egyptian court must verify before ordering the enforcement of a foreign judgment. It provides that:

> *"Enforcement may not be ordered unless the following conditions have been verified:*

> *1. That the courts of the Arab Republic of Egypt do not have jurisdiction over the dispute in respect of which the judgment or order was rendered, and that the foreign courts which rendered it have jurisdiction under the rules of international jurisdiction prescribed by their own law.*
>
> *2. That the parties to the proceedings in which the judgment was rendered were duly summoned and properly represented.*
>
> *3. That the judgment or order has acquired the force of res judicata under the law of the court which rendered it.*
>
> *4. That the judgment or order does not conflict with a judgment or order previously issued by Egyptian courts and does not contain anything contrary to public policy or morals in Egypt."*

These provisions establish four principal requirements relating to the jurisdiction of the foreign court, proper service and representation of the parties, the finality of the judgment, and the absence of conflict with Egyptian judgments or Egyptian public policy and morals.

Together, these conditions define the scope of the Egyptian court's review of a foreign judgment submitted for enforcement. That review is not intended to reopen the substantive dispute or reconsider the merits of a case already determined by the foreign court.

II. Substantive and Procedural Requirements for Enforcing Foreign Judgments

1. Jurisdiction of the Foreign Court

Article 298(1) requires the foreign court that rendered the judgment to have had jurisdiction over the dispute in accordance with the rules of international jurisdiction prescribed by the law of the state in which the judgment was rendered.

This requirement calls for a distinction between international jurisdiction and internal jurisdiction. International jurisdiction concerns whether the courts of a particular state have judicial authority over a dispute involving a foreign element. Internal jurisdiction, by contrast, concerns the allocation of jurisdiction among the courts within that state, according to subject-matter or territorial rules.

The Egyptian Court of Cassation has established that the jurisdiction of the foreign court must be determined in accordance with the law of the state in which the judgment was rendered. The relevant test concerns international jurisdiction, and the Egyptian court is not required to examine the foreign court's internal allocation of jurisdiction in order to determine whether it had subject-matter or territorial jurisdiction under the law of the state of origin.

Accordingly, the review undertaken by the Egyptian court is confined to determining whether the foreign court possessed international judicial authority over the dispute, rather than reassessing the internal distribution of jurisdiction among the courts of the foreign state.

2. Proper Service of Process and the Right to Defence

Proper service of process is one of the fundamental safeguards that must be verified before a foreign judgment may be ordered to be enforced. It ensures respect for the right to defence and the adversarial principle.

Article 298(2) expressly requires that the parties must have been duly summoned and properly represented. The Egyptian court must therefore verify that the parties were afforded the procedural opportunity to participate in the foreign proceedings.

This requirement is particularly significant in cases where the foreign judgment was rendered in the absence of one of the parties. In such circumstances, the validity of service must be examined in accordance with the law governing judicial procedure in the state in which the judgment was rendered.

In this regard, the Court of Cassation has clarified that service of process is a procedural matter governed by the law of the state in which the relevant proceedings are conducted, pursuant to Article 22 of the Egyptian Civil Code.

3. Finality of the Foreign Judgment

Article 298(3) requires the foreign judgment or order to have acquired the force of res judicata under the law of the court that rendered it.

This means that the finality of the foreign judgment must be assessed in accordance with the law of the state of origin, rather than by reference to the rules governing appeals or appeal periods under Egyptian law.

The applicant must therefore provide evidence that the judgment has acquired final status under the applicable foreign law, enabling the Egyptian court to verify compliance with this requirement.

4. Compliance with Egyptian Public Policy and Morals

Egyptian law requires that a foreign judgment must not conflict with a judgment or order previously issued by an Egyptian court, nor contain anything contrary to public policy or morals in Egypt.

This is a fundamental safeguard governing the acceptance of foreign judgments for enforcement within Egyptian territory. Recognition of the enforceability of a foreign judgment must not undermine the fundamental principles on which the Egyptian legal system is based.

The Egyptian court must also verify that no conflicting judgment or order has previously been issued by an Egyptian court, within the scope of Article 298(4).

