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**Cairo Economic Court**

# RULE OF LAW SECTOR ASSESSMENT OF EGYPT'S ECONOMIC COURTS

## Final Report

**March 2019**

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## DISCLAIMER

The author's views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

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# ACRONYMS

ABA ROLI	American Bar Association Rule of Law Initiative
ACA	Administrative Control Authority
ADR	Alternative Dispute Resolution
AOJS	Administration of Justice Support Project
CLE	Continuing Legal Education
CMS	Case Management System
CRCICA	Cairo Regional Centre for International Commercial Arbitration
EASE	World Bank's Equal Access and Simplified Environment for Investment in Egypt project
ECMA	Enhanced Case Management Software
ECs	Economic Courts
FDI	Foreign Direct Investment
GAFI	General Authority for Investment and Free Zones
GOE	Government of Egypt
ICSID	International Center for Settlement of Investment Disputes
IPR	Intellectual Property Rights
ISC	Investor Service Center
ITIDA	Information Technology Industry Development Agency
JIC	Judicial Information Center
MCIT	Ministry of Communications and Information Technology
MIIC	Ministry of Investment and International Cooperation
MOJ	Ministry of Justice
NCJS	National Center for Judicial Studies
POMED	Project on Middle East Democracy
ROL	Rule of Law
SMAJ	European Union's Support to the Modernization of the Administration of Justice Program
TOT	Training of Trainers
UNODC	United Nations Office on Drugs and Crime
USAID	US Agency for International Development

# EXECUTIVE SUMMARY

The purpose of this assessment is to provide USAID, the Ministry of Investment and International Cooperation and the Ministry of Justice (MOJ) with a strategic plan to cooperate in developing the economic court (EC) system. The assessment reviews the legal framework; analyzes past USAID projects; provides an overview of donor-funded activities; reviews EC e-litigation plans; and assesses the advanced training needs for judges in specialized commercial fields of study. Based on this analysis, the report recommends potential USAID support for judicial and staff training activities as well as appropriate automation projects.

AMEX International fielded a team consisting of a court administration specialist, an Egyptian lawyer and a logistician. In addition to reviewing the literature, the team conducted interviews with government officials, judges and court staff, lawyers, academics and members of the donor community. The team also spent two full days visiting the economic courts in Cairo and Alexandria, meeting with the court presidents, judges and staff. In addition, AMEX commissioned a survey of 30 business people and 60 lawyers in Cairo, Alexandria and Assiut to identify their perceptions of the economic courts.

**Overview of Current Challenges and Opportunities.** Egypt's political environment since 2011 made it difficult to establish the ECs, which were only created in 2008. Nevertheless, the ECs implemented many recommendations or replicated advances from USAID's *Administration of Justice Support II* (AOJS II) project. Economic courts are now serving businesses in Cairo, Alexandria, Tanta, Mansoura, Ismailia, Beni Suef, Assiut and Qena governorates. The Cairo EC has made significant progress in developing an environment for resolving high-profile commercial cases and increasing the confidence of foreign investors. It has received more attention from the MOJ than any other EC, including IT equipment and better facilities. This approach may be difficult to replicate in other locations that have inferior infrastructure and different types of caseloads. The ECs are not yet providing efficient and prompt services, even though they are appreciated by court users. The World Bank reported proceedings for enforcing contracts lasting over 1,000 days in Cairo, of which over 700 were consumed by trial and judgment.

**Legal Framework Review.** The investment climate in Egypt has improved significantly due to politically risky economic reforms. Foreign Direct Investment (FDI) has increased by 13 percent, reaching \$13.35 billion in 2017. Rule of law is rated almost the lowest in the world, according to the World Justice Project. Egypt's court system, within which the economic courts operate, is well developed in terms of laws and procedures, but faces many challenges in terms of court administration, due process, delays, enforcement and access to justice. Paper-based procedures create many inefficiencies. GOE reforms, particularly alternative dispute resolution (ADR), are helping resolve these problems.

Many international corporations avoid using the economic courts to settle disputes, preferring to take advantage of quicker procedures laid out in bilateral treaties or through binding international arbitration. In efforts to attract FDI, Egypt passed the Investment Law in 2017. In addition to providing investors with incentives and legal protections, this law established alternative out-of-court forums for foreign investors. It recognized that the economic courts would also play a role in resolving commercial disputes, either through mediation or trial. In 2018, Parliament passed Egypt's first bankruptcy law, which gives the economic courts the responsibility for overseeing both bankruptcy cases and alternative dispute resolution (ADR) mechanisms such as restructuring.

The Economic Court Law of 2008 established the economic courts. Lessons learned by these courts and the changing needs of business have led the Ministry of Justice to propose modifications to the EC Law.

A draft law currently before the Parliament will expand the jurisdiction of the economic courts to new laws, increase the maximum value of civil cases and mandate the implementation of electronic filing.

The Investment Law of 2017 improves protections for foreign investors, provides financial incentives and establishes an independent arbitration and mediation center. The General Authority for Investment and Free Zones (GAFI) is responsible for the law's enforcement. Three committees will resolve investment disputes over state contracts, review implementation of the Investment Law and resolve disputes between investors and the government. ECs may also receive such cases, which they may resolve either through settlement or trial.

The Bankruptcy Law of 2018 provides a new framework for dealing with the bankrupt and gives the EC's new authorities for approving and overseeing restructuring and preventive composition plans. These plans enable debtors to avoid bankruptcy through mutual agreements with creditors. The draft EC Law Amendment adds the bankruptcy law to the EC jurisdiction, replacing the bankruptcy rules of the Commercial Code. Already the ECs have created departments of bankruptcy administration to address existing and new authorities. They need to develop procedures for working with bankruptcy experts, expediting access to documents and overseeing restructuring and preventive composition plans.

While much has been written about the use of ADR, few companies use non-court mediation or arbitration. International corporations have not yet developed confidence in the economic courts. They therefore prefer to use international arbitration. To encourage them to use Egyptian courts, the Investment Law attempts to reduce their use of international arbitration. EC court-managed ADR has helped many litigants, however. Preparation boards settle perhaps 40% of cases that come before them. Challenges in implementing ADR faced by Egyptian courts include: a shortage of judges; a heavy case load; few judges and lawyers who are knowledgeable or trained in ADR; a lack of transparency in the courts; an antiquated record system; and a lack of legal infrastructure to make ADR viable.

Intellectual Property Rights (IPR) is an important issue for the ECs.. The Information Technology Industry Development Agency (ITIDA) has created an IPR office, which is helping judges and prosecutors at the economic courts improve IPR enforcement.

EC's must meet Egyptian requirements for transparency. These requirements will become stricter after passage of the draft freedom of information law. EC's will also need to focus more on data privacy. Parliament is reviewing the draft law on personal data protection. The draft law guarantees the preservation of the electronic privacy of citizens, to protect their personal data from attacks by international companies and social networking platforms without their consent. Finally, EC's must build the skills and tools needed to enforce the Anti-Cyber and Information Technology Crimes Law of 2018, which allows authorities to block websites for reasons that include fraud and infringement in bank cards and e-payment methods.

Legal reforms essential for advancement of the ECs should be passed quickly: the EC Law amendments and the Freedom of Information Law.

**Roles and Interests of the Major Actors and Stakeholders.** International corporations have a limited stake in the effectiveness of the ECs. Foreign and domestic investors are concerned primarily by limited access to information from the courts. The perceptions of 30 business people surveyed by AMEX corroborated this finding. Two high-level lawyers using the economic courts believe they are operating well and that there is a good operational relationship between lawyers, judges and staff. They commented that cases are registered efficiently and promptly and that preparation boards work well and add value to the process. Lawyers and business people who participated in the survey backed these conclusions: they gave high scores to the ECs in efficiency; fair and equal treatment; and quality of IT services.



**Role of the Economic Courts in Fighting Corruption, Protecting Assets and Investments, and Maintaining the Business Development Environment.** The economic courts hear corruption cases under the Penal Code that affect private-private transactions, particularly dealing with money fraud. They review cases associated with 17 laws for both misdemeanors and felonies. Mediated settlements through the economic court preparation boards increase incentives to execute decisions. Efficient, effective economic courts will increase confidence in the justice system and reduce business risk. They will improve Egypt's Doing Business ratings.

**Overview of Planned and On-Going Donor-Funded Activities.** Donors have provided minimal funding for the economic courts recently, compared to the support they provided just after the courts were created in 2008. These donors include ABA/ROLI, the World Bank, the International Finance Corporation, the UNODC, and the African Development Bank.

**Review of the Economic Courts' Request for Assistance with Automation.** The EC's request includes two activities: a) integrating the structures of the economic courts with the office of the Assistant to the Minister for Specialized Courts through one electronic network; b) development of the EC front desks to increase their efficiency and ability to meet the needs of the judiciary, as well as to update their technology and enhance staff efficiency. The AMEX team was unable to meet with the Judicial Information Center (JIC) and cannot assess the quality of its work. The Cairo EC has more complex and high-profile cases than other courts. Most cases in the Alexandria EC involve commercial loans.

Court staff know the relevant legal requirements and procedures and their role in the organization. They receive no ongoing training. Lack of rotation of staff creates the potential to trade access to case information for bribes and unauthorized fees. We saw no evidence of such corruption, however. Economic court judges in Cairo and Alexandria told the team they were satisfied with the level of training provided by the National Center for Judicial Studies (NCJS).

Power and network connections in the courts seem adequate. However, both Cairo and Alexandria ECs have connectivity issues. The courts, especially the Cairo EC, incorporate a fair amount of IT equipment into their daily business. However, much of the equipment is old, and it may not receive enough support. The ECs benefit from a case management system, but not the same one developed by AOJS. JIC supports the system, but the team could not determine the nature of such support. The MOJ highlighted the work of the Ministry of Communications and Information Technology (MCIT) in supporting a cloud-based automation system.

Both judges and lawyers expressed a desire for greater access to information, including information from the case file and new laws and procedures. The MOJ does not have easy access to caseload and other information from the economic courts, making it hard to make good management decisions and provide appropriate oversight.

The MOJ and ECs collect user feedback on an *ad hoc* basis through interaction between staff, judges and lawyers. The AMEX survey provides useful feedback for court users, the MOJ and ECs.

The legal framework lays out several processes that expedite case processing. The team reviewed the status of work processes and found problems with notifying litigants through physical mail; requesting support from court experts; training preparation board judges in mediation; obtaining documents from the government; calendaring cases; indexing or publishing judgments; and executing decisions.

The new system requested by the MOJ would meet the Ministry's needs for data, documents and communication required for management and oversight. It also would provide EC judges with information they need to manage their courts, track cases, and communicate with each other. The system would assure security and privacy. However, it does not include a web-based system for lawyers

and/or the public to initiate cases and track their status. The MOJ could install this relatively simple system easily, even if court infrastructure and web access pose minor challenges.

The second part of the request requires linking the EC front desk with other relevant economic court offices to facilitate registration of cases. This system would build on an existing system that is appreciated by court users. It would improve efficiency and make the front desk more usable to litigants. The MOJ could install this relatively simple system easily, even if court infrastructure and web access pose minor challenges.

For both systems requested by the MOJ, operations and maintenance may be a challenge, especially if the JIC is given the main responsibility. Prior to making a decision on funding the new automation systems, USAID must assess the capacity of the JIC. USAID should collaborate with MCIT in installing the systems, since the Ministry has experience in cloud-based systems.

**Review of Past and Current USAID Assistance to the MOJ.** From 1996-2009, USAID funded the *Administration of Justice Support Project* to improve court efficiency through a combination of technology, training and process improvements. From 1996-2004, AOJS I installed in North Cairo and Ismailia First Instance Civil Courts sustainable case management systems (CMS), both automated and paper-based; streamlined procedures and trained personnel for the courts to expedite case processing; and enhanced training capability and educational infrastructure at the NCJS. From 2004-2009, AOJS II 1) replicated AOJS I court reforms in more courts; 2) developed a plan for nationwide replication; 3) strengthened the administrative and technical capacity of NCJS; 4) strengthened the capacity of JIC to operate an automated information communications network within each modernized court; 5) strengthened the capacity of MOJ to coordinate the replication of AOJS I reforms throughout Egypt by NCJS, JIC and the courts; 6) conducted participant training. AOJS II not only replicated AOJS I; it built a comprehensive case management system whose capability far exceeded its predecessor. The project deployed the expanded system in two of the country's largest courts (Alexandria and Mansoura), as well as two more first instance courts (Qena and Tanta) and four satellites (Luxor, Hurghada, Marsa Matrouh and Mahalla).

The lessons to be learned from AOJS include a) automation of a court is difficult and expensive. A cost-benefit analysis of a CMS should take into account the efficiencies gained from replacing a paper-based system; bb) none of the government personnel who partnered with AOJS remain in place, creating a deficit of institutional knowledge and trust. Today, MOJ leaders have a greater respect for technology and want to make a difference in the judiciary.

ABA/ROLI's project *Continuing Legal Education for Young Lawyers in Egypt* trained junior lawyers and recent graduates in basic legal skills. It met a great need of young lawyers. The Cairo Regional Center for International Commercial Arbitration has sustained many of the project activities. ABA/ROLI's project *Strengthening the Capacity of the Egyptian Judiciary* provides training on mediation, international conventions, and intellectual property to judges and MOJ officials. It also provides professional development in leadership, case management, and the use of analytic and problem-solving approaches in applying the law when adjudicating cases. The project fought against obstacles associated with the NCJS' resistance to innovation and politicization of trainee selection.

**Strategy and Programmatic Options.** Investing in the economic courts will help USAID and USG achieve their objectives of improving the investment and business climate, increasing FDI and improving governance.

Judicial training should respond to the increased jurisdiction of the courts over new and amended laws as well as the need by judges to appreciate the relation of the court's work to improving the investment and business development climate. USAID should help the GOE initiate a continuing education program for staff, matched by required staff rotation.

USAID's efforts to automate the ECs must support the EC automation plan. However, they also must meet the needs of court users. Rather than install an entire system all at once, USAID and the GOE should use an agile, iterative approach to automation. Succeeding on one project, based on best practices, will ease initiation and strengthen the success of the following projects. Recommended activities include 1) electronic filing/process consolidation; 2) fees; 3) access to case management system and other data; 4) automated data exchanges; 5) solvency certificates; 6) experts; 7) hearings; 8) execution. The team finds that conditions are better than a decade ago for success of automation projects, particularly electronic filing and a "role-based" information portal. Other positive conditions include a) integration of best practices and lessons learned in the EC legal framework; b) the automation vision of the Ministry of Justice and the Ministry for Communications and Information Technology; c) advancements in technology; d) the enthusiasm of judges and Ministry of Justice staff for automation. Challenges include questions about the capability of the MOJ to provide oversight as well as the resources and technical support to sustain IT investments. Taking advantage of these opportunities and overcoming these challenges requires an interactive approach to initiating and implementing pieces of the overall system rather than the whole system all at once.

## **I.0 INTRODUCTION**

This assessment provides USAID and its partners in the Ministry of Investment and International Cooperation and the Ministry of Justice with a strategic plan to develop the economic court system. Recommended activities will improve the courts' efficiency through automation and training. The assessment follows as much as possible the World Bank's Commercial Court Assessment Tool.<sup>1</sup>

The scope of work for the assessment required a review of the legal framework, including the investment law; an analysis of the legacy of past USAID projects; an overview of donor-funded activities within the economic courts; a review of EC "e-litigation" plans; identification of training needs in advanced specialized topics for economic court judges and other staff; and opportunities for technical support.

The AMEX team created an Assessment Plan (Annex I) in March 2018, in anticipation of field work to begin soon thereafter. However, the field work did not begin until late December, and the team was reduced from four to three members: a court administration specialist; an Egyptian lawyer; and a logistician.

The team conducted introductory meetings with USAID and MOJ and a series of interviews with government officials, judges and court staff, lawyers, academics and members of the donor community. It also spent two full days visiting the economic courts in Cairo and Alexandria, meeting with the Court Presidents, judges and staff. Aside from the site visits and the donor meetings, the team held all meetings at the MOJ. USAID representatives joined the team for these meetings. A complete list of meetings is attached as Annex 2.

In accordance with the project scope of work, section V, the team conducted a debriefing for the USAID Democracy and Governance Team on December 30, 2018 and produced two versions of a draft report.

## **2.0 OVERVIEW OF CURRENT CHALLENGES AND OPPORTUNITIES**

Since 2008, the economic courts have provided services in all regions where there is a court of appeals. The Cairo EC has made significant progress in developing an environment for resolving high-profile commercial cases and increasing the confidence of foreign investors. New laws and institutions have facilitated the start-up of new businesses. As FDI and domestic investment has increased, the caseload of the ECs has likely increased, although the team was unable to collect the data needed to verify this conclusion.

EC judges are providing the specialized expertise needed by economic court users. They have received specialized training to undertake their EC responsibilities. However, they will require additional training to match the expanded jurisdiction of the courts under new laws.

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<https://openknowledge.worldbank.org/bitstream/handle/10986/24018/Commercial0cou0ment0assessment0tool.pdf?sequence=1&isAllowed=y>

Due to independent efforts of the MOJ and Ministry of Communications and Information Technology (MCIT), the environment for increasing court efficiency through investments in automation and technology has improved dramatically. The MOJ has expressed its commitment to increasing the use of technology in the judicial process, and judges also are enthusiastic about integrating more technology into their courts. The Ministry is pursuing many improvements in the courts. The desire for change by these actors enhances the potential for donor investments to have significant results.

However, the Cairo EC differs from other economic courts. In addition to having a docket of higher profile cases, the Cairo EC is the only one to occupy its own building. The other ECs are co-located with other institutions. The Cairo EC building was constructed recently and has received more attention from the MOJ, including IT equipment and generally better facilities. While this attention contributes to making the court a flagship for the judiciary and a respected forum for the adjudication of high-profile and complex commercial cases, it may also prove difficult to replicate in other locations. Based on the team's site visit to Alexandria, we believe other ECs suffer from inferior infrastructure and a different makeup of cases. Prioritizing funding to improve the Cairo EC, which serves foreign investors and large businesses and encourages investment, may reduce funding available for other ECs, which provide smaller-scale commercial litigation for citizens. The trade-off is understandable, but it is still a trade-off.

## 3.0 LEGAL FRAMEWORK REVIEW

### I. Current Legal and Policy Issues

The economic courts contribute to the Government of Egypt's (GOE) objective of improving the investment climate. Economic reforms have improved the investment climate, contributing to the potential for economic growth and demand for economic court services. According to the US Embassy's July 2018 Investment Climate Statement,

“Progress on Egypt's reforms over the past 18 months has been remarkable. Though many challenges remain, Egypt's investment climate improved markedly in 2017, prompting an increase in foreign direct investment (FDI) of 13 percent year over year according to the Central Bank of Egypt. The country has witnessed significant structural reform since the flotation of the Egyptian Pound and the start of a three-year, USD 12 billion International Monetary Fund-backed economic program in November 2016.”<sup>2</sup>

FDI in 2017 was \$13.349 billion.

The World Justice Project (WJP) rates the rule of law in Egypt as almost the lowest in the world, with a ranking of 110 out of 113 countries and a score of .36 out of 1.0. Lowest ranked elements include constraints on government powers; open government; fundamental rights; regulatory enforcement; civil justice; and order and security. The WJP ranks absence of corruption and criminal justice slightly higher (85 and 68/113 respectively).. Egypt's court system, within which the economic courts operate, is well developed in terms of laws and procedures, but faces many challenges in terms of court administration, , due process, delays, enforcement and access to justice.<sup>3</sup> Paper-based procedures create many inefficiencies. Several GOE reforms, particularly those based on ADR, are helping to resolve some of these problems. Donor efforts, such as USAID's AOJS projects, have helped to unblock administrative obstacles.

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<sup>2</sup> 2018 Egypt Investment Climate Statement, US Department of State, <https://www.state.gov/e/eb/rls/othr/ics/investmentclimatestatements/index.htm#wrapper>

<sup>3</sup> World Justice Project 2017-2018 Rule of Law Index Egypt, <http://data.worldjusticeproject.org/#/groups/EGY>

The MOJ established the economic courts to meet a need by businesses for improved, expedited and enforceable dispute resolution; build confidence of domestic and foreign investors; improve the business climate; and strengthen the rule of law. The ability of the economic courts to achieve these objectives depends upon appropriate policy and laws for economic management, investment, finance, company organization, competition, intellectual property, trade, taxes, regulation, bankruptcy and restructuring, among many others.

In 2016, the Government of Egypt adopted a Sustainable Development Strategy (Vision 2030), which laid out long-term social, economic and environmental objectives, indicators, targets, policies and projects. In the economic dimension, the Strategy would like FDI to increase to \$30 billion by 2030. In addition, it would like the World Bank Ease of Doing Business country ranking to rise to 30 by the same year. For the sub-objective of transparency and efficient government institutions, Vision 2030 established a target Ease of Doing Business score of 80 out of 100 in 2030.<sup>4</sup>

Egypt's Doing Business ranking improved to 120 in the 2019 report from 128 in the 2018 report, both out of 190 countries. Its score increased to 58.56 from 55.82 during the same period.<sup>5</sup> The World Bank credited the country for strengthening protections for minority investors and introducing reorganization procedures to resolve bankruptcies, which are under EC jurisdiction. Nevertheless, the efficiency of courts and enforcement of decisions remained problematic. The 2019 report found that EC proceedings for enforcing contracts lasted over 1,000 days in Cairo, of which over 700 were consumed by trial and judgment. This statistic provides evidence that the ECs have a very heavy caseload, even if the MOJ lacks the capacity to monitor the caseload of the economic courts.<sup>6</sup>

Increasing both the ranking and score of the Ease of Doing Business will require enormous changes in law and policy, including those affecting the economic courts. Egypt has made important progress in several relevant areas, but a slow bureaucracy, lack of transparency, regulatory complexity, non-tariff barriers, and cumbersome customs procedures have constrained the government's ability to make additional major reforms. In early 2018, the Egyptian government announced that it would begin selling off stakes in some of its state-owned enterprises.

In efforts to attract FDI, Egypt passed the Investment Law in 2017 (assessed below). The law provided a variety of incentives for foreign investors and their implementation by the General Authority for Investment and Free Zones (GAFI). It also focused on establishing alternative out-of-court forums for foreign investors. Under the law, the economic courts would play a limited role in resolving investment disputes, either through mediation or trial.

While the Investment Law addressed obstacles to investment, it did not address obstacles to shutting down enterprises through bankruptcy and restructuring. The Bankruptcy Law of 2018 provides a new framework for dealing with the bankrupt and gives the EC's new authorities for approving and overseeing restructuring and preventive composition plans. The draft EC Law Amendment adds the bankruptcy law to the EC jurisdiction, replacing the bankruptcy rules of the Commercial Code.

## **2. The Economic Courts Law**

Passage of Law 120 of 2008 as amended (EC Law) led to the establishment of economic court first instance and appellate panels in Cairo, Alexandria, Tanta, Mansoura, Ismailia, Beni Suef, Assiut and Qena

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<sup>4</sup> Vision 2030,

[http://mcit.gov.eg/Upcont/Documents/Reports%20and%20Documents\\_492016000\\_English\\_Booklet\\_2030\\_compressed\\_4\\_9\\_16.pdf](http://mcit.gov.eg/Upcont/Documents/Reports%20and%20Documents_492016000_English_Booklet_2030_compressed_4_9_16.pdf)

<sup>5</sup> [http://www.worldbank.org/content/dam/doingBusiness/media/Annual-Reports/English/DB2019-report\\_web-version.pdf](http://www.worldbank.org/content/dam/doingBusiness/media/Annual-Reports/English/DB2019-report_web-version.pdf)

<sup>6</sup> <http://www.doingbusiness.org/en/data/exploretopics/enforcing-contracts/egypt>;

<https://oxfordbusinessgroup.com/overview/regulatory-outline-laws-and-decrees-most-affect-foreign-business>

governorates. The economic courts selected their judges from courts of first instance and created preparation boards. The MOJ selected EC experts through competition. Taking into account lessons learned and the changing needs of business, the Ministry of Justice has proposed modifications to the EC Law. A draft law (draft EC Law Amendment) currently before the Parliament (Annex 3) will expand the jurisdiction of the economic courts to include new or amended laws, increase the maximum value of cases and mandate the implementation of electronic filing.<sup>7</sup>

As set out in EC Law Article 4, the ECs have jurisdiction over criminal cases involving crimes covered in the laws on bankruptcy, joint stock companies, capital markets, investment guarantees, finance leases, securities, real estate finance, intellectual property, the central bank, criminal, competition and consumer protection. The draft law expands jurisdiction to include bankruptcy restructuring, movable guarantees, investments and instruments.

EC Law Article 6 sets out the court's jurisdiction in civil claims, whose value does not exceed 5 million Egyptian pounds involving investment companies, capital markets, investment guarantees, financial leases, trade, bankruptcy, real estate finance, intellectual property, e-signature, monopolies, joint stock companies and the central bank. The draft law increases the maximum value of civil claims to 10 million Egyptian pounds and expands jurisdiction to include laws dealing with consumer protection; movable guarantees; economic zones of limited nature; microfinance; investment; instruments/notes; and bankruptcy.

The courts have both provisional and enforcement responsibility, meaning that they are charged with both the adjudication and the resolution of disputes.

EC first instance and appeals panels may use experts enrolled in MOJ tables to clarify technical elements of cases. The MOJ selects the experts from those applying for registration or those nominated by chambers, unions, associations, or any other entities concerned with matters of finance, trade, industry, and economics. Criteria include a) academic qualifications; b) reputation; c) at least seven years of experience; d) no work as a lawyer; e) no prison record for breaching trust or job duties and no history of bankruptcy; f) no termination from a public position or removal from a professional register. An MOJ committee reviews applicants and makes recommendations for the Minister's approval. The expert delivers his or her opinion by submitting a report to the court clerk's office according to procedures of the Law of Evidence.<sup>8</sup> The court can admit or reject written reports and may summon the expert to clarify, explain or elaborate on his or her report.<sup>9</sup>

The EC Law requires a preparation board, which is a panel under the chairmanship of an appeal judge and "an appropriate number" of judges and administrative staff (Article 8). The preparation board prepares the case for trial. It also attempts to use alternative dispute resolution methods to conciliate between litigants and avoid trial. The law sets a 30-day limit for reconciliation efforts, which can be renewed once. The board may seek assistance from experts and specialists. The draft EC Law Amendment also provides further guidance on the activities of the preparation board, including applying the rules for discipline of experts using Law No. 96 of 1952. (Article 9)

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<sup>7</sup> Aside from electronic filing, the law, for which a timetable is unknown, will not affect the operational procedures of the ECs.

<sup>8</sup> MOJ decisions 6928 and 6929 of 2008.

<sup>9</sup> Egypt: The Legal Landscape, Mahmoud S Bassiouny and Kholoud Hafez, <https://gettingthedealthrough.com/country-focus/article/6273/egypt-legal-landscape>

Articles 14-21 of the draft EC Law amendment require the creation of an electronic register on the ECs website with the ability for court users to file and submit documents electronically. The draft law also allows ECs to charge fees of between 100-1,000 LE, whose revenue “shall bear the costs of establishing and operating the website of this service.” This authority would enable ECs to gain a dedicated revenue stream that could assist in the funding and operations of online services.

### **3. The Investment Law**

The Investment Law of 2017 will increase the caseload of the economic courts, but not significantly. ECs will review appeals of disputes from GAFI and other institutions. They also will review the investment cases not filed elsewhere.

In addition to providing financial incentives (discussed below in *Section 3.0 7 E. Current GOE Efforts to Attract FDI*), the law establishes dispute resolution committees, establishes an independent arbitration and mediation center and improves protections for foreign investors.<sup>10</sup> For investment disputes, it creates three committees. It establishes a Grievance Committee to examine the complaints regarding implementation of the Investment Law. It also establishes a Committee for Resolution of Investment Disputes, which will review complaints or disputes among investors and state bodies. In addition, the law establishes a Ministerial Committee on Investment Contract Disputes, which settles disputes over investment contracts where the state, or an affiliated public or private body, is a party. None of these committees were established by December 2018. However, the preexisting Committee for Investment Dispute Settlement and the Committee for Settlement of Investment Contract Disputes continue their work.

The Investment Law also establishes the Egyptian Arbitration and Mediation Center to “pursue the settlement of the investment disputes which may arise among the investors, or among the investors and the State or one of the State’s public or private bodies.” The Arbitration and Mediation Center may build on the GAFI Investors Disputes Resolution Center, which has been operating for several years. Litigants may ask the ECs to enforce settlement agreements from the new center.

According to Article 3, the state honors and enforces the contracts it concludes, other than those concluded on the basis of fraud. It honors contracts through irrevocable court judgments or arbitration. According to Article 4, the state may not attach, seize, confiscate, or freeze investment projects unless it receives a court order or irrevocable judgment. Litigants may use the new dispute resolution committees, the administrative courts or the economic courts to enforce contracts and review government seizure of investment projects.

The Investment Law assigns jurisdiction to GAFI for enforcement of the Investment Law and the Law on Joint-Stock Companies, Partnerships Limited by Shares, and Limited Liability Companies. The draft EC Law amendment would add the Investment Law to the jurisdiction of the economic courts, allowing investment cases to be initiated in or appealed to them. As an alternative to resolving disputes through the new Investment Law committees or settling disputes through the Egyptian Arbitration and Mediation Center, litigants may seek to settle their disputes amicably through the economic court preparation boards or take their cases to trial.

Even though the work of the ECs will not increase significantly due to the Investment Law, economic court judges will require training on the law for those cases they need to resolve.

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<sup>10</sup> [http://www.egyptembassy.net/media/Egypt\\_Investment\\_FactSheet\\_082217.pdf](http://www.egyptembassy.net/media/Egypt_Investment_FactSheet_082217.pdf)



Article 37 of the executive regulations of the Investment Law obligates GAFI to establish a unified system for the provision of services. As the economic courts automate, both GAFI and the courts need to use government-wide IT standards.

See *Section 3.0 7E. Current GOE Efforts to Attract FDI* for further discussion of the Investment Law.

#### **4. The Bankruptcy Law**

The new Bankruptcy Law will increase both the work and caseload of the economic courts significantly. Until passage of the law in 2018, the legal framework of bankruptcy was tainted by bureaucracy, high cost and an overly long process. The new law replaces and revokes the bankruptcy rules set out in chapter 5 of the Commercial Code, which were under the jurisdiction of the ECs. Rather than dealing with the bankrupt as a criminal, the law introduces new mechanisms such as restructuring and preventive composition and mitigates imprisonment penalties for non-fraudulent bankruptcy. Under the draft EC Law amendment, the economic courts have jurisdiction for the bankruptcy law.

The economic courts have already taken on responsibility for the Bankruptcy Law, even without passage of the draft EC Law amendment. Under the current Economic Court Law, they examine criminal cases in the Penal Code regarding bankruptcy crimes and in the Commercial Code regarding bankruptcy preventive conciliation crimes. Economic court panels of first instance examine disputes and claims under five million Egyptian pounds regarding bankruptcy preventive conciliation. Restructuring or preventive composition agreements, mechanisms to prevent a debtor from going into bankruptcy, did not exist prior to passage of the Bankruptcy Law.

A debtor who has been carrying on a business continuously for two years and is not in liquidation may seek approval to restructure its debts. A court-constituted restructuring committee will consider the application, which must include a proposed restructuring plan. It will prepare a report regarding the feasibility of the proposed restructuring plan. Once approved by the economic court, the plan becomes binding on the debtor and the signing creditors.

Preventive composition allows a solvent debtor to avoid liquidation by agreeing with its creditors to a court-approved settlement plan under which it will repay all or part of its outstanding debts. Any debtor who did not commit fraud or gross misconduct may file a preventive composition application. If the court accepts the debtor's application for preventive composition, it will appoint one or more trustees to supervise the settlement process.

The Bankruptcy Law adopts a cash flow test, whereby a debtor would be declared bankrupt if it fails to pay its commercial obligations as a result of financial difficulties. A creditor, the public prosecution or the debtor itself may file an application for bankruptcy. If the economic court declares the debtor bankrupt, it then appoints a trustee to manage the debtor's assets and financial affairs during the bankruptcy process. Once declared bankrupt, the debtor loses the capacity to manage its financial affairs or to dispose of any of its assets. The court may mediate between the debtor and the creditors to reach a settlement. All creditors must approve the settlement.

The economic courts have already created departments of bankruptcy administration. The Ministry of Justice issued a ministerial decree to regulate the work of restructuring experts in the management of bankruptcy in economic courts. These courts will face several challenges implementing the Bankruptcy Law. The bankruptcy administration must gain access quickly to the necessary documents and data. The courts cannot communicate with foreign courts, so a bankruptcy case can only be filed on domestic

assets. Weak enforcement will create difficulties for creditors. Trustees may lack the skills and incentive to sell assets quickly, making it more difficult to repay all debts. To expedite cases and prevent new bottlenecks, judges and trustees must receive training on the Bankruptcy Law.

## **5. The Law on E-Signature and the Consumer Protection Act**

In 2004, Egypt passed the Law on E-Signature and Establishment of the Information Technology Industry Development Authority (ITIDA). It provides the legal basis for courts, when considering evidence, to accept e-signatures as substitutes for hand-written signatures for all civil, commercial and administrative transactions. This extension of the concept of legal evidence will contribute to expansion of electronic commerce and verification of contracts. It builds the trust of buyers in using the Internet for financial transactions. Since the creation of economic courts in 2008, they have had jurisdiction over the E-Signature Law. Both AOJS II and ABA/ROLI trained EC judges on the law. Judges consider e-signature as essential IT-based evidence for many economic court cases. Because of its impact on court efficiency, e-signature provides an important incentive for automating the courts.

Under the law, ITIDA licenses companies to provide e-signature services. ITIDA's Root Certificate Authority provides and updates the technical standards for e-signature and enforces compliance of licensed companies. It also promotes the use of e-signature. ITIDA has issued licenses to five companies, including one for government services. In 2019, GAFI initiated a policy to allow investors to use e-signature to set up companies, eliminating the requirement to physically sign documents.<sup>11</sup>

Formal e-commerce has grown in Egypt, partly due to the increase in trust provided by e-signature. In 2015/2016, NGage Consulting estimated e-commerce at \$544 million and projected that it would reach \$1.9 billion by 2020.<sup>12</sup> In 2018, Parliament passed an important law, the Consumer Protection Act, requiring that sellers provide adequate information to consumers, including those purchasing through the Internet. Under the Consumer Protection Act, economic courts adjudicate relevant civil and commercial disputes. Currently, the Parliament is working on a comprehensive e-commerce law to create an integrated system that governs the whole e-commerce process. This law is likely to impact the work of the economic courts significantly.

## **6. Alternative Dispute Resolution**

The Civil Code defines reconciliation as “a contract by which two parties put an end to a dispute that has arisen, or prevent a dispute that is expected to arise, by the mutual surrender of part or their respective claims.” (Article 549). The Cairo Regional Center for International Commercial Arbitration (CRCICA) has provided private commercial mediation services since 2009. By December 2013, it had accredited 74 mediators (private professionals and judges), out of whom it trained 18 as trainers. As a result, it resolved 312 commercial cases through mediation, leading to the release of over \$130 million in funds and private sector savings of more than \$21 million. The International Center for Settlement of Investment Disputes (ICSID) has eight cases pending against Egypt as of January 2019 and has concluded twenty-four cases since 1984.<sup>13</sup>

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<sup>11</sup> The GAFI Incorporates E-Signatures for Company Formation, Andersen Tax and Legal, January 2019, <https://andersentaxlegal.com.eg/legal-alert-111/>

<sup>12</sup> Electronic Commerce in Egypt: An Overview, NGage Consulting, August 2018, <http://www.ngage-consulting.com/downloads/e-commerce-report-august2018.pdf>

<sup>13</sup> <https://icsid.worldbank.org/en/Pages/cases/AdvancedSearch.aspx>

The 2017 Investment Law limited Egypt’s exposure to investor-state arbitration. A new Investment Law chapter created alternative out-of-court forums to amicably settle investor-state disputes. Furthermore, the law removed all references to investor-state treaty arbitration or the ICSID.

Economic court judges consulted by the assessment team highlighted the following obstacles to reaching settlements: notification problems; disagreement between the litigants; and desires by the litigants to have the courts resolve disputes. Challenges in implementing ADR include: a shortage of judges, a heavy case load, few judges and lawyers who are knowledgeable or trained in ADR, an antiquated record system, and a lack of legal infrastructure to make ADR viable. Judges must develop case law for mediation and arbitration. Egyptian authorities must nurture both new and ongoing ADR institutions.

The team found evidence that businesses and lawyers rarely used non-court commercial ADR. Most of the AMEX survey respondents reported that they did not use non-court commercial mediation or arbitration in their practice. This question did not address court-related ADR, such as the conciliation efforts of the EC preparation boards. Nevertheless, the survey suggests that the use of non-court commercial mediation or arbitration is not widespread.

The survey of 60 lawyers and 30 business people who used the economic courts identified only 3 persons who ever used non-court commercial mediation or arbitration. In general, they were satisfied with these services. One of three persons complained about the length of time required to reach and enforce settlements. They were asked to rate on a scale from 5 to 1, with 5 being the best and 1 being the worst:

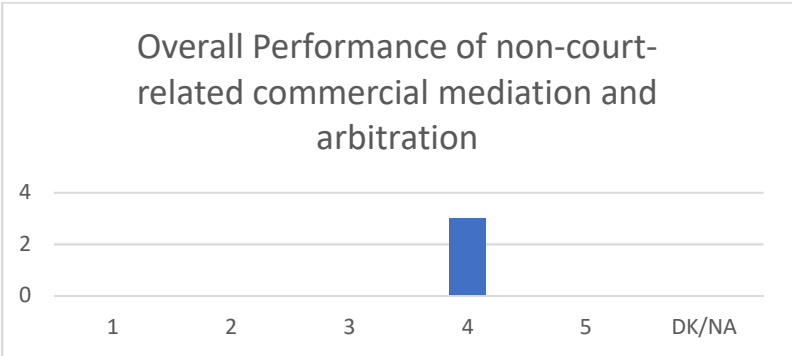


Figure 1. Overall Performance of Non-Court-Related Commercial Mediation and Arbitration

While the figures for just three persons cannot be generalized, all three users believe that their experience with non-court related commercial mediation and arbitration was above average.

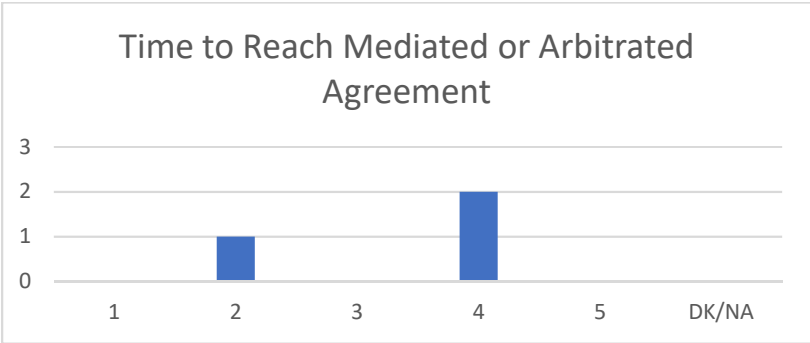


Figure 2. Time to Reach Mediated or Arbitrated Agreement

As anecdotes but not statistically useful information, these responses show that one of three respondents was unhappy at the length of time required to reach non-court mediated or arbitrated agreements, while two believed that it was quicker than average.

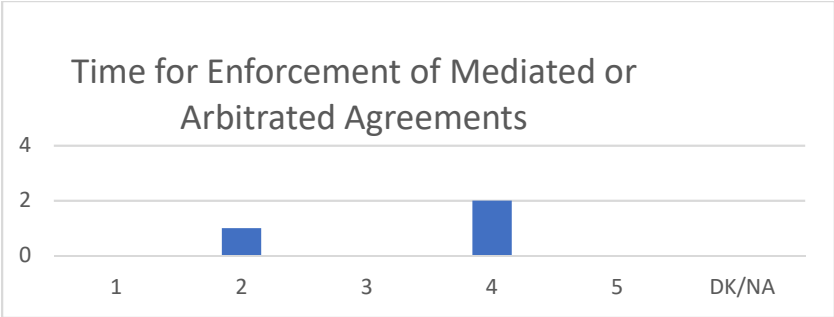


Figure 3. Time for Enforcement of Mediated or Arbitrated Agreements

The response to this question shows that one of three respondents was unhappy at the length of time required to enforce non-court mediated or arbitrated agreements, while two believed it was quicker than average.

See Annex 7 for a more detailed analysis of ADR.

## 7. Other factors that will affect the economic courts:

### A. Intellectual Property Rights (IPR)

The jurisdiction of the economic courts includes IPR cases, which are likely to grow in number. The Egyptian Government cannot seriously promote Foreign Direct Investment without improving enforcement of intellectual property rights. As the Government becomes more serious about enforcing IPR, it will increase the number of cases brought to the economic courts.

Egypt is on the 2018 US Trade Representative Section 301 (Intellectual Property) Watch List, due to its failure to combat pirated and counterfeit goods, including pharmaceuticals, software, music, and videos, as well as the absence of a transparent and reliable patent registration system.<sup>14</sup> The Intellectual Property Rights Law of 2002 meets most international standards but is weakly enforced. The Constitution's Article 69 requires the establishment of a "specialized agency to uphold IPR rights and their legal protection." MCIT's Information Technology Industry Development Agency created an IPR office which has undertaken actions to increase IP enforcement with all stakeholders, including EC judges and prosecutors; police officers; and copyright owners. It delivered training and capacity-building programs in legal, technical and practical aspects during 2017 to more than 473 EC judges and prosecutors; 900 police officers; 97 journalists from the National Broadcasting Authority; and 125 employees from software companies.<sup>15</sup>

### B. Transparency

The 2014 Constitution guarantees transparency of economic court data:

**"Article 68: Access to information and official documents:** Information, data, statistics and official documents are owned by the people. Disclosure thereof from various sources is a right guaranteed by the state to all citizens. The state shall provide and make them available to citizens with transparency. The law shall organize rules for obtaining such, rules of availability and confidentiality, rules for depositing and preserving such, and lodging complaints against refusals to grant access thereto. The law shall specify penalties for withholding information or deliberately providing false information."

In December 2016, the Government announced the establishment of a new committee headed by the Prime Minister to complete a draft law on freedom of information. The Supreme Council for Media Regulation submitted the draft law to Parliament in 2018. It provides that all persons have the right to obtain information and data that are available and held by the public authorities. It requires that the authorities disclose this information and data upon request within the limits established by law and regulations.<sup>16</sup>

With few exceptions, case proceedings must be in public. According to Article 303 of Criminal Procedures Code and Article 18 of Judicial Authority Law, the judgments must be rendered publicly, which provide access to information to everyone.

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<sup>14</sup> 2018 Special 301 Report, Office of the US Trade Representative, <https://ustr.gov/sites/default/files/files/Press/Reports/2018%20Special%20301.pdf>

<sup>15</sup> ITIDA: Egypt Launches Digital Forensic Lab to Improve IPR Protection and Enforcement, <https://www.businesswire.com/news/home/20180314005043/en/ITIDA-Egypt-Launches-Digital-Forensic-Lab-Improve>

<sup>16</sup> State of Privacy, Privacy International, January 2018, <https://privacyinternational.org/state-privacy/1001/state-privacy-egypt>

### C. Privacy

The Constitution also guarantees privacy:

**Article 57: Private life** Private life is inviolable, safeguarded and may not be infringed upon.

To protect citizens' privacy and existing investments and attract FDI, the MCIT prepared the draft Personal Data Protection Law. The Egyptian Cabinet has approved it. Once passed by the Parliament, the law will build the trust of Internet users, enabling the creation of new e-commerce applications and websites. It will therefore contribute to new investment opportunities, especially in the outsourcing industry and the giant data center industry. Increased investment will lead to more economic court cases.

Implementation of the Personal Data Protection Law will improve international indicators of business performance, such as the World Bank's Ease of Doing Business scores. It also will increase respect for human rights. The draft law guarantees the preservation of the electronic privacy of citizens by protecting their personal data from attacks by international companies and social networking platforms without their consent. It also matches EU standards, which will protect Egypt against financial or administrative sanctions.<sup>17</sup> The EU began implementation of its General Data Protection Regulation in May 2018.<sup>18</sup>

The draft law sets up an organizational framework for protecting data and raising data security standards in line with international guidelines. One international guideline for protecting personal data is the OECD Council's 2013 "Recommendation Concerning Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data."<sup>19</sup> In 2017, the International Organization for Standardization issued ISO/IEC 29151, which guides government and industry in their efforts to guarantee the protection of personal data.<sup>20</sup>

Article 2 of the Law against Crimes of Information Technology requires telecom companies to store customer usage data for 180 days. This means that telecom providers will maintain customer data, including their phone calls, text messages, related data, sites visited, and applications used on smartphones and computers. The same article obliges telecom companies to comply with any "other data to be determined by a decision" from the National Telecommunications Regulatory Authority Board, which means that the Board can demand that telecom service providers collect and retain data even if it is not specified by the law.

Other laws with privacy requirements include:

- Penal Code Article 113 imposes criminal penalties on the unauthorized collection of images or recordings of individuals in private places.
- Labor Law Article 77 stipulates that only authorized individuals can have access to personal employee data.
- Banking Law Article 97 stipulates that all bank customer data shall remain confidential, including account numbers and related dealings. They may not be disclosed even in the event of severance of relationship between the customer and the bank.