III. The Effect of International Treaties on the Enforcement of Foreign Judgments

The Egyptian legislator has not made the provisions of the Code of Civil and Commercial Procedure the exclusive framework governing the enforcement of

foreign judgments. Article 301 expressly preserves the application of international treaties and conventions in force between Egypt and other states.

Article 301 provides that:

> *"The application of the rules set out in the preceding articles shall not prejudice the provisions of treaties concluded, or to be concluded, between the Arab Republic of Egypt and other states in this regard."*

Accordingly, where an international treaty in force between Egypt and the state in which the judgment was rendered applies to the judgment in question, the provisions of that treaty must be examined and applied.

The Egyptian Court of Cassation has established that, once an applicable international treaty has entered into force, it constitutes the governing law in this regard, even where its provisions conflict with the general rules of the Code of Civil and Commercial Procedure or another domestic law in Egypt.

It follows that identifying the legal rules governing an application to enforce a foreign judgment requires first determining whether an applicable international convention exists, before proceeding to apply the general rules of the Code of Civil and Commercial Procedure.

The Court of Cassation has affirmed this principle in several judgments, including the following:

The Court held that Article 301 gives priority to an applicable international treaty following its entry into force, making the treaty the governing legal instrument for the enforcement of foreign judgments even where its provisions differ from those of the Egyptian Code of Civil and Commercial Procedure or another domestic law.

(Court of Cassation, Appeal No. 282/89, 9 January 2020; Appeal No. 20398/89, 6 February 2024; and Appeal No. 16003/77, 27 May 2023.)

These judicial principles demonstrate the importance of identifying the legal source governing an enforcement application and avoiding the application of the general provisions of the Code of Civil and Commercial Procedure in isolation from applicable international conventions.

IV. Documents and Procedures Required for Enforcing a Foreign Judgment in Egypt

As a general rule, recognition and enforcement procedures are governed by the law of the state in which recognition or enforcement is sought, subject to any specific provisions contained in an applicable international convention.

In relation to an application to enforce a foreign judgment in Egypt, the applicant must prepare the documents necessary to enable the competent court to verify that the judgment satisfies the legal requirements for obtaining an enforcement order.

The documents identified in the source material include:

1. A complete official copy of the judgment, with the signatures duly authenticated by the competent authorities. Where enforcement is sought, the official copy must bear the enforcement formula.
2. A certificate confirming that the judgment has acquired the force of res judicata.

The documents referred to above must be officially signed and bear the seal of the competent court.

The precise documentary requirements must also be assessed in light of any applicable international convention, the requirements for authentication of foreign documents, and the rules governing the submission of such documents before Egyptian courts.

V. The Court Competent to Consider Applications for Enforcement of Foreign Judgments

Article 297 of the Egyptian Code of Civil and Commercial Procedure identifies the court competent to consider an application for an enforcement order as the Court of First Instance within whose jurisdiction enforcement is sought.

The Court of Cassation has confirmed that subject-matter jurisdiction over such applications lies with the Court of First Instance, irrespective of the nature or value of the right established by the foreign judgment.

The Court has also clarified that applications seeking to grant a foreign judgment an enforcement order do not fall within the jurisdiction of the Family Courts. Law No. 10 of 2004 did not include a provision conferring jurisdiction on Family Courts to consider this particular type of application.

In this regard, the Court of Cassation held that applications for granting foreign judgments an enforcement order fall within the jurisdiction of the Court of First Instance within whose jurisdiction enforcement is sought, rather than the Family Courts, since Law No. 10 of 2004 contains no provision assigning such applications to the Family Courts.

(Court of Cassation, Appeal No. 10031/90, 22 February 2022.)

The Court further established that the Court of First Instance has subject-matter jurisdiction over applications for enforcement of foreign judgments, regardless of the nature or value of the right established by the foreign judgment.

This confirms that the jurisdiction of the Court of First Instance is determined by the nature of the application itself, rather than by the nature or financial value of the underlying right.