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<sup>17</sup> Weekly Spotlight: Egyptian Draft Data Protection Law Approved, <https://www.lexis.ae/2018/08/12/egypt-draft-data-protection-law-approved/>

<sup>18</sup> [https://ec.europa.eu/commission/priorities/justice-and-fundamental-rights/data-protection/2018-reform-eu-data-protection-rules\\_en](https://ec.europa.eu/commission/priorities/justice-and-fundamental-rights/data-protection/2018-reform-eu-data-protection-rules_en)

<sup>19</sup> [http://www.oecd.org/sti/ieconomy/oecd\\_privacy\\_framework.pdf](http://www.oecd.org/sti/ieconomy/oecd_privacy_framework.pdf)

<sup>20</sup> <https://www.iso.org/standard/62726.html>

- The Anti-Money Laundering Law prohibits banks from disclosing to clients or beneficiaries any information suggesting that such a suspicious transaction is under investigation.
- Civil Status Law Article 13 protects the confidentiality of data recorded on the civil status of citizens.
- The Capital Markets Law protects against insider dealings by prohibiting the exploitation of any confidential information for personal gain or for the account of a third party, or the divulging of information to a third party, whether directly or indirectly.
- The Mortgage Finance Law has clauses that require mortgage finance companies to maintain the confidentiality of the client data.
- The Telecommunications Law protects the privacy of telecommunications and imposes penalties in some cases on the unauthorized violation of such privacy.<sup>21</sup>

#### **D. Cybercrime**

In August 2018, President al-Sisi ratified the Anti-Cyber and Information Technology Crimes Law. The first part of the law requires service providers to secure users' information, save data and track procedures in the event of a crime, while the second part defines cybercrimes. It defines the following crimes: 1) infringement of networks, systems and information technologies; 2) those committed through information system and technologies; 3) fraud and infringement in bank cards and e-payment methods; 4) those related to fake accounts and email; 5) those related to privacy; 6) those related to illegal content; 7) those committed by webmasters or service providers; 8) those related to criminal acts.

#### **E. Current GOE Efforts to Attract FDI**

In 2016, the President established the Higher Council for Investment, tasked with facilitating FDI and with executive power to make decisions on legislation pertaining to investment. The Council includes the Prime Minister, the Governor of the Central Bank, as well as representatives from a wide range of ministries, government agencies and non-governmental bodies, and the private sector.<sup>22</sup> In 2018, the government focused on improving customs clearance, public procurement and land distribution practices. Each of these issues could result in cases coming before the economic courts, although most issues would be dealt with by the administrative courts.

One of the major GOE steps to attract FDI was passage of the Investment Law in 2017. The aspects of the law that have the greatest impact on the economic courts are discussed above in *Section 3.0 3. The Investment Law*.

The Law provides a wide range of incentives to investors, including:

- General Incentives: exemption from certain taxes and fees;
- Special Incentive Programs: deductions from income tax for investments in specific regions;
- Additional Incentive Program: government subsidies;
- Incentives related to Free Zones: exemptions from taxes, custom duties, regulations, labor law;
- Incentives related to the Suez Canal Economic Zone: 100% foreign ownership and control of import/export, exemption from duties and tax, and a one-stop shop for registration and licensing.

GAFI is the principal government body regulating and facilitating investment. It is responsible for implementing most components of the Investment Law. GAFI's Investor Service Center (ISC), established in February 2018, provides "one-stop-shop" services for investors. ISC provides assistance

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<sup>21</sup> State of Privacy

<sup>22</sup> Egypt seeks to boost foreign direct investment, Oxford Business Group, August 4, 2016, <https://oxfordbusinessgroup.com/news/egypt-seeks-boost-foreign-direct-investment>

related to company incorporation, establishment of company branches, approval of minutes of Boards of Directors and General Assemblies, increase of capital, change of activity, liquidation procedures, and other corporate-related matters. The Center also issues licenses, approvals, and permits required for investment activities within 60 days from the date of request submissions. Other services GAFI provides include advice and support to help in the evaluation of Egypt as a potential investment location; identification of suitable locations and site selection options; assistance in identifying suitable Egyptian partners; aftercare; and dispute settlement services. GAFI maintains ongoing communication with investors through formal business roundtables, investment promotion events (conferences and seminars), and one-on-one investment meetings.

The Government is seeking to attract international investment in several mega-projects, including a large-scale industrial and logistics zone around the Suez Canal, a new national administrative capital, a 1.5 million feddan agricultural land reclamation and development project, and the development of mineral extraction opportunities in a special 10,000 square kilometer zone.

## **8. Recommended legal reforms**

Parliament urgently needs to approve the draft amendment to the Economic Court Law. The draft law includes new rules that govern the regulation of EC electronic litigation, which would allow a court user to register a case and challenge the ruling electronically. The draft EC Law amendment also would create the potential for court users to respond to summons and notifications and submit pleadings, documents and applications electronically through a dedicated website.

Passage of the draft EC Law amendment would enable the economic courts to hear criminal cases arising from the Investment Law, Bankruptcy Law, Regulation of Microfinance Activity Law, Movable Guarantees Law and Instruments Law. One of the most important amendments would double the maximum value of civil cases heard by the ECs to 10 million pounds and make rulings final if the value of the lawsuits does not exceed 500 thousand pounds. The draft law would enable courts to hear civil cases arising from the Investment Law, Consumer Protection Law, Movable Guarantees Law, Economic Zones of Limited Nature Law, Regulation of Microfinance Activity Law, and Instruments Law. It would establish the rules of discipline for experts enrolled in the MOJ rosters and used by economic courts.

The draft law would create an execution board, consisting of a judge and execution assistants, charged with executing judicial decisions. The board alleviates a problem that has plagued some courts. These courts have difficulty executing decisions, lacking the necessary technical support, training and enforcement power. The draft law requires EC first order and appeals judges to issue execution bonds. The execution judge receives the bonds and records and documents the execution requests. He or she monitors execution by the assistants. Affected parties may request action from the execution judge if the execution assistants do not act.

The language of the draft law will change during the review process. The High Judicial Council, the Governor of the Central Bank and the Chairman of the Financial Supervisory Authority, as well as the Legislative Committee of Parliament are all likely to make edits. Already, they have criticized the current language on electronic case filing. The draft law also should give the ECs responsibility for the Anti-Cyber and Information Technology Crimes Law and the draft Personal Data Protection Law.

Parliament should also pass the draft Freedom of Information Law. The Supreme Council for Media Regulation submitted a draft law to Parliament in 2018. It provides that all persons have the right to obtain information and data that are available and held by the public authorities. It requires that the



authorities disclose this information and data upon request within the limits established by law and regulations.

## 4.0 ROLES AND INTERESTS OF THE MAJOR ACTORS AND STAKEHOLDERS

### I. International Corporations

International corporations do not view resolution of commercial disputes by the economic courts as an expeditious or efficient process, given the length of time required to gain and execute decisions and the potential for corruption. They frequently seek alternative dispute resolution through bilateral treaties and international or Egyptian arbitration. They may undertake international arbitration through the International Center for Settlement of Investment Disputes. For domestic arbitration, they use the Cairo Regional Center for International Commercial Arbitration (CRCICA), whose procedures are governed by a first-class arbitration law. Many international corporations engage in foreign direct investment, which could force them to bring or respond to a minimal number of cases at the economic courts. In general, however, international corporations are not strong stakeholders for the economic courts. Instead, they advocate directly or indirectly through business associations for improvements to the investment and regulatory environment.

### 2. Foreign and Domestic Investors and Businesses

Foreign investors seek a stable political environment, an attractive economic and investment climate and the best terms for investment. They take actions to avoid or minimize taxes and fees, minimize regulation and customs fees, expedite resolution of disputes and assure easy and quick repatriation of profits. Domestic investors have similar interests but also seek access to local financing. They recognize the importance of the economic courts to their business operations. They also support the restructuring and bankruptcy processes led by the economic courts.

Corruption impacts both foreign and domestic businesses. They rely upon the justice system, including the economic courts, to address it. The assessment team was unable to conduct any direct interviews with foreign and domestic investors and businesses, but judges and staff reported that the most important issue for these groups was access to information, including case file information and EC operations and procedures.

The AMEX Economic Court Survey provided useful data on the perceptions of 30 business people who use the economic courts in Cairo, Alexandria and Assiut. They rated on a scale from 5 to 1, with 5 being the best and 1 being the worst, their perception of:

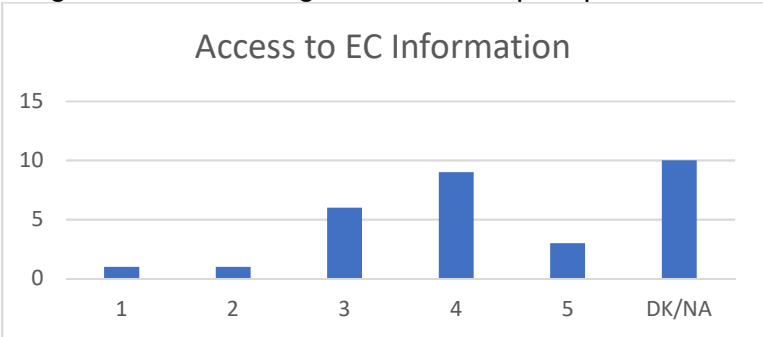


Figure 4. Access to EC Information

While the response was somewhat positive, with 40% saying access to information was better than average, over 28% rated access to information as a 3 or below. This indicates that more than a quarter of the sample believed it was either adequate or inadequate. In addition, the percentage of non-responses was remarkably high, at 33%. This indicates either that the business people were unable to rate access to information or they did not have enough information from their lawyers to answer this question. In any case, it shows that the economic courts must pay attention to increasing access to information.

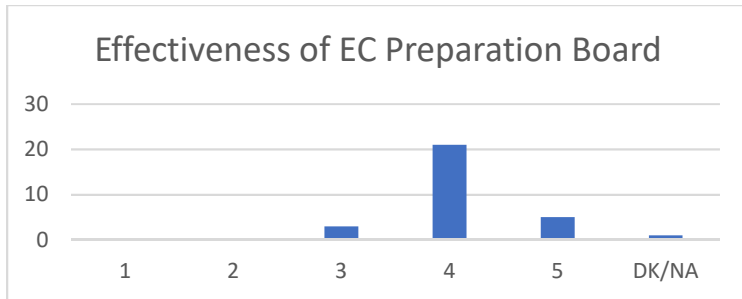


Figure 5. Effectiveness of EC Preparation Board

Business people strongly appreciate the effectiveness of the preparation boards. Those who rated preparation board effectiveness above average or excellent constituted 86%, while those who rated it average were 10%. The question did not divide the role of the preparation board into preparing cases and conciliating cases.

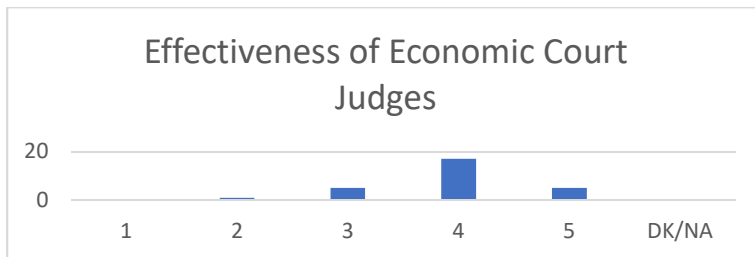


Figure 6. Effectiveness of Economic Court Judges

Almost 78% of respondents rated judge effectiveness at either a 4 or 5, with about 20% rating it 3 or 2 (average or below average). This shows strong satisfaction with the judges, indicating that a large amount of judicial training may not be necessary to improve court user satisfaction.

### 3. Business Associations, Attorneys, and other Legal Service Providers

Business associations in Egypt advocate for a wide range of issues affecting their members. AMCHAM, for example, has standing committees focusing on agriculture, banking, capital markets, customs and taxation, industry and trade, investment, legal affairs, transport and logistics, travel and tourism, and women in business, among others. They are interested in proper implementation of the Investment Law by the government and economic courts, as well as addressing some of its weaknesses. They encourage greater respect for rule of law and increased government accountability.

Some in the legal community benefit from corruption and case backlogs within the legal system. Others see increased opportunities for work through improvements to the justice system. Expediting cases will encourage more businesspeople to bring their cases to the economic courts. Improved procedures for the preparation boards will increase the percentage of cases mediated and reduce the percentage going to trial.

AMEX team met with two lawyers.<sup>23</sup> From these meetings, we concluded tentatively that most high-level lawyers who use the economic courts believe they function well, and that lawyers, judges and staff maintain a good operational relationship. They appreciate the efficiency and speed of case registration. These lawyers also believe the preparation boards work well and add value to the process.

The relatively positive view of high-level lawyers contrasts with the relatively negative view held by international corporations. Most corporations lack experience in using Egypt's economic courts. Those who use these courts recognize that their efficiency is lower than the efficiency of other countries' commercial courts. Egypt's reputation for clogged courts and lengthy delays in resolving cases also might influence the opinions of international corporation representatives.

The lawyers interviewed by the team were leaders in their profession. Their opinions on the economic courts may not represent those of all Egyptian lawyers. There are over 700,000 lawyers in Egypt, and high level lawyers appearing in the ECs generally have more experience than their peers. According to the interviewees, lawyers do not prepare cases adequately and often encounter difficulties in dealing with court experts. Moreover, law schools do not provide any specific training related to the ECs.

We gained a more representative view of the perceptions of economic courts from lawyers and business people in Cairo, Alexandria and Assiut. Through a survey of 60 lawyers and 30 business people, respondents rated on a scale from 5 to 1, with 5 being the best and 1 being the worst, their perception of:

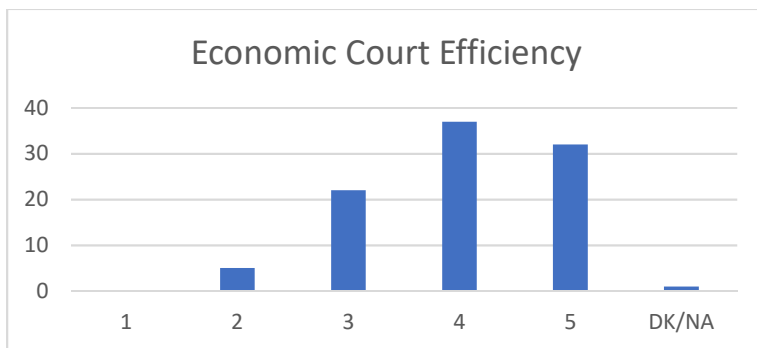


Figure 7. Economic Court Efficiency

<sup>23</sup> Dr. Mohammad Aboushouka, Attorney at Law, Criminal and Dr. Ahmad Al Wishahi, Attorney at Law, Civil, Commercial and Civil Procedure

Over 20% rated efficiency as a 3, while 70% rated it either 4 or 5. This shows that additional improvements in processes, whether automated or non-automated, are not essential for improving satisfaction with court efficiency.

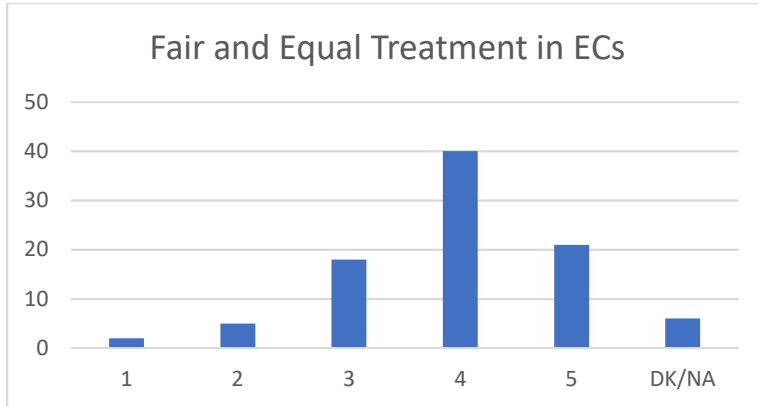


Figure 8. Fair and Equal Treatment in ECs

About 40% rated fair and equal treatment as a 4, while 20% each rated it as a 3 or 5. This result shows that over a majority rated it above average or excellent. EC judges convey a sense that they are neutral and independent.

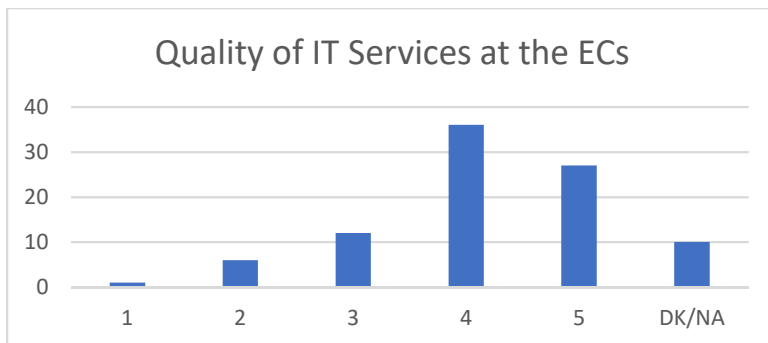


Figure 9. Quality of IT Services at the ECs

Almost 70% of court users are more than satisfied with IT services. Additional IT services must build on this satisfaction by being user-friendly.

The survey showed that court users were very satisfied with economic court efficiency, fair and equal treatment and quality of IT services. However, these results do not lead the assessment team to the conclusion that nothing needs to be done in these areas. Court users often lack experience with court systems outside of Egypt. They therefore compare their EC experience with other Egyptian courts both today and in the past. They may be unable to envision how much better the economic courts could perform with improved systems and automation.

## 5.0 ROLE OF THE ECONOMIC COURTS IN FIGHTING CORRUPTION, PROTECTING ASSETS AND INVESTMENTS AND MAINTAINING THE BUSINESS DEVELOPMENT ENVIRONMENT

### I. Corruption

The GOE is taking steps to address systemic corruption but has not yet shown the political will necessary to impact the problem significantly. Corruption remains a severe problem for businesses and citizens. Between 2012 and 2018, the Transparency International Corruption Perception Index (CPI) score for Egypt increased from 32 to 35, with 0 the worst and 100 the best. In 2018, Egypt ranked 105 out of 180 countries in CPI. According to the Global Corruption Barometer, 40%-50% of those Egyptians who came into contact with any of six public services in the preceding twelve months paid a bribe.<sup>24</sup>

In 2014, Egypt launched a national anti-corruption strategy, which was developed by the National Coordinating Committee for Combating Corruption. A technical committee headed by the Administrative Control Authority (ACA) coordinates its implementation. The national strategy aims to fight corruption through setting specific objectives, policies, programs and control mechanisms and creating a culture opposed to corruption. It adopted the objectives of raising the level of government performance, developing and updating the anti-corruption legislation, strengthening judicial procedures, strengthening civil society participation in combating corruption, raising living standards, achieving social justice and building trust between citizens and state institutions.<sup>25</sup>

The ACA serves as Egypt's primary anticorruption body. In this role, it oversees state administrative bodies, state-owned enterprises, public associations and institutions, private companies undertaking public work, and organizations to which the state contributes in any form. In October 2017, Parliament approved and passed amendments to the ACA Law, which grants the organization full technical, financial, and administrative authority to investigate corruption within the public sector (except for military personnel/entities).<sup>26</sup>

Weak enforcement of relevant law challenges Egypt's ability to fight corruption. The government does not implement consistently the anti-bribery legal framework.<sup>27</sup> While the Anti-Money Laundering Law criminalizes money laundering, the country's capacity to successfully investigate and prosecute money laundering offenses is low. In particular, the judicial system, including the economic courts, lacks the capacity to deal with complex financial crimes.<sup>28</sup> Public officials must comply with financial disclosure laws upon taking and leaving office and every two to five years during their mandate. The public and the media cannot view these declarations. The financial disclosure system lacks mechanisms to ensure that public officials fill out their declarations by the deadlines.

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<sup>24</sup> People and Corruption: Citizens' Voices from Around the World – Global Corruption Barometer, Transparency International, 2017

<sup>25</sup> Egypt continues fighting corruption by adopting ACA law, Egypt Today, October 9, 2017, <https://www.egypttoday.com/Article/2/26807/Egypt-continues-fighting-corruption-by-adopting-ACA-law>

<sup>26</sup> Egypt Investment Climate Statement

<sup>27</sup> Human Rights Report, US Embassy, 2017

<sup>28</sup> Know Your Country: Egypt, <https://www.knowyourcountry.com/egypt1111>

The economic courts hear corruption cases under the Penal Code, including those involving private-private transactions and dealing with money fraud. The ECs have criminal jurisdiction over 17 laws for both misdemeanors and felonies. The Public Prosecutor investigates and takes action on the economic crimes for which the economic courts have jurisdiction.<sup>29</sup> The expanded authorities proposed under the draft EC Law amendment will give the courts more opportunities to address corruption under various laws. Most prosecutions for corruption are heard in the criminal courts, however.

## **2. Protecting Assets and Investments**

The structure of the economic courts allows them to provide greater protection of assets and investments than other types of courts. The preparation boards contribute to providing such protection because they address problems with execution of judgments. Losing parties often lack incentives to cooperate in execution of EC judgments. When EC preparation boards settle cases, litigants cooperate more effectively in executing settlement agreements. As a result, litigants pursue fewer cases in the courts to force execution of judgments, and the courts protect assets and investments more strongly. The establishment of execution boards under the draft EC Law amendment will increase the ECs ability to execute judgments and settlements.

In addition, the economic courts have increased their capacity to protect assets and investments under the new bankruptcy law by creating bankruptcy administration departments and playing their assigned roles in approving and monitoring restructuring and preventive composition agreements.

## **3. Improving the Business Development Environment**

Efficient and effective economic courts will increase confidence in the justice system and reduce the perception of business risk by investors. They will improve Egypt's Doing Business ratings. For example, the World Bank estimates that it requires 1,010 days to enforce a contract of 56,500 Egyptian pounds in a first instance court. Such a case would cost 26.2% of the claim value. Egypt ranks 160 out of 190 countries in this area.<sup>30</sup> Improvement in contract enforcement by the economic courts would improve Egypt's ranking, not only on enforcement of contracts but also on Doing Business overall. More importantly, it would improve the quality of court services, increase the interest of litigants in using the economic courts and alleviate investor concerns about the Egyptian justice system.

In addition, through improved transparency on economic court decisions, the government and Parliament can study judgments to improve laws and regulations affecting investment and business operations.

# **6.0 OVERVIEW OF PLANNED AND ON-GOING DONOR-FUNDED ACTIVITIES**

Donors are supporting the economic courts less than they did in the 2000's. The ABA ROLI program has trained EC judges and prosecutors. The State Department has provided some training and study visits for intellectual property judges. The World Bank, under its "Equal Access and Simplified Environment for Investment (EASE) in Egypt" project, has supported bankruptcy judges and is contemplating strengthening the implementation of the restructuring and bankruptcy processes. It is also

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<sup>29</sup> Circular No. 26 of 2008 on Economic Courts, Public Prosecutor

<sup>30</sup> Doing Business 2019: Training for Reform – Egypt, World Bank, <http://documents.worldbank.org/curated/en/750451541088166099/pdf/131648-WP-DB2019-PUBLIC-Egypt-Arab-Republic.pdf>

considering automating Courts of First Instance, beginning with South Cairo. From 2009-2013, the World Bank's International Finance Corporation trained CRCICA, GAFI and economic court judges on mediation and helped develop a draft mediation law. The European Union funded the "Support to the Modernization of the Administration of Justice Program (SMAJ) from 2014-18, but its impact on the economic courts appears to have been minimal.

The United Nations Office of Drugs and Crime, under its project, "Action against Corruption in the MENA Region," supported workshops on cryptocurrency investigation for the Public Prosecutor and the Ministry of Justice. It offered the Public Prosecutor and judiciary use of its "goCASE" software for criminal case processing. The lawsuit module in goCASE connects the case file with the prosecutorial and judicial process, thus allowing prosecutors to access the investigation report and, where appropriate, the case file. Users can extract documentary evidence, briefs, reports, statements, charts and diagrams from goCASE and load them to any electronic court system. Courts that are not automated can use goCase to produce the prosecution file and supporting documentary evidence in hard copy. The goCASE software may not yet be viable in Egyptian courts (particularly the economic courts, which do not have a full case management system).

The African Development Bank, under its project, "Strengthening the Rule of Law: Enhancing Effective and Transparent Delivery of Justice and Rule-Making," is supporting key reforms, establishing an automated case management system in the Court of Cassation, training judges and staff, and informing court users. It also is creating a database of legislation for the Ministry of Justice.

Overall, despite the importance of the economic courts in Egypt's plans to attract investment and serve the business community, donors are providing minimal assistance.

## **7.0 REVIEW OF THE ECONOMIC COURTS' REQUEST FOR ASSISTANCE WITH AUTOMATION**

### **I. Assistance Request**

Annex 8 lays out the vision of the Ministry of Justice for automation of the economic courts. The first section of the plan would integrate the economic courts with the office of the Assistant to the Minister for Specialized Courts through one electronic network. The network would use the latest legal information technology for integration and intercommunication, enabling the recording and sharing of all transactions within the economic courts. The second section of the plan would address the currently automated departments at the economic courts, i.e. the front desks. It would increase their efficiency and ability to meet the needs of the judiciary, as well as update technology and enhance staff efficiency. This plan also would establish an internal data center for the Assistant to the Minister for Specialized Courts to manage the development of an advanced and comprehensive e-litigation system adapted to the economic courts. A governmental entity that already has appropriate funding, a donor, or the Judicial Information Center is the entity that might build the system.

The AMEX team's review of this request will use the World Bank's Commercial Court Assessment Tool to assess the capacity of the MOJ and economic courts and the legal framework and current status of work processes. The review will assess the quality and effectiveness of the economic courts' request for automation assistance, the appropriateness of the vision for e-litigation, the capacity of the courts to support and maintain such a system, and the capacity of the legal community and litigants to use the system. Based on these analyses, in Section 9.0, the team will make recommendations for USAID's strategy and programs.

## 2. Institutional Information

### A. Organizational Structure and Management Arrangements

The Minister of Justice Assistant for Specialized Courts, one of 17 MOJ Assistants, oversees the economic courts, family courts and labor courts. The General Administration for Economic Courts, within the Office of Specialized Courts, consists of the Tracking Department, the Administrative Inspection Department and the Secretariat. Three judges staff the General Administration. The MOJ Assistant for Specialized Courts and the MOJ Assistant for International and Cultural Cooperation coordinated the AMEX team's visit. The MOJ highlighted the importance of providing strong oversight of the ECs and helping them to become effective institutions. It has a management team in place; a vision for strengthening the courts; an interest in increase funding; and a mandate for change. It is partnering with the MCIT in this process. The Ministry of Justice has invested a significant amount of time and resources in the economic courts over the last ten years, relative to other parts of the court system.

However, the MOJ does not have access to caseload or other management data from the economic courts. Therefore, it lacks the data needed for good decision-making. In addition, while the judges in the General Administration for Economic Courts are well trained and experienced, the staff lack the capacity to oversee court reform. The staff do not have significant experience with IT projects or data-driven aspects of court automation.

In addition, the Minister of Justice Assistant for Technological Development & Judicial Information Center oversees the Central Department for Judicial Information Center Affairs. The Department includes a General Administration for Developing Systems & Programs, a General Administration for Technical Support and a General Administration for Operation. Each of these Administrations is likely to participate in automation planning and operations for the economic courts. The assessment team was unable to meet with anyone associated with the Judicial Information Center, nor did we learn much about its ability to support IT networks at the Cairo and Alexandria ECs.

### B. Courts and Judges

The AMEX team visited economic courts in Alexandria and Cairo. The Cairo EC takes up the entire space of a relatively new building in New Cairo, while the Alexandria EC is co-located with the First Instance Court for West Alexandria. EC first instance and appellate courts share each of these buildings. The Cairo and Alexandria ECs have the following number of judges and panels:

Table 1. Number of Judges and Panels in Alexandria and Cairo ECs

Court	Judges	Civil Panels	Criminal Panels	Preparation Judges	Appeal Panels/Judges
Alexandria	24	5	2	3	4/12
Cairo	60	10	3	7	12/10

The MOJ provided the assessment team with the information in the above table but did not share similar information for the remaining economic courts in Tanta, Mansoura, Ismailia, Beni Suef, Assiut and Qena governorates. These courts are smaller than those in Cairo and Alexandria, with fewer judges. However, they are similar in having civil panels, criminal panels, preparation boards and appeals panels.

### C. Cairo and Alexandria Economic Courts





## Cairo Economic Court

The MOJ has assigned a special status for the Cairo economic court. The Cairo EC has clearly received more attention from the MOJ than the Alexandria court. Everything about the court, from the facilities to the staff and the general surroundings, projects its importance. Its special status is also reflected in its caseload, which includes a larger proportion of complex cases.



## Alexandria Economic Court

The Alexandria EC, on the other hand, is a more typical court. Its offices are more cramped, and the traffic around the registry office is more chaotic. Differences between the Cairo and Alexandria

economic courts suggest that investments in automation and system reform in Cairo may not be easily replicated in other courts. However, the impact of such investments will be greater in Cairo.

In addition, although the team did not visit the Ismailia Court (located in Port Said), the government has declared Port Said a “Smart City.”<sup>31</sup> The MCIT has focused much of its technology and infrastructure investments (including extensive efforts to provide fiber connectivity) on Port Said, although they did not include investments in the economic court. These efforts might make Port Said an interesting choice as a pilot EC.

#### **D. Caseload**

No information was provided to the team about the number and type of cases in the economic courts. The MOJ and judges told the team that Cairo has more complex and high-profile cases, and that most cases in the Alexandria EC involve commercial loans.

#### **E. Staff**

EC staffing levels and responsibilities do not impede efficiency or service, given current work processes. Since apart from case registration, the ECs rely almost entirely on paper documents, registry clerks take care of all tasks related to case processing. These tasks include filing, the calculation and payment of fees, the recording of case information, and the storage and transmission of case files. Staff, most of whom have been in the job since the creation of the economic courts, know the relevant legal requirements and procedures and their role in the organization. Such familiarity creates the potential for corruption, although we saw no evidence of abuse. Court staff have not received mid-career training. A minimal number of IT staff support the ECs (each of the courts we visited had one person). However, such limited support would not be a major impediment to success of an automated case management system, if connectivity and storage were outsourced to a government data center. Nevertheless, a low number of IT staff could be a training and support risk, particularly if the Judicial Information Center does not provide dedicated resources.

#### **F. Judicial Training**

The MOJ has steadily reduced training programs for new public prosecutors and judges from one year to only a few weeks of essentially orientation training, resulting in a generational gap in the quality of professional development between senior and junior judges and public prosecutors. Key leaders have suggested elevating dramatically the judiciary’s level of professional development by means of a two-year Judicial Academy, replacing the far more limited program delivered today by the National Center for Judicial Studies. Lack of funding and political will have prevented establishment of the Academy. In the meantime, the NCJS is designing and developing a robust professional development curriculum that might lead to a Master of Law (LLM) degree program.<sup>32</sup>

The NCJS is responsible for all judicial training and has worked over the years with various donor agencies to provide training on new laws as well as court and case management. Economic court judges in Cairo and Alexandria told the team they were satisfied with the level of training provided by NCJS.

In the late 2000’s, AOJS II provided court management training and six other substantive training programs for economic court judges to assist in the adjudication of commercial cases. These will be addressed in the section analyzing USAID’s previous investments in the justice sector.

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<sup>31</sup> Smart Port Said, <http://mcit.gov.eg/Webcast/2501>

<sup>32</sup> Egypt’s Judiciary: Obstructing or Assisting Reform? Middle East Institute, David Risley, January 2016, [https://www.mei.edu/sites/default/files/publications/Risley\\_Egyptjudiciary.pdf](https://www.mei.edu/sites/default/files/publications/Risley_Egyptjudiciary.pdf)

### **G. Physical Facility and Infrastructure**

As mentioned above, the Cairo EC has better physical facilities and infrastructure than Alexandria, where conditions are more cramped. The team believes that power and network connections are adequate to implement the MOJ's automation plans, although judges in both courts indicated that connectivity was a problem. The courts incorporate IT equipment into their daily business (especially Cairo EC) but they might not receive sufficient support for their aging equipment. The ECs could outsource most of the network and storage services, and the MCIT is overseeing a nationwide effort to lay fiber cable. Any pilot effort would require a significant investment in IT equipment. However, the investment required for a pilot economic court automation project would cost much less than the investment USAID made in the much larger first instance civil courts.

### **H. Automated Systems**

The ECs use an automated case management system that is different from the one developed under AOJS II. The system developer for that effort (LADIS) has gone out of business.<sup>33</sup> The EC Registry Office logs case filing information into the system and calculates and logs payment of fees by hand. Court users pay fees in cash. Staff reported support and maintenance from the Judicial Information Center (a recipient of significant equipment and training from the AOJS projects). We could neither identify the JIC's role in the architecture of network infrastructure and online case processing nor assess the level and quality of its support. While the team did not meet with the JIC, the MOJ scheduled a meeting for the team with the Ministry of Communications and Information Technology (MCIT). Current trends in IT infrastructure favor the cloud-based approach of the MCIT, rather than the data server-based approach of the JIC. We concluded that the MOJ prefers the MCIT approach.

### **I. Access to Information**

Despite the efforts of AOJS II to automate the first instance courts and establish a database on laws, economic court judges do not have ready access to automated information (both laws and case information). Staff must act as liaisons for requests for case information from lawyers and the public. The Cairo Economic Court displays information about hearings on monitors in the front hall and in front of each courtroom. We believe this information is current and accurate. Both judges and lawyers expressed their interest in increased access to information, including information from the case file and new laws and procedures.

### **J. User Feedback**

The MOJ and ECs collect user feedback on an *ad hoc* basis through interaction between staff, judges and lawyers. They employ no formal process to collect this information. To gain an insight into user perceptions, the AMEX Assessment Team commissioned an independent survey of 60 lawyers and 30 business people who used the economic courts in Cairo, Alexandria and Assiut. The results of some of the higher-level questions are below:

Rate on a scale from 5 to 1, with 5 being the best and 1 being the worst, your perception of:

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<sup>33</sup> The courts claim to be running a case management system, and staff claimed that the Judicial Information Center was providing support and maintenance, but the team did not visit the JIC or to talk to JIC staff. The team did not see any automated reports or other case management data. Most of the case processing tasks are done by hand, and it is not out of the question that the limited technology displayed to the team is not fully integrated into the business process. While this does not rule out the development of online services, it would diminish their utility in terms of court efficiency, as well as potentially increasing project development and equipment costs.

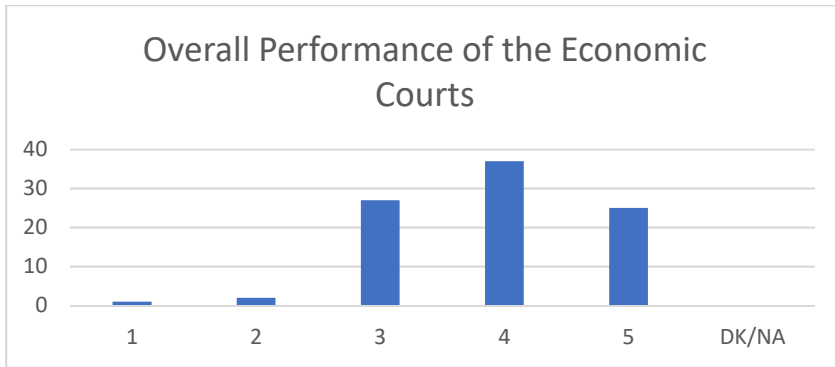


Figure 10. Overall Performance of the Economic Courts

Most court users gave high ratings to economic court performance. More than two-thirds rated performance at a 4 or 5 level. This result shows the economic courts are meeting their needs.

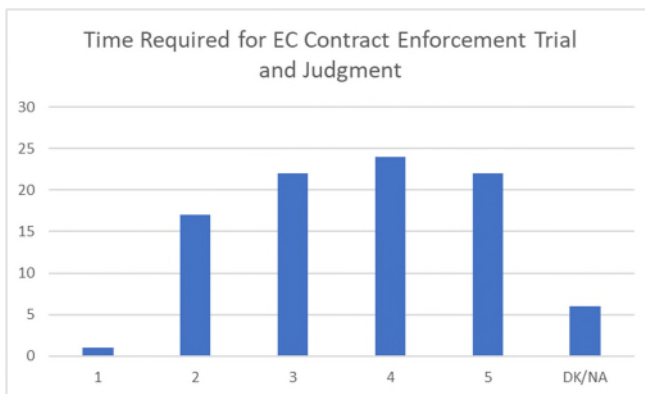


Figure 11. Time Required for EC Contract Enforcement Trial and Judgment

20% of Court users expressed their concern about the time required for a contract enforcement trial, while almost 75% said they were satisfied or happy with court performance in this area. This result highlights an area for improvement.

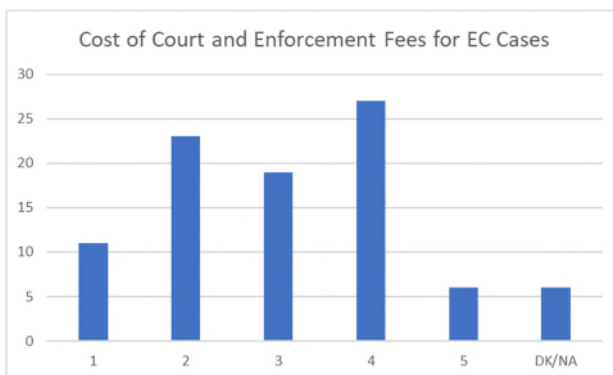


Figure 12. Cost of Court and Enforcement Fees for EC Cases

The biggest area of concern to users is the cost of court and enforcement fees, with almost 30% rating it 1 or 2. About 50% rated it 3 or 4, and practically no one rated it 5. This result provides the MOJ and courts with important feedback for decision-making.

### **3. Work Processes**

#### **A. Legal Framework for Economic Court Work Processes**

Prior to creation of the economic courts, it could take 5-7 years for cases to arrive at final judgment. The Economic Court Law provides the framework for expediting case processing using judges who are specialized and trained in this kind of litigation.

According to the law, EC preparation boards prepare disputes and suits for consideration by the economic courts, except for criminal, urgent and appealed proceedings, temporary orders, performance orders, orders for petitions and grievances. Where possible, they facilitate reconciliation among litigants to arrive at a settlement and avoid trial. They are chaired by an economic court appeal panel judge and include an appropriate number of judges who are either chief justices or court of first instance judges as well as administrative staff and clerks.

MOJ Decision 1929 of 2008 requires notifying litigants by registered mail. However, the draft EC Law amendment allows communication with litigants using any means, including telephone, text and e-mail, rather than only using mail.

The preparation board must ensure that all appropriate documents are in the casefile. They must hold non-public hearings for the litigants, identifying facts to be clarified. The law requires that preparatory procedures be completed within 30 days after case registration. The chair may approve a 30 day extension. The law allows preparation boards to request the participation of experts, increasing the efficiency of court processes.

MOJ Decision 1929 requires the preparation board member to make several attempts in a neutral and fair manner to get the litigants to settle the dispute amicably, while maintaining the confidentiality of information. If the litigants reach a settlement, they record, sign and submit it to the court. If they do not reach a settlement, they may not use the settlement papers as evidence for the trial.

This process speeds up review of cases and reduces the number of them that go to trial. It simplifies procedures and shortens the length of litigation.

#### **B. Status of work processes**

##### **i. Filing/Notice**

The EC filing process is partially automated. Lawyers appear at the Registry Office with a case initiation document. A clerk reviews the document, enters descriptive data into the case management system,<sup>34</sup> and calculates the filing fee. The lawyer then proceeds to a second office to pay the fee, which a clerk records in a paper ledger. Having obtained evidence of fee payment, the lawyer returns to the Registry Office, which opens the case and assigns an initial hearing date.

ECs notify litigants by mail, and many litigants do not receive their notifications in time to attend the first hearing. Judges identified the failure of litigants to appear both at the initial hearing and the preparation board sessions as a major impediment to judicial efficiency. Many countries experience similar problems of non-attendance of litigants at hearings. Of course, ignoring a summons is often a lawyer's first response to legal proceedings.

##### **ii. Preparation Board**

After a case is filed, it is assigned to a preparation board for either case preparation or conciliation. The preparation board judges have some flexibility regarding notice and hearing scheduling, which makes the

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<sup>34</sup> This was the only appearance of the case management system in our review of the business process.

process somewhat dynamic. The boards face challenges in meeting their 30-60 day deadlines, particularly due to delays in appearance of litigants and experts. According to EC trial judges, the boards do a good job of assembling case files, facilitating review of cases that are not settled by the preparation boards. Judges report that the boards have resolved about 40% of cases through compromise or conciliation, reducing the caseload of the ECs.

### **iii. Investigation/Hearings**

The judges interviewed commented that better access to certain registries of information in the government would help expedite case processing. The MOJ reported that plans to automate these exchanges were in the works. Judges and lawyers agree that the hearing process is working fairly well. Cases consist of a series of court hearings, with instructions from the court to the lawyers to provide evidence and witnesses. At the conclusion of each hearing, the judge works with the lawyers to set a date for the next session and the parties reconvene at that time. However, judges use a manual calendaring function that makes scheduling cumbersome.

The economic courts consist of panels of first instance and panels of appeals inside the same building. This co-location saves and shortens many administrative and procedural stages. Appeals for civil cases are restricted to the economic courts, while appeals for criminal cases are brought to the court of cassation.

### **iv. Experts**

Although no one expressed dissatisfaction with the roles of experts in case processing or with the substance of their advice, many judges complained about the delays caused by the referral process. For the specific technical needs of a case, judges, particularly preparatory board judges, select experts from among those who are registered with the MOJ Permanent Committee for Monitoring the Enforcement of the Economic Courts Establishment Law Provisions. A court secretary files a request for expert assistance by mail, and the referral is answered by a return letter documenting the delegation of the matter to an expert. After studying the issue, the expert submits a report via mail, which is received by the secretary, recorded and sent to the judge. Some experts provide oral testimony or comments. In addition to the delays caused by this process, staff in the MOJ identified the referral process as a rent-seeking opportunity for court staff, who can delay or expedite matters with limited oversight.<sup>35</sup>

### **v. Judgments**

Previously in the first instance courts, staff prepared judgments, sent them to judges for signature, and recorded and mailed them. In the ECs, most judges draft their judgments electronically. Court staff process and issue them. They do not index judgments or publish them in any meaningful way. Lack of indexing or publication slows down case processing and reduces the quality of information available to judges, lawyers and the public.

### **vi. Execution**

Courts have difficulty executing decisions, lacking the necessary technical support, training and enforcement power. Execution staff do not receive proper oversight. Many of the cases heard by the courts involve decisions that are not executed. The MOJ is concerned enough about these issues that it has included creation of an execution board for each court in the draft EC Law amendment.

## **4. Review Conclusions**

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<sup>35</sup> This could be evidence of resistance to automation among court staff, but the fact that it was raised by the MOJ as an issue suggests a willingness to admit the presence of corruption in the process and to assume some oversight responsibility.

### **A. Automation Assistance**

The request includes the establishment of an internal data center that will enable the MOJ Assistant for Specialized Courts to manage the development of an e-litigation system adapted to the caseload of the economic courts. It does not recommend which organization should implement the center, such as the MCIT, a donor or the JIC. The system must include a mechanism that allows documents to be transferred among all involved parties, guarantees security and privacy, and scans and uploads all relevant documents. It allows judges to organize their work and dispose of cases that require special procedures. It also allows them to track the cases for which preliminary judgments have been rendered and to organize their case schedules. Deliverables include:

- a main link from the office of the Assistant to the Minister for Specialized Courts to all the panels of the economic courts.
- allowing the upload of judgments rendered by all the first instance and appeal panels in the economic courts to the system, allowing all economic court members to share and review these judgments, and finally uploading them to the office of the Assistant to the Minister for Specialized Courts.
- allowing all economic court members to share public and private correspondence between the Assistant to the Minister for Specialized Courts and the economic courts.
- allowing the preparation of reports for each court, including panels, cases, judgment disposition rates, and nature of judgments.

This portion of the request responds well to the needs of the MOJ for data, documents and communication required for management and oversight. It also provides economic court judges with information they need to manage their courts, track cases, and communicate with each other. It assures security and privacy. It does not include a web-based system for lawyers and/or the public to initiate cases and track their status. Putting in place this relatively simple system is feasible, even with some minor challenges associated with the infrastructure of the courts and web access. Installation by USAID should be in collaboration with MCIT, which has experience in cloud-based systems. The JIC should be involved in the operations and maintenance of the system.

The second part of the request requires linking the EC Front Desk with other relevant economic court offices to facilitate registration of cases. The Front Desk, where lawyers first bring cases, must have the capacity to scan documents, seek feedback from court staff, assure fees are paid, register cases, and transfer them to the preparation board. It must link to the EC automated schedule so cases may be assigned. The automated schedule in turn must link to the preparation board for daily distribution of cases. The preparation board must link to the court for those cases going to trial. At each stage of the process, the system must allow staff to upload the case status to enable the Front Desk to provide information for interested parties.

This part of the request builds on an existing system, improves its efficiency and makes it more usable to litigants. An Egyptian firm would not have difficulty expanding the system in this way, despite minor challenges associated with infrastructure and web access. Operations and maintenance may be a challenge, especially if the JIC takes responsibility. The MCIT should collaborate with a USAID implementer on installing the system.

### **B. Vision for E-Litigation**

The vision of the Ministry of Justice for automation of the economic courts requires litigants to make unnecessary visits to the courts. Modern automation systems facilitate lawyers and litigants in initiating cases and tracking them via the web, rather than visiting the courts. The MOJ plan also does not call for automated links with other government agencies, which would decrease delays in seeking documents.