VI. Key Principles Established by the Egyptian Court of Cassation on the Enforcement of Foreign Judgments

The judgments of the Egyptian Court of Cassation have established a number of legal principles clarifying the application of the rules governing foreign judgments and defining the scope of judicial review exercised by Egyptian courts.

The following are the principal judicial principles reflected in the decisions addressed in this article.

1. The Requirement of Proper Service of Process

The Court of Cassation has emphasised that proper service of process is a requirement that the competent Egyptian court must verify before granting a foreign judgment an enforcement order.

In interpreting the Convention on the Enforcement of Judgments issued by the Council of the League of Arab States, the Court explained that the Convention requires verification that the judgment was rendered by a competent judicial authority under the law of the state of origin and that the parties were duly served. The Court also referred to Article 22 of the Egyptian Civil Code, under which procedural matters are governed by the law of the state where the proceedings are conducted. In addition, the Court emphasised the requirement under Article 5(3) of the Convention to submit a certificate issued by the competent authorities confirming that the judgment is final and enforceable before an enforcement order is granted.

(Court of Cassation, Appeals Nos. 13627/91 and 12196/91, 17 December 2024 and 23 November 2024, respectively.)

In another judgment, the Court considered a foreign judgment rendered in proceedings in which the defendants had not appeared. It held that the Egyptian court must verify the service procedures undertaken in the state of origin and provide a reasoned response to any objection concerning the absence of proper service. Failure to examine the relevant service documents and verify compliance with the procedural law of the state of origin constitutes an error in the application of the law and a deficiency in the reasoning of the judgment.

(Court of Cassation, Appeal No. 10031/90, 22 February 2022.)

These decisions confirm that the mere existence of a foreign judgment is insufficient to justify its enforcement in Egypt. The competent court must also verify that the parties' procedural rights were respected and that service was properly effected under the applicable law.

2. The Distinction between Enforcement and Recognition of the Res Judicata Effect of a Foreign Judgment

One of the important principles established by the Court of Cassation is the distinction between seeking the enforcement of a foreign judgment in Egypt and relying on its res judicata effect before Egyptian courts.

While compulsory enforcement requires a judicial order authorising enforcement, reliance on the res judicata effect of a foreign judgment does not necessarily require a separate enforcement order.

The Court held that an Egyptian court before which a foreign judgment is invoked may recognise its res judicata effect after verifying that the judgment was rendered by a court having international jurisdiction under the law of the state of origin, that it does not violate Egyptian public policy, and that no enforceable Egyptian judgment has previously been issued in the same matter between the same parties.

(Court of Cassation, Appeal No. 11175/89, 23 May 2022.)

This distinction has clear practical significance. The applicable legal procedure depends on whether the applicant seeks compulsory enforcement of the foreign judgment or merely intends to rely on its binding effect in separate proceedings before an Egyptian court.

3. The Priority of International Treaties over the General Rules of the Code of Civil and Commercial Procedure

The Court of Cassation has repeatedly confirmed that international conventions in force governing the enforcement of foreign judgments must be applied whenever they are applicable to the judgment in question.

In a case concerning a judgment rendered in the United Arab Emirates, the Court considered the Convention on the Enforcement of Judgments issued by the Council of the League of Arab States, which Egypt had approved by Law No. 29 of 1954 and the United Arab Emirates had ratified under Federal Decree No. 93/1972 dated 12 December 1972.

The Court held that the Convention, rather than the general provisions of the Egyptian Code of Civil and Commercial Procedure, governed the enforcement application. It further explained that the Convention did not contain a restriction equivalent to Article 298 of the Egyptian Code preventing enforcement merely because Egyptian courts also had jurisdiction over the underlying dispute. Accordingly, a judgment falling within the Convention's scope could be enforced in Egypt if the treaty requirements were satisfied, even where Egyptian courts would otherwise have had jurisdiction over the dispute.

The Court consequently held that the lower court had erred by refusing enforcement on the basis of Article 298 without applying the relevant Convention.

(Court of Cassation, Appeal No. 5182/82, 16 September 2018.)

The Court has also affirmed more generally that, where treaties exist between Egypt and other states governing the enforcement of foreign judgments, their provisions must be applied.