### **C. Capacity to support and maintain such a system**

While the assessment team was unable to visit the first instance courts to determine the status of AOJS II investments from ten years ago, the MOJ told us that the JIC did not do enough to maintain the extended case management system, eventually replacing it with another system. While the MCIT may be a better choice to install the systems requested by MOJ, the JIC will inevitably be involved in supporting and maintain the systems. Prior to making a decision on funding the new automation systems, USAID must assess the capacity of the JIC.

### **D. Capacity of the legal community and litigants to use the system**

The legal community for business cases and most litigants are computerized, enabling them to file cases and seek information from the courts. However, the vision of the MOJ and the ECs does not encompass linkages with lawyers and litigants. Instead, under the MOJ plan, lawyers and litigants must visit the courts to register cases, track progress and seek information.

## **8.0 REVIEW OF PAST AND CURRENT USAID ASSISTANCE TO THE MOJ**

### **I. Administration of Justice Support Project (AOJS), 1996-2009**

The *Administration of Justice Support Project* was a USAID-funded effort from 1996-2009 to improve court efficiency through a combination of technology, training and process improvements.

From 1996-2004, AOJS I installed in North Cairo and Ismailia First Instance Civil Courts sustainable case management systems, both automated and paper-based; streamlined procedures and trained personnel for the courts to expedite case processing; and enhanced training capability and educational infrastructure at the National Center for Judicial Studies. AOJS I improved parts of the court system through increased efficiency and transparency of court processes. These improvements included better case management practices; enhanced judicial decision-making; and improved human resource development in both the courts and central support of training and automation.

From 2004-2009, AOJS II 1) replicated AOJS I court reforms in more courts; 2) developed a plan for nationwide replication; 3) strengthened the administrative and technical capacity of NCJS; 4) strengthened the capacity of JIC to operate an automated information communications network within each modernized court; 5) strengthened the capacity of MOJ to coordinate the replication of AOJS I reforms throughout Egypt by NCJS, JIC and the courts; 6) conducted participant training.

AOJS II went beyond replication of AOJS I, building a comprehensive case management system whose capability far exceeded its predecessor. The project deployed the expanded system in two of the country's largest courts (Alexandria and Mansoura), as well as two additional first instance courts (Qena and Tanta) and four satellite locations (Luxor, Hurghada, Marsa Matrouh and Mahalla).

In replicating AOJS I court reforms, project results included 1) court reforms implemented in eight courts; 2) business process reengineered; 3) enhanced case management software (ECMA) developed by AOJS II implemented independently by JIC in five courts; 4) 894 court staff trained in basic computer skills and ECMA application; 5) training and judges research rooms set up in five courts; 6) 48 court staff trained to provide IT support; 7) comprehensive assessment of two courts to assist in the development of a nationwide plan for replication.

In developing a plan for nationwide replication, the project developed an implementation methodology that was followed in eight courts by AOJS II and used independently by the JIC in five first instance courts.



In strengthening the administrative and technical capacity of the National Center for Judicial Studies, the project 1) provided five basic training of trainers (TOT) courses for 68 judges, two advanced TOT courses for 24 judges and one Masters TOT course for 14 judges; 2) renovated the NCJS library and automated its catalogue; 3) installed videoconferencing capabilities for NCJS facilities in Cairo and Alexandria; 4) created an NCJS website and an automated training management system.

In strengthening the Judicial Information Center, AOJS II achieved the following results: 1) development and deployment of two versions of a comprehensive case management software package; 2) design and deployment of a state of the art data center with remote administration, backup and support capabilities; 3) design and deployment of a website, as well as the assumption of responsibilities for maintenance of all MOJ sites; 4) 111 training courses for 64 staff on diverse topics ranging from system maintenance to application programming and web development; 5) development of a data warehouse for aggregation of court and case data for decision makers.

In strengthening the capacity of the MOJ, the project achieved the following results: 1) establishment of champions at the MOJ; 2) reassignment of signature cases to partial courts; 3) MOJ creation of the economic courts; 4) appointment of women judges; 5) adoption of performance standards; 6) participation in Library of Congress Global Legal Information Network.

In conducting participant training, AOJS II organized 16 overseas study tours and 379 in-country events. AOJS II provided more than 350 training programs for over 3,000 participants. It organized a study tour in the Czech and Slovak Republics for seven judges to observe commercial courts in developing civil law jurisdictions. The project also helped 12 economic court judges meet with their US counterparts, see state-of-the-art court facilities, and learn about the interaction of the judiciary with various organizations devoted to economic growth and investment. For 120 judges assigned to the economic courts, AOJS II organized a seven-course program (including three overseas study tours). Courses included: 1) bankruptcy and commercial notes; 2) commercial law; 3) court management and administration; 4) mortgage finance and leases; 5) financing, maritime and aviation laws; 6) insurance, consumer protection, competition, taxes, customs and e-signature; 7) intellectual property and banking.

Although the assessment team did not visit any of the AOJS I or II partner courts or the JIC, our interviews, focus groups and visits allow us to make the following conclusions about AOJS project sustainability:

- The developer of the enhanced case management software, (LADIS) no longer exists. The courts are using an automated case management system different from the one developed under AOJS II. Court staff told us that the JIC is providing technical support for the new automated case management system, but we could not verify the nature or quality of support it provides.
- Raya Integration, which developed an electronic judicial/legal information clearinghouse, training resource database with on-line access that included directories of courses, trainees, course materials, publications and distance learning products, remains in business. It has gained experience providing IT solutions to telecommunications, financial services, government, real estate, general business to the oil and gas industry. The assessment team saw no evidence that the database was still used by the NCJS or judges.
- The JIC is no longer the processing hub of a court-wide network. The work it did on the AOJS II-supported judicial network has stalled. The network hub is not as active as it was a decade ago, and there is scant evidence of any central IT support, administration or management. The MOJ never provided the JIC with the resources needed to maintain the capacity created by the project.
- Web services and cloud storage have surpassed the project's hub and spoke model of network connectivity. A modern case management system does not require many data centers. We suspect that, even if JIC had continued to be sustained as a data and management center, many of its technical services would be facing obsolescence at this time. Although technical developments in court automation make the level of support provided to JIC less necessary today, it is essential to

note that USAID's expensive investment was not sustained. Future USAID investments in court automation must take these results into account.

- We heard anecdotes that more advanced forms of automation have been installed in some courts, such as the court of cassation, but not through the system developed by AOJS II. Except for case registration, automated case management has been replaced in economic courts by the inefficient paper-based systems used previously.
- The AOJS "front counter" model, a reform that consolidated many of the previously scattered events related to case filing and the litigation process in seven of eight AOJS II-supported courts, has been adopted in the Cairo Economic Court. This step shows that the model was valued by the MOJ and that it could be adapted to the needs of the economic courts to expedite case filing and limit opportunities for corruption;
- The efforts by AOJS II to modernize the operations of the NCJS (renovating the library, installing videoconferencing capability and creating a website) have not been sustained. The MOJ had plans to establish a judicial academy, but these plans never came to fruition for lack of funding and political will. The Secretary General informed the assessment team that the NCJS has trained economic court judges on e-signature, intellectual property rights and cybercrimes and is developing on-line courses. The Center is receiving support from the Spanish Government to train judges on laws against corruption, money laundering, and cybercrimes.<sup>36</sup>
- The appointment of 42 women judges in 2007, based on advocacy, training and capacity development by AOJS II, was not a one-time action. Women judges have continued to join the judiciary (currently 66 are serving), several have been appointed to the Cairo Economic Court, and a woman judge is now head of the Tanta Economic Court;<sup>37</sup>

Some of these points reflect project successes and failures, as well as the level of commitment by the GOE to sustain project results. Others, such as the changing role of the JIC, reflect the evolution of technology, which has shifted the optimum design for connectivity and interoperability to a cloud-based model. Judges and senior staff view technology much more favorably now than they did a decade earlier during the AOJS project. The judiciary seems much readier now to accept and embrace improvements through automation.

Some of the lessons learned from AOJS are useful for designing support to the economic courts.

- First, it is costly and difficult for the MOJ to automate a court, let alone the entire judiciary, without donor support. Financing of EC court automation must be shared between USAID and the MOJ.
- Second, the Government of Egypt did not sustain the AOJS case management system after USAID assistance terminated. USAID and the MOJ must agree upon measures to guarantee maintenance and support for an EC case management system before the project is initiated.
- Third, the departure of key MOJ partners under AOJS has created a deficit of institutional knowledge and trust. USAID must build such trust before initiating a project supporting the economic courts.
- Fourth, compared to their predecessors under AOJS, the new MOJ leadership and EC judges have shown greater support for making a difference in the judiciary through automation. USAID can proceed more quickly with them in establishing technical specifications for affordable, appropriate and sustainable IT systems.

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<sup>36</sup> Egypt gets EGP 3.2 mn grant from Spain for National Judicial Studies Center, Enterprise, May 24, 2018, <https://enterprise.press/stories/2018/05/24/egypt-gets-egp-3-2-mn-grant-from-spain-for-national-judicial-studies-center/>

<sup>37</sup> 16 Egyptian Female Judges Appointed to Major Judiciary Positions, Cairo Scene, August 8, 2018, <http://cairoscene.com/Buzz/egypt-women-judges-promoted>

- Fifth, USAID should identify an appropriate role for NCJS in providing the training needed by EC judges and staff, not as a training implementer but as a collaborator in guiding the training program.

## **2. Continuing Legal Education for Young Lawyers in Egypt, 2006-2016**

The Cairo Regional Center for International Commercial Arbitration (CRCICA) and the American Bar Association Rule of Law Initiative (ABA/ROLI) built a sustainable continuing legal education program (CLE). The program trained junior lawyers and recent graduates in basic legal skills. The CLE program provided skills to meet their needs as practitioners in areas such as legal analysis, oral advocacy, negotiation, and drafting of contracts and legal memoranda. Advanced courses covered negotiation, lawyering skills and contract drafting on a broader scale than the basic course. After the ABA/ROLI program closed in 2016, CRCICA continued a new phase of the program, with support from senior leaders of the legal community. The program seeks to improve lawyers' legal skills in a range of practice.

## **3. Strengthening the Capacity of the Egyptian Judiciary, 2014-2018**

This activity, implemented by ABA/ROLI, provides training on mediation, international conventions, and intellectual property to judges and MOJ officials. It also provides professional development in leadership, case management, and the use of analytic and problem-solving approaches in applying the law when adjudicating cases. ABA/ROLI is also supporting judicial training in collaboration with the National Center for Judicial Studies. Courses relevant to the economic courts included e-signature and intellectual property rights. ABA/ROLI attempted to develop a comprehensive curriculum, with options for individual judges, but NCJS was more interested in hosting individual courses supported by donors.

# **9.0 STRATEGY AND PROGRAMMATIC OPTIONS**

Support for the economic courts must be consistent with USAID's goal and objectives, as described in the Country Development Cooperation Strategy (CDCS). The team does not have access to this document. However, strengthening the ECs will contribute to achievement of USAID program priorities: 1.1 Business Enabling Environment Enhanced, and 2.1 Good Governance. It also contributes to achieving USG goals of increasing US investment and improving the investment environment.

USAID support for these courts would also help Egypt move closer to the rule of law ideals expressed in the 2014 Constitution: assuring due process; providing speedy judgment in cases; assuring implementation of judicial decisions; and living up to a commitment to fight corruption. In addition, such support contributes to achieving the objectives of the GOE's Sustainable Development Strategy (Vision 2030), which laid out long-term social, economic and environmental objectives, indicators, targets, policies and projects. Vision 2030's objective of increasing FDI to \$30 billion in 2030 requires improvements to the economic courts, as reflected in the World Bank's Ease of Doing Business rankings and scores. USAID support will not overlap with existing or planned assistance from other donors but should be coordinated with the World Bank's efforts to improve bankruptcy proceedings.

## I. Judicial and Staff Training

Economic court judges are better trained than most other judges. AOJS helped train the EC judges from the initiation of the court system in the late 2000's. Other donors and implementers have supported special courses for them since then. The EC judges believe they have been well trained. The AMEX survey showed that lawyers and business people had a very positive view of the performance of these judges.

The jurisdiction of EC judges over new and amended laws is expanding, requiring additional training. For example, judges must be trained thoroughly on the Investment Law and the Bankruptcy Law. In addition, they must be trained on the range of legal issues associated with increasing FDI. One approach is to adapt the modules developed by Thebes Consultancy, an Egyptian consulting firm, as shown in the text box.<sup>38</sup> The MOJ must develop a systematic approach to continued staff training, matched by a system of staff rotation to prevent corruption.

- Thebes Consultancy Training Modules**
- I. The Map of Economic Regulation
- Part 1: The Life Cycle of an Investment Project
- Establishment/incorporation by an individual/company
  - Licensing
  - Growth
  - Exit
- Part 2: Operational Aspects of an Investment Project
- Operational phase
  - Supervision (GAFI, EFSA, tax, competition)
- II. Types of Companies and their Regulatory Frameworks
- Part 1: The Company as a Legal Entity
- What is a company? (the juristic personality)
  - The concept of limitation of liability
  - Types of companies
  - Company law
  - Governance of companies
- Part 2: Special company regimes
- Public sector companies
  - Public sector business companies
  - Investment companies
  - Companies operating in the Free Zones
  - Special Economic Zone companies
- III. Financial Law
- Part 1: The Financial Framework
- Why companies need funding
  - The deficit and surplus in the economy
  - Financial intermediation
  - Direct and indirect funding
- Part 2: Types of Funding
- Banking sector
  - Capital markets (stocks)
  - Capital market (bonds)
  - Insurance
  - Mortgage finance
  - Financial leasing
  - Microfinance
  - Private-public partnerships
- IV. New Directions in Egyptian Economic Law
- Investment law
  - Mining
  - Renewable energy
  - Microfinance
  - Tax legislation

<sup>38</sup> Training Modules, Thebes Consultancy, <https://thebesconsult.com/training-modules/>

## 2. Court Automation and Process Improvements

USAID could more successfully support implementation of the MOJ’s vision and plan for automation of the economic courts if it broke them up into a series of mini-projects. With the success of each mini-project, the judiciary could determine the feasibility and necessity of implementing subsequent EC automation mini-projects in partnership with the MOJ, the MCIT and USAID.

The mini-projects described in *Section 9.0 2. C I. through C VIII.* below would increase EC efficiency through technology and automation. The judiciary could consider each of them independently and implement them as modules. If each mini-project maximized use of mature technology (e.g. web services, XML, e-signatures) and standards and processes developed or adopted by MCIT, multiple mini-projects would constitute an interconnected e-litigation system.

Courts would require modest equipment upgrades. However, the judiciary could dramatically improve services without a significant investment in internal equipment or human resources if it followed the Egyptian Government (EG) Cloud Strategy.<sup>39</sup> Although the services would require some initial investment, their total cost would reduce expenditures significantly. Moreover, since the draft EC law amendment allows the courts to impose fees, funds from these fees could help defray implementation and maintenance costs. Experience from other countries shows that lawyers are not dissuaded by fees and that they would prefer to pay fees online than to visit courthouses.

### A. Agile Project Management Approach

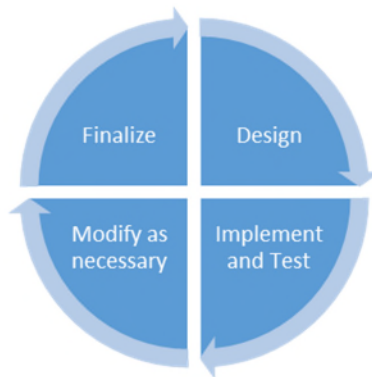


Figure 13. Agile Project Management Approach

Investment in mini-projects requires what we call an “Agile Management Approach,” shown in Figure 13. The agile approach to development creates the conditions for early wins. It minimizes risk by not requiring major work on planning documents such as needs assessments and strategic plans. The preferred approach tackles known problems with a method that has proven successful in other judicial environments: begin by limiting implementation to a pilot and scale up as appropriate. Once the judiciary gains evidence an approach works in a pilot, it can expand the approach. If it needs to modify the approach, it can implement these changes and initiate another limited implementation experiment (mini-project).

<sup>39</sup> [http://mcit.gov.eg/Publication/Publication\\_Summary/856](http://mcit.gov.eg/Publication/Publication_Summary/856) Egypt’s vision is for “service provision through more than one cloud and company (multi-vendor) integrated under one management. This includes a “Government Cloud Computing center (hardware, software, applications and services) operating in coordination with several governmental entities

By hosting an application through government data centers or authorized private providers consistent with the EG Cloud Strategy, the judiciary could move forward with automation and technology for specific services. If appropriate, it could move the application later to new or consolidated hosting services, such as the planned data center in the new administrative capital, which is still in the early phases of development. This approach minimizes capital investment in infrastructure without requiring the judiciary to wait for ambitious plans to be implemented by the government.

Figure 14 shows the architecture for e-filing and interoperability.

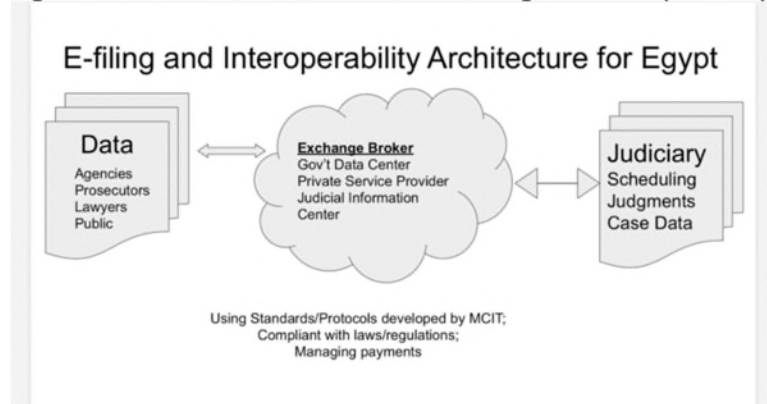


Figure 14. E-Filing and Interoperability Architecture

### B. Project Design

Each project should be presented as a business problem, according to the same formula. For example, an electronic filing problem could be:

“The Egyptian judiciary wants to implement an automated exchange in which lawyers securely submit electronic documents for entry into the case management system of the Cairo Economic Court. This exchange should be designed and implemented in a manner consistent with the Government of Egypt’s IT strategy, proven industry standards and applicable laws and regulations.”

The judiciary would implement this and similar projects or data exchanges using a standard approach:

Table 2. Standard Approach to Project Design and Implementation

Project Step	Time frame
Gather requirements	2 weeks
Draft design document	2 weeks
Develop prototype system	4-6 weeks
Limit implementation to a pilot	6-8 weeks
Project review	
Expand implementation or modify design	6-8 weeks
Repeat Cycle	

Using this approach, assuming close collaboration with MCIT and MOJ, a team of three people (project manager and two technical staff) could implement each of the mini-projects recommended in this report. The timing of this approach may vary, due to unforeseen circumstances or obstacles. Consistent with the wishes of many of the judges and staff, the results and impact of each mini-project become evident relatively quickly. This agile approach can foster rapid changes and create momentum and consensus for additional mini-projects.



In the standard project design and implementation approach, creating automated exchanges must be preceded by developing a national data dictionary. The agile approach, on the other hand, would require creating data standards only for a specific service (such as e-filing). Future services would follow those standards and add whatever standards are necessary for each of the new services.<sup>40</sup> In this way, the data dictionary becomes an organic document that expands as the level of service grows but does not impede the achievement of more rapid results.

### **C. Recommended Mini-Projects**

Each of the following mini-projects could be implemented independently, and all have the potential to provide valuable services to judges, lawyers and citizens. Each offers the opportunity to secure a quick win and build momentum and confidence, increasing the possibility for subsequent successes.

#### **i. Electronic Filing/Process Consolidation (2 Years, \$2 Million)**

The electronic submission of the initial filing document offers the greatest potential for improving court services and efficiency. It would allow lawyers to submit documents remotely and potentially allow automatically uploading of data into the court's case management system. It would facilitate rapid transmission of the case file to judges and provide an important first step to a paperless process.

The judiciary could implement the process of electronic filing using one of several approaches. First, it could allow registered users to submit files securely via e-mail (as is currently done in the US federal courts). Second, it could use XML-enabled templates to automatically upload data from the filing into the court system. Third, it could allow users to file their documents using a methodology that provides the judiciary with more control over case filing than XML templates but less control than e-mail. The draft EC Law amendment calls for creation of a website to facilitate electronic filing. However, the language is flexible enough to permit multiple approaches. The MCIT reported progress with the development of "smart forms." This technology may provide the judiciary with a promising approach.

The economic courts could pilot an initial electronic filing experiment that targets types of cases or groups of lawyers. After a period of two to three months, they could then expand or modify the program as appropriate. They could track the success of the pilot easily by monitoring the number of filings submitted electronically or the number of lawyers participating in the program.

Based on our conversations with judges, lawyers and academics, we believe the following types of cases are good candidates for an electronic filing pilot in Cairo: a) bankruptcy; b) intellectual property; c) corporate cases; d) initial charging documents from prosecutors. The US federal courts started their electronic filing experiments by focusing on bankruptcy cases. These cases contain more data than other cases, and bankruptcy lawyers have greater experience than other lawyers with technology. Intellectual property and corporate cases also contain high levels of data, and more sophisticated lawyers work on them. Working with prosecutors offers the advantage of collaborating with a government partner under the supervision of the MOJ.

In addition, if the judiciary pursued a second pilot in a different economic court, the results would determine whether the e-filing system must be adapted to the needs and environment of specific courts. As noted, the Cairo EC has more complex and high-profile cases than other courts. Commercial loans make up a significant portion of the caseload in Alexandria. While our team did not visit other economic

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<sup>40</sup>MCIT reports already having done significant work in this space related to the development of various online government services.

courts, we believe each of them has many cases focusing on commercial loans. Most of these cases involve banks, which are sophisticated users of technology. Alternatively, the Government has designated Port Said as a “smart city,” and the MCIT reported to the team on its efforts to provide comprehensive fiber connectivity in the region. The Ismailia EC in Port Said might offer the best alternative for a second pilot EC, after appropriate analysis. The team did not visit the court, but the MCIT suggested it as a potential pilot and the MOJ responded favorably to the suggestion.

### **ii. Fees (12-18 Months, \$1-2 Million)**

Registry clerks calculate filing fees manually. After receiving their fee calculation, filers must make a trip to a separate office to pay the fee, which another clerk records by hand in a ledger book. A fully or partially automated calculation, followed by an electronic payment and a computer-generated receipt, could replace this process. The draft EC Law amendment also call for an electronic filing fee of between 100 and 1,000 pounds, which the court would deposit into its general revenue fund.<sup>41</sup>

The judiciary might use existing online payment services in Egypt, such as Visa or Fawry,<sup>42</sup> for fee payment. It also could use blockchain technology to provide secure logging of all transactions. These types of transactions are increasingly common in Egypt, and no one will be surprised if the economic courts use them. They can reduce the time required to file a case and the number of steps in the case initiation process. They also can reduce the potential for corruption by improving the processing and logging of each transaction. A special filing fee for documents submitted electronically also can raise money to support court development efforts.