(Court of Cassation, Appeal No. 2950/68, 12 March 2012.)

In another case involving a judgment issued by a judicial authority in the United Arab Emirates in a personal status dispute, the Court held that the Arab Convention applied. It explained that the Convention permitted the enforcement of final judgments falling within its scope, including judgments concerning personal status, even where Egyptian courts also had jurisdiction over the underlying dispute. The Court further clarified that the international jurisdiction of the foreign court must be assessed under the law of the state of origin, without the Egyptian court reviewing the foreign court's internal allocation of subject-matter or territorial jurisdiction.

The Court concluded that the foreign judgment satisfied the relevant treaty requirements and was therefore enforceable in Egypt.

(Court of Cassation, Appeal No. 227/68, 12 January 2016.)

Other decisions applying the same general principle include:

- *(Court of Cassation, Appeal No. 126/58, 27 February 1990.)*
- *(Court of Cassation, Appeal No. 390/74, 8 November 2016, Chamber of Deliberation.)*
- *(Court of Cassation, Appeal No. 23599/89, 28 September 2020, Chamber of Deliberation.)*
- *(Court of Cassation, Appeal No. 2762/61, 24 January 1998.)*

These decisions confirm that an Egyptian court must not disregard an applicable international convention or refuse enforcement by relying on a condition found in domestic procedural law but not imposed by the applicable treaty, provided that the foreign judgment satisfies the treaty's requirements.

4. The Enforcement of Foreign Judgments Despite the Jurisdiction of Egyptian Courts

The Court of Cassation has considered the effect of Egyptian courts having jurisdiction over the underlying dispute on the enforceability of a foreign judgment.

The Court has held that this issue must be determined by reference to the applicable legal rules, taking into account any international convention governing the enforcement application.

In particular, the Court clarified that where the Convention on the Enforcement of Judgments issued by the Council of the League of Arab States applies, its provisions govern the enforcement application. If the Convention does not impose a restriction equivalent to Article 298 of the Egyptian Code of Civil and Commercial Procedure, the fact that Egyptian courts also have jurisdiction over the dispute does not, by itself, prevent enforcement of a judgment falling within the Convention's scope.

The Court therefore rejected the approach of treating the jurisdiction of Egyptian courts as an automatic ground for denying the res judicata effect or enforceability of a foreign judgment covered by the Convention.

(Court of Cassation, Appeal No. 2762/61, 24 January 1998.)

This principle demonstrates that the jurisdiction of Egyptian courts cannot be examined in isolation from the applicable legal framework, particularly where an international convention governs the conditions for enforcing the foreign judgment.

5. Judicial Applications Concerning Foreign Personal Status Judgments

The Court of Cassation has addressed the enforcement of foreign judgments in personal status matters in several decisions, confirming the need to apply the relevant international convention whenever its requirements are satisfied.

In one decision concerning a judgment issued by the Ajman Court in the United Arab Emirates, the Court held that the Convention on the Enforcement of Judgments issued by the Council of the League of Arab States applied. It confirmed that final judgments concerning personal status issued by judicial authorities in contracting Arab states could be enforced in Egypt even where Egyptian courts also had jurisdiction over the underlying dispute. The Court accordingly upheld the granting of an enforcement order to the foreign judgment.

(Court of Cassation, Appeal No. 1592/71, 21 August 2021, Chamber of Deliberation.)

The same principle was applied in another decision concerning the enforcement of a foreign judgment in Egypt.

(Court of Cassation, Appeal No. 2354/69, 28 March 2016, Chamber of Deliberation.)

The Court also confirmed the application of the same Convention to a judgment issued by the Dubai Court, provided that the judgment was final and its enforcement did not violate Egyptian public policy or morals, in accordance with the Convention's requirements.

(Court of Cassation, Appeal No. 218/89, 7 July 2019, Chamber of Deliberation.)

The same principle was reflected in the following decisions:

- *(Court of Cassation, Appeal No. 4034/75, 10 February 2014.)*
- *(Court of Cassation, Appeal No. 852/73, 13 May 2014.)*

These decisions illustrate the importance of examining the applicable international convention when dealing with foreign judgments concerning personal status, rather than automatically applying the general domestic rules without considering the treaty framework.

6. Recognition of the Res Judicata Effect of a Foreign Judgment under International Jurisdiction Rules

The Court of Cassation has confirmed that a foreign judgment may be recognised as having res judicata effect in Egypt where it was rendered by a judicial authority having jurisdiction under the rules of international jurisdiction applicable in the state of origin, does not violate Egyptian public policy, and no enforceable Egyptian judgment had previously been issued in the same matter between the same parties.

The Court further held that recognition of the foreign judgment's res judicata effect must be distinguished from the procedure required to obtain an enforcement order.

(Court of Cassation, Appeal No. 13073/81, 16 September 2021, Chamber of Deliberation.)

This decision supports the principle that reliance on the res judicata effect of a foreign judgment is legally distinct from compulsory enforcement and may be recognised independently where the applicable conditions are satisfied.

VII. Practical Considerations When Seeking to Enforce a Foreign Judgment in Egypt

In light of the statutory provisions and judicial principles discussed above, an application to enforce a foreign judgment in Egypt requires careful consideration of several practical matters.

1. Identifying the Applicable Law

The first step is to determine whether an international convention in force between Egypt and the state in which the judgment was rendered applies. The applicable legal framework should be identified before proceeding with the general rules of the Egyptian Code of Civil and Commercial Procedure.

2. Verifying the Jurisdiction of the Foreign Court

The jurisdiction of the court that rendered the judgment must be examined under the rules of international jurisdiction prescribed by the law of the foreign state.

3. Reviewing Service of Process

The documents relating to service of process in the foreign proceedings should be examined to verify that the parties were duly notified in accordance with the procedural law applicable in the state of origin.

4. Establishing the Finality of the Judgment

The applicant should obtain an official certificate confirming that the judgment has acquired the force of res judicata or has become final and enforceable, as required by the applicable domestic law or international convention.

5. Completing the Required Documents and Authentication

The official copy of the foreign judgment and all supporting documents should be prepared and authenticated as required. Any specific requirements governing foreign documents and their submission before Egyptian courts must also be observed.

6. Identifying the Competent Court

As a general rule under Article 297 of the Egyptian Code of Civil and Commercial Procedure, the application for an enforcement order must be submitted to the Court of First Instance within whose jurisdiction enforcement is sought, subject to any applicable special treaty provisions.

7. Reviewing Public Policy and Previous Egyptian Judgments

The applicant should verify that the foreign judgment does not conflict with a previous judgment or order issued by an Egyptian court and does not contain anything contrary to Egyptian public policy or morals, within the scope of the applicable legal rules.

These considerations are particularly important in disputes involving foreign elements. Addressing the relevant legal and procedural requirements at the preparation stage can help reduce the risk of refusal or unnecessary delay in determining the enforcement application.

Conclusion

The enforcement of foreign judgments in Egypt is not based merely on recognising that a judgment has been issued by a foreign judicial authority. Rather, it is governed by an integrated legal framework intended to balance respect for foreign judicial decisions with the fundamental safeguards of the Egyptian judicial system.

Through Articles 296, 297, 298 and 301, the Egyptian Code of Civil and Commercial Procedure establishes the general framework governing the enforcement of foreign judgments, including the applicable conditions, the procedure for filing an enforcement application, the competent court, and the preservation of the provisions of applicable international treaties.

The judgments of the Egyptian Court of Cassation have further emphasised the need to verify the international jurisdiction of the foreign court, proper service of process, the finality of the judgment, and its compatibility with Egyptian public policy. They have also clarified the distinction between enforcing a foreign judgment and relying on its res judicata effect before Egyptian courts.

Accordingly, handling an application to enforce a foreign judgment in Egypt requires a case-specific legal assessment, identification of the applicable legal framework, and careful examination of the judgment and its supporting documents in light of Egyptian legislation, relevant international conventions, and the jurisprudence of the Egyptian courts.

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