### **iii. Access to Case Management System and Other Data (1-3 Years, \$1-5 Million)**

Much of the traffic at ECs involves parties seeking information about specific cases. A clerk may be able to find this information by searching the case management system or by physically retrieving the file. Groups seeking information include judges, management, staff, attorneys, litigants and the public.

Each group has a different right of access, depending on its status. The judiciary could create a separate information site for each group. Alternatively, it could create one information site with role-based access, which would provide each group a unique level of access. Similarly, each court’s website could provide information about hearings. The Cairo EC now makes this information available on public terminals.

Several lawyers and a few judges asked the MOJ to create a legislative database, which would provide access to all laws, regulatory codes and amendments. Lawyers and judges currently find these documents through a variety of online sources, texts and periodicals. While the judiciary could create such a site easily, it would need to provide dedicated staff and continuous monitoring to ensure that the site remains current. If establishing and maintaining such a site is not feasible, the economic courts might consider creating a limited site, providing access only to the set of laws within their jurisdiction. This site, once established, would be the basis for establishing a more comprehensive legislative database.

Finally, although MOJ oversees the economic courts, its staff lack access to caseload and other management information. The MOJ’s vision for automation (Annex 8) calls for improved communication and information sharing within all levels of the judiciary. A role-based management application could serve MOJ and EC entities by providing each entity with access to the type of information assigned to it

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<sup>41</sup>It is recommended that this fee be set as low as possible, in order to encourage adoption of the service.

<sup>42</sup><https://fawry.com/>

by laws and internal rules. Such an approach would reduce development time and cost and allow for the creation of a useful service with a broad constituency.

The judiciary could implement a portal for each of these services in a modular fashion. With cooperation from the MCIT, the judiciary could implement a working prototype in less than a year and for less than \$1 million. It could integrate some of these services into the e-government portal (<https://www.egypt.gov.eg/English/Home.aspx>), which is already providing online services and access to legal documents. Our estimations of the time and cost to complete this mini-project assume that caseload information in the court case management system is complete and available. If this assumption is incorrect, the mini-project would become significantly more complex and costlier.

#### **iv. Automated Data Exchanges (12-18 Months, \$1 Million)**

Government agencies maintain many electronic registries of information, including databases focusing on property, tax, business registrations, and driver's licenses. ECs often require information from these agencies. To retrieve this information, they must send a letter request and wait for a letter response. The judiciary could create a separate electronic data exchange with each agency. Creating XML-enabled web services for each exchange would significantly expedite the EC's information collection process. Individual exchanges could be implemented in four to six months. The public would not see these largely "back-end" processes. However, establishment of the exchanges could dramatically reduce case processing times. Moreover, the judiciary could implement each exchange independently, at a low development cost (<\$50,000), allowing the MOJ to capitalize on the goodwill of agencies ready to cooperate and to build momentum for other exchanges as the sharing environment improves. MOJ claims that the government is planning to implement these exchanges, but we were not able to verify these plans.

#### **v. Solvency Certificates (6 Months, \$500,000)**

Users frequently request the economic courts for solvency certificates, affidavits that a party is not part of a pending bankruptcy proceeding. These certificates require a visit to the court, a search of the records by staff and the issuance of a certificate. Court staff reported processing between 40-100 requests for such certificates per day. The judiciary could make this process available online. A small fee would offset the development costs. Regardless of its size, it would be far lower than the costs a user would incur in traveling to a court during the workday.<sup>43</sup> This project would have a very high benefit-cost ratio. It is the kind of mini-project that the judiciary might wish to undertake first in order to build support for other, more complex automation efforts.

#### **vi. Experts (2 Years, \$2-3 Million)**

The economic courts, particularly the preparation boards, depend on experts for counsel on various issues. The process is slowed down by use of the mail, rather than telephone, text or e-mail. When a judge orders an expert's report, he or she sends the case file to the Secretary, who sends a letter to the MOJ. The MOJ notifies the court of the expert's assignment via mail, and the expert submits his or her report to the court by mail.

The judiciary could create a database of MOJ experts and link it to the case management system. In collaboration with the MOJ, it could automate the assignment of experts and the submission of expert reports. This mini-project is an exchange like those described above in *IV. Automated Data Exchanges*. It

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<sup>43</sup> There are already working models of these types of online services in Egypt. Birth certificates, for example, were identified by many people as a functioning online service. These models can serve as guidance and increase the levels of comfort with online services and electronic information.

could dramatically improve case processing times and reduce the discretion that leads to corruption. The system also could manage payments to experts.

**vii. Hearings (1 Year, \$1 Million)**

The judiciary could create an interface between judges' and court calendars to improve scheduling and the entry of hearing dates into the case management system. Further analysis is required, but a few judges expressed their need for this service.

**viii. Execution of Judgments (3 Years, \$5 Million)**

Economic court trial judges and execution judges face systemic obstacles to coordinating their work. Automation may improve their interoperability. A preliminary analysis of problems with execution of EC judgments is attached as Annex 6 to this report. The entire process needs more study. The EC's might require significant legal and procedural reforms to address this issue. For these reasons, the judiciary should treat improvements to execution as an independent project, rather than implement them using an "agile management approach." The scope of the execution project is much larger than that for the other recommended modules. The judiciary would find implementation of this project considerably more challenging.

## **10. CONCLUSION**

The Egyptian Government has invested significant time and resources in the economic courts since their creation in 2008. It has trained judges and automated portions of the court systems. However, it has not made either of these initiatives its top priorities so far.

The needs of EC judges for training continue to grow, in line with the growing jurisdiction of the courts. In addition, EC staff need continued training. Both judges and staff require training support from USAID.

Through the Investment Law, the government is embracing automation and technology as a key component in improving those services targeted at increasing foreign investment. The Ministry of Justice is taking an active interest in using automation to increase court efficiency. The draft Economic Court Law Amendment, once passed, will require electronic filing in the ECs. EC judges and lawyers who use the economic courts are increasingly familiar with online services. Using advanced technology would facilitate creation and implementation of essential economic court services, dramatically reducing implementation costs and expediting development times.

The judiciary wishes to achieve results that contribute to government objectives in increasing FDI and improving the investment and business development environment. To do so, it requires an environment that uses automation effectively as well as targeted training on advanced economic issues. USAID should strongly consider investing appropriately in these areas, based on lessons learned from AOJS and best practices around the world. While the demand for such support is there, sustaining results remains a challenge. USAID should tailor its approach to the Egyptian political environment. To do so, it must use a measured, interactive approach to automation of the economic courts.

# ANNEXES

**ANNEX I: ASSESSMENT METHODOLOGY DESIGN AND WORK PLAN**

## **Assessment Plan and Methodology**

### **1. Overview**

The purpose of this assessment is to provide USAID and its partners in the Ministry of Investment and International Cooperation (MIIC) and the Ministry of Justice (MOJ) with a strategic plan for joint cooperation in the development of the Economic Court system. This assessment will provide an analysis and recommendations for USAID to engage with the Economic Courts on activities such as automation of court filing, e-litigation procedures and advanced training for judges and lawyers in specialized commercial fields of study.

The Assessment design is framed to help USAID answer the following questions:

1. What is the scope of the Economic Courts' proposed or envisioned e-litigation system, how will it contribute to an enhanced investment and business enabling environment, and how can USAID contribute to its development most strategically?
2. Will implementation of such a system require further legislative reform, and if so, what is the expected timeline for passage of key legislation?
3. Which specialized technical areas are the greatest priority for training of legal and judicial personnel?
4. What are the key considerations that need to be addressed in deciding how best to allocate program resources, including provisions in the new Investment Law, and other government directives?

AMEX will conduct this assessment, which will inform the development of a strategy and programmatic options for interventions.

The Rule of Law Sector Assessment of Egypt's Economic Courts will be conducted by a team of four key personnel (The Assessment Team), including a Team Leader, Team Member Expert in US Court Administration, Team Member Local Egyptian Lawyer; and Team Member Local Administration/Logistical Coordinator.

AMEX will pursue a comprehensive assessment methodology that draws on qualitative and quantitative research techniques and data sources. The AMEX Team will use the World Bank's Commercial Court and Enforcement Assessment Tool as a guide for undertaking data collection and analysis. The Assessment Team will examine how the Economic Courts are helping the GOE to attract investment and how well the needs of the business community are being met by the courts.

The Team will use multiple methods of garnering qualitative and quantitative data. It will obtain data from primary and secondary sources through: 1) meetings with Egyptian government and judicial officials; 2) roundtable discussions and focus groups; 3) structured interviews; 4) surveys of court users, comprising lawyers and businesspeople; 5) examination of existing data from the MOJ and secondary sources; 6) a comprehensive desk review of reports and documents. AMEX will also interview USG officials and USAID implementing partners. It will identify four different stakeholder perspectives: Economic Courts; justice system; court users; and the private sector. Within the private sector, it will focus on users of the Economic Courts and international and

Egyptian commercial arbitration. Most users of the Economic Courts are Egyptian firms, while most users of arbitration are international businesses. This information will allow the Team to incorporate the perspective of rule of law and business environment specialists and the private sector into its findings. Team members will conduct research primarily in Cairo and secondarily in Alexandria.

The Team will combine the data with best practices and lessons learned to analyze both the legal framework and the institutional environment for commercial law. Based on this analysis, the Team will outline specific policy tools, technical assistance, and necessary resources to overcome these constraints; and specify what benchmarks would be necessary to introduce in future program assistance.

This Assessment Plan provides interview protocols for individual in-depth interviews and focus group discussions, ensuring that the Team addresses Egypt's justice system and business context, examines outcomes of relevant ROL and business development programs, identifies lessons learned and best practices, outlines the major challenges that the Economic Courts face, and makes recommendations for sustainable project activities. The Team will implement assessment protocols designed to ensure effective data management and quality control, as well as to minimize potential bias.

Throughout the assessment, AMEX's home-office managers and support personnel will coordinate with the Assessment Team to guarantee the high standards to which AMEX holds all its USAID-funded work products and ensure that findings, conclusions, and recommendations are consistent with the SOW.

## **2. Assessment Phases**

After start-up, AMEX will undertake the assessment through three phases:

Start-Up (Week A): The contract was signed on March 22, 2018. The AMEX Project Manager (PM) mobilized the Home Office (HO) Support Team, including Finance and Contracting Officers, for a kick-off conference call with USAID's COR, CO and other relevant Team members. AMEX and USAID representatives agreed on the contractual requirements, roles and responsibilities, and deliverables. The PM coordinated another conference call with the COR and other relevant Program Team members to introduce the Team leader and discuss the work plan, timeline, and preparation and field work phases. The PM initiated travel arrangements for the Team. She submitted visa requests for expatriates to the Egyptian Embassy and travel itineraries to USAID for clearance. Once the MOJ approves the field work and travel, the Team members will begin fieldwork.

Phase 1-Desk Review and Preparation Work (Weeks 1 and 2): Recognizing the importance of establishing trust with the Government of Egypt and the judiciary, in preparing this Assessment Plan, the Assessment Team has engaged with the MOJ and USAID in participatory processes to develop an interview schedule and vet research questions. For this Assessment Plan, the Team has developed interview protocols including, among other things, points of contact, channels of communication, checklists and questions. It has prepared an assessment methodology for



examining the four primary assessment questions, including the proper mix of interviews, meetings, focus groups and data research. For interviews, meetings and focus groups, the Team has identified types and levels of people who can provide required information and data. It has shared this information with USAID for dialogue with the MOJ and selection by the MOJ of specific interviewees.

The Assessment Team will ensure that it has English translations of relevant laws and regulations. Most of them are available for a fee from the Middle East Library for Economic Services. The Local Administration/Logistical Coordinator is also an experienced translator and can be available to do some translations of documents. The Team will review materials provided by USAID and the Middle East Library. In addition, it will review documents available through the Internet, contacts and USAID Washington staff. They may include background readings on Egyptian governance and rule of law; project reports, evaluations and assessments from USAID and other donors; company reports; and analytical reports on the business environment.

Coordinated by the Team Leader, the Desk Review will be divided among the Team Members in a manner that leverages each person's specific areas of expertise. For example, to situate the rule of law in the broader economic goals of Egypt, the Legal Expert will review all laws relevant to the Economic Courts, commercial law and ADR. The Court Administration Expert will use his deep knowledge of automating Egyptian courts to review the Economic Courts' request for assistance with automation. The Team Leader will review the quality of legal and judicial training for the Economic courts and identify needs for specialized technical training. He will lead the Team members' efforts to review past and current USAID assistance to the MOJ using their intimate understanding of USAID's work in administration of justice and the evolution of Egypt's justice sector.

AMEX has partnered with Edison Research and local Egyptian data collection company Market Opportunities and Innovations (MOI) to undertake the survey research component of the assessment activities. The surveys will be conducted among Economic Court users in the legal and business community. During the Desk Review, the Assessment Team will design the surveys and assure approval by the Egyptian Government and pre-testing.

The Team will hold one or more conference calls with USAID staff to seek approval for the interviewees and to gain consensus on review documents, the primary research questions and interview protocols.

Phase 2-Field Work (Weeks 3-5): Once MOJ approvals have been provided, the Assessment Team will undertake field work for 18 business days to review the legal framework; collect foundational information; assess case workflow; interview key informants, including members of the judiciary, government personnel, international and donor personnel, USAID partners, members of Parliament, lawyers, judges, court administrators, mediators, civil society organizations, business/economic media, and economic and business sector actors; conduct focus groups; and collect case data. The Team Leader and members of the Assessment Team will meet with USAID to finalize the Assessment Plan; facilitate participation of USAID staff in the field work; and lay out plans for transportation, communication and Team security. The Team will subsequently meet

jointly with USAID and the Ministry of Justice to discuss the assessment methodology and obtain a letter authorizing the assessment.

The AMEX Team will use the World Bank's Commercial Court and Enforcement Assessment Tool as a guide for undertaking data collection and analysis. The Tool focuses on the main elements that influence effective operations, user access, and service delivery in commercial courts or specialized commercial divisions or benches. To obtain an understanding of these areas, the Tool focuses on concurrent assessments of: the legal framework as it relates to commercial case processing; the work environments and workflow of current judicial procedures, from the initial filing of a case through the final enforcement of judgments as applied at the courts, with a focus on internal efficiencies and services; user experiences and perceptions, including those of judges, courts, and enforcement staff and users; and court and enforcement data. The Team will collect both qualitative and quantitative data to respond to the four primary SOW assessment questions.

*Qualitative Data:* The Team will collect qualitative data through structured interviews, stakeholder roundtables and focus groups. It will collect this data from up to 100 persons. One of the primary methods of data collection will be structured interviews with key informants, stakeholders and the beneficiaries approved by USAID and the MOJ. The Team Leader will guide these interviews, with participation from the Court Administration and Egyptian Legal Experts. Some of these interviews will take place simultaneously. Interviewees will include individuals and key personnel of both judicial and private sector institutions involved in the resolution of commercial disputes. The interviewers will use forms that allow them to manually record responses to a set of pre-approved questions and topics specific to the role and experience of each interviewee. They also will pose additional questions, based on the direction of the conversation. To put the interviewees at ease, the interviewers will present an MOJ letter authorizing the assessment.

The Team will interview the following groups, in addition to civil society and business/economic media:

*Judges and Clerks:* The Team will prioritize such interviews and identify options for getting such information and data from other sources. For example, the Team will attempt to conduct interviews with Egyptian judges working in the Gulf.

*Lawyers:* AMEX will leverage the good relationship between our Local Egyptian Legal Expert Team Member and Sameh Hashur, the President of the Cairo Bar Association (since 2006); as well as, subsidiary Bar Associations located in Alexandria and Cairo (including Giza). The Assessment Team will interview and hold focus groups with multiple commercial lawyers in Cairo and Alexandria.

*Members of the business community:* The Team will interview and hold focus groups with higher and lower profile members of the business community, such as Naguib Sawiris and Ahmed About Hashima, as well as the Cairo Regional Centre for International Commercial Arbitration (CRCICA).

*Parliamentarians:* With guidance from the US Embassy, the Team will interview parliamentarians, particularly on the Economic Affairs Committee, to gain a comprehensive understanding of the legal environment for Commercial Courts and plans for reform.

*Ministry of Justice:* The Team will interview staff of the National Center for Judicial Studies (NCJS) and Judicial Information Center (JIC).

The Assessment Team will conduct at least one stakeholder roundtable, which will include individuals and representatives of institutions involved in commercial dispute resolution. The Team Leader will moderate the discussion, and all three Team experts will make presentations. The roundtable will support open-ended discussion. Participants will offer their input on the state of the Economic Courts, the legal framework for commercial dispute resolution and the justice system, as well as provide recommendations on improving the delivery of commercial justice. The Team will share these questions with USAID and the MOJ for pre-approval. The Team Local Administration/Logistical Coordinator can provide simultaneous interpretation if necessary. The Team will collect qualitative data from roundtable discussions and organize it in reports, broken down by question and topic.

The Assessment Team will invite key institutional stakeholders and participants to participate in small focus-groups to address specific issues relevant to each institution. It might also set up focus groups during institutional visits. The Team Leader will moderate these groups, supported by other Team members. For example, a visit to court clerks of the Economic Courts of Cairo might include a meeting with several of their personnel to focus on the current state of e-litigation. Likewise, the Team might organize focus groups to collect qualitative data from key institutions such as the NCJS, CRCICA and members of the local bar. The Team will seek USAID and MOJ approval for all focus group participants, to the extent possible.

*Quantitative data:* The Team will collect quantitative data through requests for primary and secondary data to the NCJS, JIC, courts, bar associations, business associations, donors, and academic institutions. Through our partners Edison/MOI, the Team Leader will oversee surveys in Cairo and Alexandria of Economic Court stakeholders in the legal and business community with a sample size of 60 lawyers and 30 businesspersons. Questions will focus on the perception of the end-users on the efficiency of the courts, case disposition time, and a profile of strengths and weaknesses in current Economic Court proceedings. The surveys will build on the World Bank Doing Business 2018 Report addressing the time and cost to enforce a contract and the quality of Economic Court proceedings. Team Members will work with the Team Leader to design questions. The Team Leader will ensure the subcontractor gains GOE approvals, pre-tests surveys and completes work by the end of the field work phase. If the GOE does not approve the survey, the Team will increase the number and size of court user focus groups in Cairo and Alexandria.

The survey will be delivered by interviewers to lawyers and business people (defined as users of the system) who use or could use the Economic Courts. The survey size of 90 allows the assessment to expand its scope to multiple users using a standard instrument. It provides quantitative, but not statistically significant data, given its limited survey size. The survey will also provide qualitative data to complement the data collected from Team member interviews and meetings, focus groups and the desk review.

The Team will collect primary and secondary data that includes: 1) caseload information (filings, disposition rate, case types); 2) number of Economic Court judges; 3) number of and availability of attorneys; 4) number of specific types of commercial cases; 5) Comparative global data on commercial law indices (e.g., World Bank Doing Business 2018 Report, particularly enforcing contracts and resolving insolvency); 6) measures of accessibility and availability of public information (court schedules, decisions, ADR); 7) measures of accessibility, availability and

popularity of ADR; 8) measures of efficiency of enforcement of judgments and arbitration awards; measures of judicial training effectiveness. During interviews, roundtable discussions and focus groups, the Team will seek available documentation and reports relevant to the assessment which can be utilized for secondary quantitative analysis. These may include statistical reports available with, or that can be easily generated by stakeholder institutions.

*Training Review:* The Team Leader will collect data that will enable assessment of the need for training in specialized technical areas by legal and judicial personnel. He will collect information on the quality of existing training, the classes of cases in Economic Courts, specialty areas in highest demand and weaknesses in judicial capacity in specialized areas. He will collect this data through interviews, meetings, roundtables, focus groups, and Economic Court case reports.

*On-site review:* In each location, the Team will undertake an on-site review of how a case is actually processed (rather than how it is legally required to be processed) to capture what court users experience and map the processes used by the Courts. This activity will provide the data needed to develop process maps as well as information on supporting systems, staffing capacity, infrastructure, and actual user experience. It will enable the Legal Expert to identify appropriate legal reforms and help the Court Administration Expert to review the Economic Courts' e-litigation system plans and identify system needs for automation.

*Information-sharing review:* The Economic Courts offer a potentially ideal starting point for improved information sharing in the Egyptian courts. Such an effort would require a thorough review of the regulatory and technical environments, as well as efforts to identify potentially willing participants in possible pilot locations. Assuming that a scenario in which a limited implementation of electronic exchanges can be identified, this would be followed by: a) an outreach and training effort, b) a pilot implementation, and c) the identification of recommended next steps. By following a proven successful model that starts small and expands in an incremental and agile fashion, the Economic Courts may be able to point the way forward for Egypt's courts.

The assessment will explore the possibility of implementing this model in Egypt's Economic Courts by examining the regulatory and technical infrastructure for electronic data exchange, including existing and recommended rules and safeguards for data protection and security, as well as the level of support among judges and lawyers for a subsequent limited trial of automated exchanges in the Economic Courts, perhaps involving specific case types, filing or data exchanges.

*Management and Quality Assurance of Data Collection Activities:* The Team Leader will manage and monitor data collection, with oversight from the AMEX Home Office (HO). He will delegate specific responsibilities to assessment Team members based on their expertise. All Team members will observe and sometimes personally participate in the collection and recording of data. They will verify the source and authenticity of documentary and statistical data provided by stakeholders and third parties. The survey subcontractor, Edison Research, will present a proposed methodology for data collection, with safeguards for authenticity, for approval by AMEX, USAID and the MOJ. It will produce data in both synthesized and original form. The Team Leader will manage and monitor the subcontractor's survey activities, with oversight from AMEX HO.

Reporting Phase (Weeks 6-10) All Assessment Team members and the HO will collaborate in drafting and revising the Final Assessment Report. Although the Report will focus on the Economic Courts, it also will provide the overall governance, rule of law and economic context. The Report will include the following components: 1) overview of challenges and opportunities; 2) findings and recommendations for programming strategy. AMEX will submit the written draft to USAID and present it orally (via teleconference) to an audience of USAID's choosing if requested. AMEX will assure that the final report addresses fully the primary SOW questions and will submit the report for USAID's approval.

The Team Leader will organize and manage the report drafting process and lead analysis and recommendations for training and resources. The Team Leader, US Court Administration Expert and Local Egyptian Legal Expert will each dedicate no fewer than eight working days to drafting and revising the Report, including integrating and adequately addressing all mission comments. The Court Administration Expert will analyze and make recommendations on the proposed e-litigation system, while the local Egyptian Law Expert will analyze and make recommendations on the legal framework. The Legal Expert will use the World Bank commercial court assessment tool to analyze the current legal framework and pending legislation governing ADR and the Economic Courts, as well as current legal and policy issues and other factors that impact their work. The purposes of the legal analysis are to: 1) understand how the laws are impacting the processing of commercial cases by identifying legally created bottlenecks and ineffective procedures throughout the entirety of the case process, from filing to enforcement; 2) analyze them based on international best practices; 3) facilitate the development of process-maps and compare them with the process in use. The Legal Expert will use this approach in reviewing the Economic Court Law, the Investment Law and other laws and regulations focusing on issues such as bankruptcy, insolvency, telecommunications, investment, agency and distribution. Based on these analyses and the on-site reviews, he will develop process-maps and recommend legal reforms.

The Team will evaluate the roles and interests of the major actors and stakeholders, including international corporations, domestic and foreign businesses and investors, small and medium enterprises, business associations, attorneys, and other legal service providers such as arbitration and mediation firms. The Team will also analyze the role of Economic Courts in fighting corruption, protecting assets and investments, and strengthening business enabling environment.

Focusing on the Economic Courts themselves, the Team will analyze: 1) organizational structure and management arrangements (e.g., organization, staffing, strategic planning, performance management, and budget); 2) judicial cadre and courts (e.g., judicial panels, Economic Court jurisdiction, and judicial rotation); 3) physical facilities and infrastructure; 4) automated systems, including data security and privacy; 5) user access to information and services; 6) court access to user feedback. Based on this assessment, the Team will review the Economic Courts' request for automation assistance, their vision for e-litigation, their capacity to support and maintain such a system and the capacity of the legal community and litigants to use it. To identify lessons learned and the potential for sustainability of future automation investments and reforms, the Team will review the impact of AOJS I and AOJS II as well as other donor activities.

The Team Leader will coordinate the development of recommendations that advance USG policy, build on GOE strategy and priorities, contribute to achievement of USAID goals, and reflect

resource availabilities and constraints, political will and the policy environment. Recommendations will focus specifically on assistance to the Economic Courts, judges and support staff to improve the investment and business development environment and increase the efficiency and transparency of government services, including justice. The recommendations will take into account the results of previous USAID and other donor investments and the importance of the justice sector to enhancing public service delivery and combatting and preventing corruption. They will be sufficiently detailed to guide USAID in designing activities.

### 3. Deliverables

- A. This Assessment Plan, discussed with the USAID Democracy and Governance Team, will be finalized and approved during the in-brief meeting.
- B. A debriefing session of the assessment findings will take place at the end of the field work;
- C. A draft assessment report will be presented to USAID ten business days after the Team returns from Cairo. USAID may request that this presentation be oral and written to an audience of USAID’s choosing. The report will focus on the Economic Courts, although background on the overall judicial system shall be incorporated. The report will include the following sections:
  - 1. An Executive Summary (3- 5 pages) a document containing a clear, concise summary of the most critical elements of the report, including recommendations.
  - 2. A Table of Contents
  - 3. The assessment (no more than 40 pages), which discusses the major findings and recommendations based on the assessment’s findings and conclusions, presented with sufficient detail for involved parties to take action.

USAID will provide comments on the draft assessment report during the ten business days following submission of the draft.

- D. A final report will be presented to USAID within ten business days of receiving USAID comments. The final report is subject to approval by USAID and will clearly address each of the research questions and their supporting issues.

### 4. List of Actors and Institutions for Interviews

Type of Informant	Name and position	Location
Executive	Minister of Justice (MOJ) Assistant for Specialized Courts	Cairo
	MOJ Assistant for Legislation	Cairo
	MOJ Assistant for National Center for Judicial Studies	Cairo
	MOJ Assistant for Unjust Enrichment	Cairo
	MOJ Assistant for Technological Development and Judicial Information Center	Cairo

	MOJ Judicial Information Center	Cairo
	Ministry of Industry, Trade and Small Industries	Cairo
	National Coordination Committee for Combating Corruption	Cairo
	Ministry of Investment and International Cooperation	Cairo
	Ministry of Communications and Information Technology	Cairo
	Minister of Planning and Administrative Reform	Cairo
	General Authority for Investment and Free Zones	Cairo
	Information Technology Industry Development Agency	Cairo
Legislature	National Assembly Constitution and Legislation Committee	Cairo
	National Assembly Economical Affairs Committee	Cairo
	National Assembly Industry and Energy Committee	Cairo
Judicial and Legal Professionals and Associations	Court of Cassation First President	Cairo
	Court of Cassation Clerk and Secretary	Cairo
	Commercial Appeals Court President and Prosecutor	Cairo & Alexandria
	Commercial Appeals Court Clerk, IT Specialist and Secretary	Cairo & Alexandria
	Commercial First Instance Court President	Cairo & Alexandria
	Commercial First Instance Court Prosecutor	Cairo & Alexandria
	Commercial First Instance Court Clerk and Secretary, IT specialist	Cairo & Alexandria
	Cairo Regional Centre for International Commercial Arbitration	Cairo
	Judicial Council President, members and staff	Cairo
	Bar Association Presidents	Cairo

	Judges Club leaders	Alexandria
Civil Society	Center for International Private Enterprise	Cairo
	Federation of Economic Development Associations	Cairo
Media	Business/economic media	Cairo
Private Sector	American Chamber of Commerce	Cairo
	Federation of Egyptian Industries	Cairo
	Small business associations	Cairo
	Large business owners	Cairo & Alexandria
	Small business owners	Cairo & Alexandria
	Egypt Tomorrow Economic Forum	Cairo
	Women's Business Associations	Cairo
Lawyers	Large Business lawyers	Cairo & Alexandria
	Small Business Lawyers	Cairo & Alexandria
	Mediation lawyers	Cairo & Alexandria
International and Global Actors	American Bar Association	Cairo
	European Union	Cairo
	Canada	Cairo
	UKAid/DFID	Cairo
	UNDP	Cairo
	World Bank	Cairo
Academics and Experts	American University of Cairo	Cairo
	Cairo University	Cairo



Department of State	Embassy Economic Officer	Cairo
	Embassy Agriculture Officer	Cairo

**5. Illustrative Schedule of Interviews, Round Table and Focus Groups**

**Week 1**

- **Day 1 (Cairo)** Team meeting, survey subcontractor
- **Day 2 (Cairo)** USAID in-briefing, Embassy Economic and Agricultural Officers, Ministry of Justice in-briefing, Center of International Private Enterprise, Bar Association
- **Day 3 (Cairo)** Federation of Egyptian Industries, Business Law Firm, Cairo University Law School professor, Large business owner, National Assembly Constitution and Legislation Committee
- **Day 4 (Cairo)** Cairo Economic Appeals Court President and Prosecutor, Cairo Economic Court of First Instance President and Prosecutor, Cairo Economic Court staff, Cairo Economic Court Judges Focus Group
- **Day 5 (Cairo)** Egypt Tomorrow Economic Forum, Women’s Business Associations, small business lawyer, small business owner
- **Day 6 (Cairo)** Cairo Economic Court walkthrough, North Cairo First Instance Court visit, Cairo Regional Centre for International Commercial Arbitration
- **Day 7 (Cairo)** Team meeting

**Week 2**

- **Day 8 (Cairo)** Business/economic media, survey subcontractor, American University of Cairo professor
- **Day 9 (Cairo)** Ministry of Justice Assistant for Legislation, Ministry of Justice Assistant for Specialized Courts, General Administration for Economic Courts, MOJ Assistant for National Center for Judicial Studies
- **Day 10 (Cairo)** lawyers focus group, National Assembly Economical Affairs Committee, National Assembly Industry and Energy Committee, Ministry of Communications and Information Technology
- **Day 11 (Cairo)** business owners and lawyers, American Chamber of Commerce, Court of Cassation President and Clerks
- **Day 12 (Cairo)** Ministry of Industry, Trade and Small Industries, National Coordination Committee for Combating Corruption, Ministry of Investment and International Cooperation
- **Day 13 (Cairo)** donors focus group, MOJ Assistant for Unjust Enrichment, MOJ Assistant for Technological Development and Judicial Information Center, Central Department for Judicial Information Center
- **Day 14 (Cairo)** Team Meeting

**Week 3**

- **Day 15 (Cairo)** small business owner focus group, large business owner focus group
- **Day 16 (Alexandria)** travel to Alexandria, Alexandria Economic Appeals Court President and Staff, Alexandria Economic First Instance Court President and Staff, Focus Group of Judges

- **Day 17 (Alexandria)** Alexandria Economic Court Walkthrough, Alexandria First Instance Court visit, small business lawyers focus group, large business lawyers focus group
- **Day 18 (Cairo)** travel to Cairo, Minister of Planning and Administrative Reform, General Authority for Investment and Free Zones, Information Technology Industry Development Agency
- **Day 19 (Cairo)** Roundtable of Economic Court Participants, Federation of Economic Development Associations, American Bar Association
- **Day 20 (Cairo)** USAID debriefing, Team meeting, meeting with survey subcontractor
- **Day 21** Team departure

## 6. Interview Protocol

### A. Key Informant Interviews

Interviewers will share the Minister's letter and explain the purpose and use of the assessment by USAID. Questions will be tailored to the individuals and organizations being interviewed. Questions may include:

#### Legal Review

- What is the jurisdiction of the Economic Courts? What is the current case process? How long does it take to file and to settle a case? What is the caseload (filed, ongoing and settled per month, judicial year within the last three years)?
- To what degree are the judges knowledgeable of the provisions of Economic Court laws and the art of applying them to cases?
- To what degree is there duplication between the work of the Economic Courts and commercial arbitration?
- What is the most common type of cases? Why do some cases remain unresolved?
- What mechanisms are available to the Economic Courts to resolve disputes? To what degree are they sufficient?
- Is there a budget available to the Economic Court to pay expert fees? What are the consequences of nonpayment?
- Who prepares lawsuits in the Economic Courts (Judge/Court Staff)?
- What is the ratio of settled lawsuits to resolution by commercial mediation under Court order?
- Are the relevant laws, including Code of Civil Procedures, sufficient for dealing with commercial disputes arising from the new business environment and protecting foreign investment?
- What is the best approach for modifying current laws and/or drafting and approving new ones?

#### Court Process and Automation Review

- What is the current business process for the Economic Courts and how can it be improved?
- What are the regulatory and cultural impediments to change within the Economic Courts?
- What information do the Economic Courts need to provide or receive on a regular basis?
- Economic Courts Law Art. 8 mentions "preparation Board." Is it functioning? The board has 30 days to prepare memoranda on claims. How is that working? Any data?
- Art. 8 also calls for the MOJ to develop rules of procedure. Have they been developed?
- Art. 9 calls for the MOJ to develop rules for experts. Have they been developed?

- Art. 12 calls for a Court of Cassation panel to review appellate decisions. How many cases has the panel reviewed? What procedural obstacles have impeded review, if any?
- What is the status of the Judicial Information Center? What kind of reports are available?
- What is the status of Performance Standards?
- What is the status of the Enhanced Case Management Application?
- What is the operational capacity/vision for the judiciary?
- Is there a proposed automation system for the Economic Courts? Does the judiciary have a vision for automation?
- What is the current or envisioned structure for automated data exchanges? What is the capacity of the Economic Courts to support and maintain such a structure?
- What type of cases do judges and lawyers believe should be resolved outside the jurisdiction of the Economic Courts?

### **Training Review**

- What training is required for Economic Court judges?
- What training have Economic Court judges received? Who has provided the training? Who has funded it?
- How relevant is each training course to the work of the Economic Court judges?
- How useful has the training been to operations of the Economic Courts?
- What issues have come before the courts for which the judges have not been trained?
- What issues are likely to become important in Economic Courts for which the judges have not been trained?
- What additional training is desired or needed by the Economic Court judges?
- What training is required by the cassation court to deal with Economic Court issues, if any?
- Are training institutions capable of providing such training? How can Egyptian training institutions build their capacity to provide such training?
- What training is required by Economic Court staff?
- What training is required by lawyers involved in commercial dispute resolution?

### **B. Round table of Participants in Commercial Dispute Resolution**

- How well are Economic Courts serving international companies?
- How well are Economic Courts serving large companies?
- How well are Economic Courts serving small and medium enterprises?
- How well are Economic Courts facilitating foreign and national investment?
- How well are Economic Courts helping the government to prevent and control corruption?
- How might USAID contribute to the development of the Economic Courts?
- What should be the roles of the Ministry of Investment & International Cooperation and the Ministry of Justice in developing the Economic Courts?
- How might automation contribute to Economic Court development?

### **C. Focus Group of Economic Court Judges**

- What obstacles do the Economic Courts face in reviewing cases?
- What legal requirements slow down case resolution?
- What procedures have you identified to speed up case resolution?

- What laws require revision to facilitate your work?
- What additional support do you require from the Ministry of Justice?
- What more is needed to improve the quality of decisions in the Economic Courts?
- How can court-ordered mediation improve the outcome of business cases?

#### **D. Focus Group of Economic Court Staff**

- How effective are procedures for initiating cases?
- How effective are procedures for documenting judicial actions?
- How effective are procedures for communicating with lawyers and their clients?
- How effective are procedures for collecting fines?
- What do you need to do your job more effectively?
- What areas of your work would benefit from automation?
- What training would you require to use automation effectively?

#### **E. Survey Questions for Court Users**

Rate on a scale from 1 to 10, with 10 being the best and 1 being the worst:

- Overall performance of the Economic Courts
- Time required for Economic Court contract enforcement case filing
- Time required for Economic Court contract enforcement trial and judgment
- Time required for Economic Court enforcement of judgments on contracts
- Time required for Economic Courts to complete foreclosure proceedings and enforce judgments
- Cost of court fees and enforcement fees for Economic Court cases
- Quality of Economic Court communication system
- Access to Economic Court information
- Effectiveness of Economic Court Preparation Board
- Quality of information technology services at the Economic Courts
- Effectiveness of Economic Court Personnel
- Effectiveness of Economic Court Judges
- Economic Court Efficiency
- Fair and equal treatment in Economic Courts
- Ease of using the Courthouse
- Quality of Courthouse infrastructure, such as lawyers' facilities, libraries and sitting rooms
- Courthouse safety
- For non-court Commercial Mediation, overall performance
- For non-court Commercial Mediation, time required to reach agreements
- For non-court Commercial Mediation, time required for enforcement of agreements

## ANNEXES

### ANNEX I: ASSESSMENT MATRIX FROM AMEX PROPOSAL

	Subgroup sampled	Rationale	Sample size	Method
<i>Question 1: What is the scope of the Economic Courts' proposed or envisioned e-litigation system, how will it contribute to an enhanced investment and business enabling environment, and how can USAID contribute to its development most strategically?</i>				
1	Ministry of Justice; Judiciary; Head Judges of Economic Courts; Lawyers; Chambers of commerce and trade organizations	Assess contribution of Economic Courts to investment and business enabling environment; Assess contribution of Economic Courts planned e-litigation system to investment and business enabling environment; Assess court effectiveness perceptions; Assess adequacy of resources; Assess accessibility	100	<i>Qualitative:</i> Interviews, roundtable discussion, focus groups  <i>Desk review:</i> documents, pre-existing data
2	USAID Cairo	Examine programming context of good governance and business enabling environment	5	<i>Qualitative:</i> Meetings with USAID  <i>Desk Review:</i> Review project reports; Other reports
<i>Question 2: Will implementation of such a system require further legislative reform, and if so, what is the expected timeline for passage of key legislation?</i>				
3	MOJ legislation analysts Parliamentary committee Lawyers	Conduct legal analysis of current laws vs. needed reforms; Map pathway of legislation and timeline for each stage of passage; Identify champions of legislation	15	<i>Qualitative:</i> meetings, interviews  <i>Desk Review:</i> Legal Research
<i>Question 3: Which specialized technical areas are the greatest priorities for training of legal and judicial personnel?</i>				
4	NCJS; Judiciary; Lawyers; Chambers of commerce and trade organizations; Court administrative personnel; JIC	Assess the quality of training of legal and judicial personnel; Identify classes of cases in Economic Courts; Identify specialty areas in highest demand; Identify weaknesses in judicial capacity in specialized areas	100	<i>Qualitative:</i> interviews, meetings, roundtable and focus group events, anecdotal data  <i>Quantitative:</i> statistical and data reports of Economic Court case types
<i>Question 4: What are the key considerations that need to be addressed in deciding how best to allocate program resources, including provisions in the new Investment Law, or other government directives?</i>				

### ANNEX II: WORK PLAN

**ANNEX: A DRAFT WORK PLAN & TIMELINE**

Timeline (period, locale)	Activities	A	1	2	3	4	5	6	7	8	9	10	11	Deliverables	Responsible
<b>Launch</b> (3-5 days* US)	<ul style="list-style-type: none"> <li>Review and sign contract.</li> <li>Sign consultant agreements &amp; make travel arrangements (including visas) for consultant international travel</li> <li>Post Award Conferences with CO and COR and other necessary USAID team members</li> <li>Introduction of the Team Leader</li> </ul>	X												Contracts	AMEX Home Office Project Director (HOPD); AMEX HO Project Support Team Members  USAID
<b>PHASE 1: DESK REVIEW AND PREPARATION WORK</b>															
(10 days, US and remote)	<ul style="list-style-type: none"> <li>Team Planning Meeting (AMEX HO and Assessment Team)</li> <li>Assessment team engages with USAID (to include DC personnel) &amp; the GOE via team planning conference call (s)</li> <li>Desk Review</li> <li>Legal Document Translations</li> <li>Develop interview protocols</li> <li>Develop targeted list of respondents for qualitative data collection</li> <li>Schedule interviews and travel logistics</li> <li>Draft and Finalize Assessment Plan</li> </ul>													<b>A: Assessment Plan</b>	Team Leader (TL), US Courts Administration Expert (USCAE), Local Egyptian Legal Expert (LELE), Local Administration/Logistics Translator (LALT)  USAID  Edison/MOI (data collection partners)

Timeline (period, locale)	Activities	A	1	2	3	4	5	6	7	8	9	10	11	Deliverables	Responsible
Travel (1 day)	<ul style="list-style-type: none"> <li>US Travel to Cairo</li> <li>Finalize survey data methodology &amp; collection instruments</li> </ul>			X											USAID, TL, USCAE, LELE
<b>PHASE 2: FIELD WORK</b>															
Orientation (3 days, Cairo)	<ul style="list-style-type: none"> <li>In-brief with USAID on Assessment Plan Submitted</li> <li>USAID Meeting &amp; with key Egyptian stakeholder officials</li> <li>Obtain GOE letters authorizing assessment</li> <li>Assessment Team Planning Meeting (TPM)</li> <li>Data collection instruments piloted and refined</li> </ul>				X										USAID, TL, USCAE, LELE. LALT  USAID
Data Collection (12-13 days, Cairo & Alexandria)	<ul style="list-style-type: none"> <li>Data collection - site visits in Cairo &amp; Alexandria for Qualitative (KIIs, FGDs Roundtables, additional primary &amp; secondary quantitative data, training reviews, on-site reviews)</li> <li>Some Analysis of data</li> <li>Edison/MOI: Quantitative surveys</li> </ul>				X	X	X								USAID, TL, USCAE, LELE. LALT  Edison/MOI (data collection partners)
<b>PHASE 3: REPORTING AND ANALYSIS</b>															
Wrap-up (.5 day, Cairo)	<ul style="list-style-type: none"> <li>Assessment Team debriefings, data review</li> <li>Preparation for oral debriefing</li> </ul>						X								TL, USCAE, LELE, LALT

Timeline (period, locale)	Activities	A	1	2	3	4	5	6	7	8	9	10	11	Deliverables	Responsible
Debriefings (.5 day, Cairo)	<ul style="list-style-type: none"> <li>Oral debriefing session with USAID on assessment finding (Two-days post field visits)</li> </ul>						X							<b>B: Oral Debriefing Session with USAID</b>	USAID, TL, USCAE, LELE, LALT
Travel (1 day)	<ul style="list-style-type: none"> <li>Travel from Egypt to US</li> </ul>							X							TL, USCAE
Analysis (3 days)	<ul style="list-style-type: none"> <li>Analysis of data</li> </ul>							X							TL, USCAE, LELE
Draft Report Preparation (7 days)	<ul style="list-style-type: none"> <li>Draft Assessment Report preparation</li> </ul>							X	X					<b>C: Draft Assessment Report</b>	TL, USCAE, LELE, AMEX
Draft Report Submission	<ul style="list-style-type: none"> <li>Written &amp; Oral Presentation (teleconference)</li> </ul>									X					
USAID Review of Draft Report (10 days)	<ul style="list-style-type: none"> <li>Draft report feedback from USAID</li> </ul>									X	X				USAID
Final Report Preparation (10 days, US)	<ul style="list-style-type: none"> <li>Final Report Package Preparation</li> </ul>											X	X	<b>D: Final Report</b>	TL, USCAE, LELE
Final Report Submission	<ul style="list-style-type: none"> <li></li> </ul>												X		AMEX

\* "Days" noted throughout are week days (5 day work-weeks in US, 6 day work-weeks in Egypt)



### **ANNEX III: KEY INFORMANT SURVEY**

Through our partners Edison/MOI, the Team Leader will oversee surveys in Cairo and Alexandria of Economic Court stakeholders in the legal and business community with a total sample size of 60 lawyers and 30 businesspersons. Questions will focus on the perception of the end-users on the efficiency of the courts, case disposition time, and a profile of strengths and weaknesses in current Economic Court proceedings. The surveys will build on the World Bank Doing Business 2018 Report addressing the time and cost to enforce a contract and the quality of Economic Court proceedings. Team Member will work with the Team Leader to design questions. The Team Leader will ensure the subcontractor gains GOE approvals, pre-tests surveys, and completes work by the end of the field work phase.

The survey will be delivered by interviewers to lawyers and business people (defined as users of the system) who use or could use the Economic Courts. The survey size of 60 allows the assessment to expand its scope to multiple users using a standard instrument. It provides quantitative, but not statistically significant data, given its limited survey size. The survey will also provide qualitative data to complement the data collected from Team member interviews and meetings, focus groups and the desk review.

**ANNEX 2: LIST OF MEETINGS**

**Date: Monday, 10 December 2018**

**Location: USAID Mission in Cairo**

- Kevin Dean, Director, Office of Democracy and Governance
- Lisa Kovack, Deputy Director, Office of Democracy and Governance
- Rania Al-Razzaz, Sr Democracy, Elections and Rule of Law Expert

**Date: Tuesday, 11 December 2018**

**Location: MoJ**

1<sup>st</sup> Meeting:

- Judge Wael Rady, Assistant to the Minister for International and Cultural Cooperation
- Judge George Nashid, International and Cultural Cooperation Sector, PoC at MoJ

2<sup>nd</sup> Meeting:

- Judge Ahmed Khairy, Assistant to the Minister for Specialized Courts
- Judge Mohamed Baddour, Economic Courts Sector at MoJ
- Judge Hussein Helmy, Economic Courts Sector at MoJ
- Judge Ashraf Al-Kafrawy, Economic Courts Sector at MoJ

3<sup>rd</sup> Meeting:

- Judge Hany Hanna Sedra, Assistant to the Minister for Legislation

4<sup>th</sup> Meeting:

- Judge Mohamed Eid Mahgoub, First Assistant to the Minister

**Date: Wednesday, 12 December 2018**

**Location: National Center for Judiciary Studies**

1<sup>st</sup> Meeting:

- Judge Sayed Bendari, Secretary-General of the NCJS

2<sup>nd</sup> Meeting:

- Judge Medhat Bassiouni, Assistant to the Minister for the NCJS

**Date: Thursday, 13 December 2018**

**Location: Alexandria Economic Court**

1<sup>st</sup> Meeting:

- Judge Abdul Azim Hasab El-Nabi, President of the Alexandria Economic Court
- Judge Mohamed Ayman Ramadan, President of the 1<sup>st</sup> Appeal Panel
- Judge Hazem Saeed A-Gaddar, Member of the 1<sup>st</sup> Appeal Panel
- Judge Osama Mahmoud, Member of the Technical Office and the 4<sup>th</sup> Criminal Panel
- Judge Amir Adly, President of the 4<sup>th</sup> Criminal Panel, and President of Preparation Board

2<sup>nd</sup> Meeting:

Judges from the First Instance Panels

- Judge Ashraf Hasab El-Nabi, 6<sup>th</sup> First Instance Panel
- Judge Hossam Mohamadi, 6<sup>th</sup> First Instance Panel
- Judge Eslam El-Zanati, 6<sup>th</sup> First Instance Panel
- Judge Islam Zoheir, 2<sup>nd</sup> First Instance Panel
- Judge Mostafa Deraz, 2<sup>nd</sup> First Instance Panel

3<sup>rd</sup> Meeting:

Judges from the Appeal Panels.

**Date: Sunday, 16 December 2018**

**Location: Cairo Economic Court**

Meetings with:

- Judge Abdul Aziz Mohamed, President of the Cairo Economic Court
- President of the Preparation Board
- President of Follow-up

**Date: Monday, 17 December 2018**

**Location: MoJ**

Meetings with:

- Dr. Mohamed Bahaa Abu Shoqa, Lawyer & Faculty Member at Faculty of Law, Cairo University
- Dr. Mohamed Al-Weshahi, Lawyer & Faculty Member at Faculty of Law, Cairo University

**Date: Tuesday, 18 December 2018**

**Location: MoJ**

Meeting with:

- Dr. Dina Rateb, Associate Professor of Management Information Systems, AUC

**Date: Wednesday, 19 December 2018**

**Location: US Embassy in Cairo**

Meeting with:

- Benjamin L. Pierce, First Secretary, Office of Economic Affairs
- Alyssa Servello, Director, International Narcotics and Law Enforcement
- Mohamed ElHusseiny, Economic Specialist, Office of Economic Affairs

**Location: MoJ**

Meeting with UNODC:

- Ali El Bereir, Deputy Regional Representative, Regional Office for MENA
- Mirna Bouhabib, Criminal Justice Program Officer, Regional Office for MENA
- Ahmed Abdullah Ismail, Regional ITC Consultant, Regional Office for MENA
- Judge Ehab Al-Menabawi

**Location: World Bank IFC**

Meeting with:

- Marwa Mahgoub, Operations Officer, Macroeconomics, Trade and Investment
- Tracey Marie Lane, Program Leader

**Date: Thursday, 20 December 2018**

**Location: National Elections Authority (NEA)**

Meeting with:

- Judge Yasser El Mabaddi, Member of the NEA Board of Directors (previously Head of the Public Prosecution Information Center)

**Location: ABA/ROLI**

Meeting with:

- Michelle Brady, Senior Advisor

**Date: Sunday, 23 December 2018**

**Location: MoJ**

Meeting with:

- Dr. Mohamed Shalan, Professor of Computer Science and Engineering, AUC

**Date: Monday, 24 December 2018**

**Location: MoJ**

Meeting with:

- Engineer Khaled El-Attar, Deputy Minister, MCIT
- Dr. Sherif El-Kassas, Professor of Computer Science and Engineering, AUC

**Date: Thursday, 27 December 2018**

**Location: MoJ**

- Judge Ahmed Khairy, Assistant to the Minister for Specialized Courts
- Judge George Nashid, International and Cultural Cooperation Sector, PoC at MoJ
- Judge Hussein Helmy, Economic Courts Sector at MoJ

**Date: Sunday, 30 December 2018**

**Location: USAID Mission in Cairo**

- Kevin Dean, Director, Office of Democracy and Governance
- Rania Al-Razzaz, Sr Democracy, Elections and Rule of Law Expert

**ANNEX 3: DRAFT LAW ON ECONOMIC COURTS**

Original Code of Economic Courts

The text of a draft law submitted by the government to amend some provisions of the of Economic Courts law issued by Law No. 120 of 2008, the Legislative Committee have done with its review and sent it to three parties, the Central Bank, the Supreme Judicial Council and the Minister of Finance to review its opinions before discussing it at the plenary session.

The text of draft law

Article One

Article One

The provisions of the accompanying law shall apply to economic courts, and any provision contrary to its provisions shall not apply.

Article (2) and (5) of the Law No. (120) of the year 2008 regarding the issuance of the Law for the Establishment of Economic Courts, and the provisions of Articles 4, 6, 7 and 8, shall be replaced with the following texts.

Article Two

Article Two

The courts shall, on its own initiative, refer to the disputes and claims that have become under the provisions of the law attached to the jurisdiction of the economic courts in the case they are, free of charge. In the absence of any of the litigants, the Registry shall declare the order of assignment along with its summons to appear before the court to which the case is

The courts shall, on its own initiative, refer to the disputes and claims that have become under the provisions of the law attached to the jurisdiction of the economic courts in the case they are, free of charge. In the absence of any of the litigants, the Registry shall declare the order of assignment along with its summons to appear before the court to which the case is referred

referred to.

to.

The economic courts shall adjudicate the referred disputes and claims reference to the provisions of the preceding paragraph without presenting them in the preparation board provided for in article 8 of the accompanying law.

The economic courts shall adjudicate the referred disputes and claims reference to the provisions of the preceding paragraph without presenting them in the preparation board provided for in article 8 of the accompanying law.

The provisions of the first paragraph shall not apply to adjudicated disputes and claims or postponed for rendering judgment before the date of the enforcement of this law. The judgments issued therein shall remain subject to the rules governing the appeal methods which are in force at the date of its issuance.

The provisions of the first and third paragraphs shall not apply to adjudicated disputes and claims or postponed for rendering judgment before the date of the enforcement of this law. The judgments issued therein shall remain subject to the rules governing the appeal methods which are in force at the date of its issuance.

#### Article Five

The Minister of Justice shall issue the necessary decrees to implement the provisions of the accompanying law.

#### Article Five

The Minister of Justice shall issue, in coordination with the Minister of Communications and Information Technology, the decrees that regulate the registration in the register referred to in Article (7) of the accompanying law.

Also, the Minister of Justice shall issue a decision regulating the registration in the tables referred



to in the second paragraph of Article 8 of this law, on the basis of applications submitted by the persons whom are desirous to register, nominated by the competent regulatory bodies, chambers, unions, associations and other entities concerned with financial, trade and industrial affairs..

#### Article (4)

Economic court panels of first instance and panels of appeal shall be solely competent, qualitatively and spatially, to examine the criminal cases resulting from the crimes mentioned in the following laws:

1. Penal Code concerning Bankruptcy crimes
2. Insurance Supervision and Control Law
3. The Law on Joint Stock Companies, Limited Partnerships By Shares and Limited Liability Companies
4. Capital Market Law
5. Investment Guarantees and Incentives Law

#### Article (4)

Without prejudice to the jurisdiction of the economic courts stipulated under any other law, the economic court of first instance and appeal panels shall be solely competent, qualitatively and spatially, to examine the criminal cases resulting from the crimes mentioned in the following laws:

- 1) Penal Code concerning Coins and Fake money
- 2) Insurance Supervision and Control Law
- 3) Claims concerning the Law on Joint Stock Companies, Limited Partnerships By Shares and Limited Liability Companies
- 4) Capital Market Law
- 5) Finance Lease Law

- |   |   |
|---|---|
| 6. Finance Lease Law  | 6) Central Securities Depository and Registry law   |
| 7. Central Securities Depository and Registry law   | 7) Real Estate Finance Law  |
| 8. Real Estate Finance Law  | 8) Intellectual Property Rights Protection Law  |
| 9. Intellectual Property Rights Protection Law  | 9) The Central Bank, The Banking Sector and Money Law   |
| 10. The Central Bank, The Banking Sector and Money Law  | 10) The Law on the Companies Operating in Money Receiving for Investment  |
| 11. The Law on the Companies Operating in Money Receiving for Investment  | 11) Regulating Act of Restructuring, Conciliation and Bankruptcy.   |
| 12. Trade Law on Bankruptcy Preventive Conciliation Crimes  | 12) The law on protecting of the national economy against the effects resulting from harmful practices in international trade |
| 13. The law on protecting of the national economy against the effects resulting from harmful practices in international trade | 13) Consumer Protection Law   |
| 14. Protection of Competition and Prohibition of Monopolistic Practices Law   | 14) Communications Law  |
| 15. Consumer Protection Law   | 15) Communications Law  |
| 16. Communications Law  | 16) The Law on E-signature and the establishment of IT Industry Development Authority   |
| 17. The Law on E-signature and the establishment of IT Industry Development Authority   | 17) The law of movable guarantees   |
|   | 18) Regulation of Microfinance Activity   |
|   | 19) Investment Law  |

**20) Law of instruments**

Economic courts also have jurisdiction over their courts of first instance and appeal in the case of related crimes, which are punishable under another law

**Article "6"**

Except for the disputes and claims that fall into the jurisdiction of the State Council, the economic court panels of first instance shall, solely, be competent to examine the disputes and claims whose value does not exceed **five million** Egyptian pounds, resulting from the enforcement of the following laws:

- (1) The Law on the Companies Operating in Money Receiving for Investment
- (2) Capital Market Law
- (3) Investment Guarantees and Incentives Law
- (4) Finance Lease Law
- (5) The law on protecting of the national economy against the effects resulting from harmful practices in

**Article "6"**

Except for the disputes and claims that fall into the jurisdiction of the State Council, the economic court panels of first instance shall, solely, be competent to examine the disputes and claims whose value does not exceed **ten million** Egyptian pounds, resulting from the enforcement of the following laws:

1. The Law on the Companies Operating in Money Receiving for Investment
2. Capital Market Law
3. Finance Lease Law
4. The law on protecting of the national economy against the effects resulting from harmful practices in international trade
5. Trade Law on Technology Transfer, Commercial Agency, Banking Operations

international trade

- |   |   |
|---|---|
| <p>(6) Trade Law on Technology Transfer, Commercial Agency, Banking Operations, Bankruptcy and Bankruptcy Preventive Conciliation</p> <p>(7) Real Estate Finance Law</p> <p>(8) Intellectual Property Rights Protection Law</p> <p>(9) Communications Law</p> <p>(10) The Law on E-signature and the establishment of IT Industry Development Authority</p> <p>(11) Protection of Competition and Prohibition of Monopolistic Practices Law</p> <p>(12) Law On Joint Stock Companies, Limited Partnerships By Shares and Limited Liability Companies</p> <p>(13) Law on the Central Bank and the banking system and cash.</p> | <p>6. Real Estate Finance Law</p> <p>7. Intellectual Property Rights Protection Law</p> <p>8. Communications Law</p> <p>9. The Law on E-signature and the establishment of IT Industry Development Authority</p> <p>10. Protection of Competition and Prohibition of Monopolistic Practices Law</p> <p>11. Claims concerning Joint Stock Companies, Limited Partnerships By Shares and Limited Liability Companies</p> <p>12. Law on the Central Bank and the banking system and cash.</p> <p>13. Consumer Protection Law</p> <p>14. Law on movable guarantees</p> <p>15. Law of economic zones of limited nature</p> <p>16. Law on Microfinance Activity</p> <p>17. Investment Law</p> <p>18. Law on instruments/Notes</p> |
|---|---|

The courts shall also have jurisdiction over claims for compensation or security resulting from the application of the aforementioned provisions of the laws in the preceding paragraph, as the case may be

The economic court panels of appeal shall, solely, be competent to examine all the disputes and cases mentioned in the two preceding paragraphs if the value thereof exceeds five million Egyptian pounds or if the value thereof is undetermined.

The economic court panels of appeal shall, solely, be competent to examine all the disputes and cases mentioned in the two preceding paragraphs if the value thereof exceeds ten million Egyptian pounds or if the value thereof is undetermined.

The First Instance and Appeals panels shall be competent in the economic courts which have issued the order for the consideration of grievances and claims arising from the application of the provisions of this Law and the decisions of the judges of the Court

#### Article "7"

Panels of first instance shall be competent to judge on provisional and substantive enforcement disputes concerning the judgments issued by economic courts, and those issued by the judge aforementioned in Article (3).

#### Article "7"

The First Instance panel of the economic court panels of appeal shall, solely, be competent to examine the following matters:

- 1- provisional and substantive enforcement disputes concerning the judgments issued by the court

The judgments issued by them shall be challenged before the Court Panels of Appeal.

2- Claims resulting from the law of Regulating Act of Restructuring, Conciliation and Bankruptcy

The Heads of the economic courts panels of first instance shall issue enforcement-related decisions and orders.

The judgments issued by them shall be challenged before the Court Panels of Appeal.

The economic courts panel of first instance shall be competent to judge on the appeals against the said decisions and orders, subject that none of its members has issued the appealed-against decision or order.

#### Article "8"

At each economic court, a board shall be established to prepare the disputes and claims that fall within the court jurisdiction, except for criminal and appealed-against claims as well as the claims and orders herein stipulated under Articles (3) and (7).

The Preparation Board shall be constituted under the chairmanship of an economic court appeal

#### (Article "8")

At each economic court, a board called "Preparation Board", it shall be referred to in the articles of this law as "the Board". It will be established to prepare the disputes and claims that fall within the court jurisdiction, except for criminal and appealed-against claims as well as the claims and orders herein stipulated under Articles (3) and (7) of this law and also the claims that are referred to from other courts due to qualitatively jurisdiction.

The Preparation Board shall be constituted under the chairmanship

panel judge at least, and the membership of an appropriate number of its judges who are either chief justices or court of first instance judges, and who shall be selected by its General Assembly at the beginning of each judicial year; in addition to appointing an appropriate number of administrative staff and clerics.

The Preparation Board shall be competent to examine the fulfillment of the dispute and claim documents, to study such documents, to hold hearing sessions for the parties thereto, and to prepare a memorandum on the litigants' demands and supporting documents in addition to the points of agreement and disagreement between them, within a maximum of 30 days as of the date of recording the claim.

The Board shall attempt to conciliate between the litigants. If the litigants agree to conciliation, the board shall submit a report signed by them to the competent panel to be attached to the claim court hearing, and to be judged upon in accordance with the Civil and Commercial Procedural Law.

of an economic court appeal panel judge and the membership of an appropriate number of its judges whom are, at least, chief judges at first instance courts, he shall be referred to in the articles of this law as the <sup>o</sup> Preparation Judge<sup>o</sup> and who shall be selected by its General Assembly at the beginning of each judicial year; in addition to appointing an appropriate number of administrative staff and clerics. The Board may, in the course of performing its duties, use experts and specialists, as it may see.

The Board may, in the course of performing its duties, use experts and specialists, as it may see.

The Minister of Justice shall, by virtue of a decree, determine the Board operation system, procedures, the timing of notifying the litigants of the preparation sessions, and the minutes recording during such sessions.

#### **Article "Two"**

Wordings of articles number "7 bis", "7 bis a", "7 bis b", "8 bis", "8 bis a", "8 bis b", "8 bis c", "8 bis d", "8 bis e" and "8 bis f", "8 bis g", 9/3, 12, 14, 15, 16, 17, 18, 19, 20, 21, 22, " shall be add to the law of Economic Court

Its texts as follows:

(Article 7 bis)

The General Assembly shall appoint at the beginning of each judicial year a judge or more of its judges with a rank of president of the courts of first instance of category "A", at least with a sufficient number of execution assistants and employees, to be determined by a decision of the President of the Economic Court. He shall have the competent to



supervise the execution procedures of executive bonds issued from this court as well as the issuance of decisions and orders issued on petitions related to implementation in matters that are the jurisdiction of the Economic Court and the appeal of decisions and orders issued before the first instance panels of the courts of economic courts and the judgment in final observation

**(Article "7 bis a")**

The Economic Court shall prepare a special record in which applications for implementation submitted to the Execution Judge shall be recorded. Each application shall be filed with a file containing all the documents relating to such applications. The file shall be submitted to the Execution Judge after each proceeding. It shall include the decisions, orders and judgments issued by the first instance panel in objectivity and interim execution disputes.

**(Article "7 bis b")**

Execution shall be carried out by the execution assistants at the request of the concerned parties when the executive bond is handed over to the competent enforcement judge.

If the execution assistant fails to carry out any of the implementation procedures, the concerning party may bring the matter to the execution judge.

If a resistance is signed or assault against the execution assistant, he must take all the precautionary measures. he may, in the course of performing his duties after presenting the matter to the execution judge to request the use of public authority

(Article 8 bis)

The preparation judge shall be competent to verify the completion and examination of all the necessary documents to prepare the case for adjudication and to hold hearings in disputes and claims.

(Article 8 bis a)

The preparation judge shall notify the litigants of the presence before the Commission by any means he deems fit, including e-mail, telephone or text messages. The dispute shall be considered as concluded in the case of the presence of the defendant or his legal representative. If one of the litigants fails to submit a valid document in the papers after his request, shall be fined not less than

two hundred pounds and not exceeding fifty pounds

(Article 8 bis b)

The preparation judge may set a session or several meetings between the parties, individually or collectively, taking into account the adherence to the rules and norms established in this regard. These meetings shall be considered confidential and shall not be invoked or made in any court or other entity.

Article (8 bis c)

The preparation judge shall prepare the case within thirty days from the date of its registration. The parties shall settle the dispute amicably. If the preparatory judge reaches a settlement of the dispute, an agreement shall be signed by the parties thereto and submitted to the chairman of the Commission for ratification. If the litigants did not agree to the settlement, he set a substantive hearing for it before the competent department and instruct the plaintiff to summon

Article (8 bis d)

The Court concerned with the matter

shall, in any case, have to suspend its consideration and refer it again to the Board at the request of the litigants to try reconciliation between the parties. The Court shall determine a period not exceeding thirty days which may be extended once for a similar period

The preparatory judge shall proceed as described in (Article 8 bis b) of this law. If he reaches conciliation, to write an agreement regarding that to be attached to the case minutes of meeting, in accordance with the provisions of the Civil and Commercial Procedure Law. Procedures; if not, he shall prepare a note of procedures been taken and submit it to the court once again to settle the subject.

(Article 8 bis e)

The Chairman of the Board shall, at the request of one of the parties or on his own initiative, correct the material errors contained in the settlement records

(Article 8 bis f")

The parties to the dispute who are competent to hear the economic courts may resort directly to the head of the Board in the competent court to settle the dispute amicably without instituting a case. In this case, a fee of not less than 2,000 pounds shall be paid and not more than two hundred thousand pounds

to be determined by a decree from the Minister of Justice.

The prescription of claims for such disputes shall cease during the commencement of such proceedings

If the dispute is settled amicably, a settlement agreement shall be issued as set out in "Article 8 bis c" of this law, which shall have power of the executive bond.

If the dispute cannot be resolved amicably, the preparation judge shall archive the application and return all documents to the litigants

("Article 8 bis g")

The Preparation Judge shall refrain from hearing the cases in which he has already initiated proceedings

In case of an impediment to the preparatory procedures, the preparation Judge and concerning parties may submit an application to the Chairman of the Board to consider replacing judge with another; the Chairman of the Board shall decide on it within three days at the latest from the date of its submission.

Article 9 "Third Paragraph"

The provisions of Law No. 96 of 1952 concerning the regulating of expertise before the courts shall be followed in term of the experts

discipline whom are registered in the rosters.

#### Article (13)

In the application of the provisions of this Law, the following words and expressions shall refer to the meanings indicated hereunder:

##### Electronic Registration:

The register prepared electronically by the Economic Courts to record the data of the entities and persons provided for in Article 17 of this Law and the means of communication with them which enable the applicant to notify the litigants of the lawsuit or the interlocutory applications or the preliminary rulings issued therein

##### E-mail address:

The domicile determined by the entities and persons set out in this law to announce all procedures of the proceedings filed electronically, whether represented in their own e-mail, phone number or other technological means.

##### Electronic Deposit:

The means of residence and registration of the Writ, as well as the incidental applications, entry, intervention and signature of its writs, electronic signature approved and the deposit of documents and memoranda, which are carried out through the site allocated to it at the

competent economic court

Website:

A special website for the competent economic court for the establishment, recording and declaration of cases electronically

Upload documents electronically:

Upload the documents and memoranda submitted by the parties to the lawsuit on the website of the competent economic court with the possibility of memorizing, retrieving, reviewing and copying them in preparation for attaching them to the case file.

Script and Electronic document

A data message containing information created, incorporated, stored, transmitted or received in whole or in part by electronic, digital, optical or other similar means

Electronic payment

The means provided by the banking and non-banking financial institutions to pay all fees for the use of the electronic litigation service in the economic courts, court fees, the required Stamp fee for the establishment of cases, including prepaid cards, "debit cards and credit cards" and remittance.

Copied image:

The printed image of the electronic editor that is filed in the file of the claim

**Proceedings electronically:**

To direct the legal process by law through the website dedicated to this purpose

**Electronic Advertising:**

Notifying of the parties to the lawsuit by any legal action taken in the event of its filing and during the course of the process, through the website or e-mail address selected

**Ways to protect filing and proceeding the case electronically:**

Procedures for the protection of electronic lawsuit documents which are intended to avoid modification, alteration or destruction of their files whether intentionally or negligently

**Related Bodies:**

The bodies concerned with the management of the electronic litigation system in the economic courts, including the Ministry of Justice, the Ministry of Communications, the Ministry of Investment and International Cooperation, the General Authority for Investment and Free Zones, the General Authority for Financial Supervision, the Egyptian Stock Exchange, the Central Bank of Egypt



and the Commercial Register.

#### Article (14)

Except for the cases of cassation appeal against the appeal, filing the cases that are subject to the Economic Courts and appealing its judgments may be permissible by the persons and entities registered in the electronic register by virtue of a signed writ and electronically deposited on the website dedicated to the Registry of the competent economic court

The case shall be recorded after the defendant has paid the fees and stamps prescribed by law electronically and the documents are submitted electronically

A fee of not less than one hundred pounds and does not exceed one thousand pounds shall be applied for the use of the electronic service in accordance with the categories issued by the decree of the Minister of Justice; The proceeds of this fee shall be transferred to the general revenues of the budget of the Economic Court. The general budget of the State shall bear the costs of establishing and operating the website of this service

#### Article (15)

The Registry shall send the claim file electronically to the preparation board. The preparation judge shall immediately carry out the

preparatory work provided for in this law, including assigning the parties to the case to appear before him.

#### Article (16)

~~The parties to the lawsuit shall electronically be notified by its writ, External request, joiner and submit them to the selected e-mail address. If this is not possible, the usual procedure of the Civil and Commercial Procedure Code should be follow. In this case, the Registry shall be committed to deliver the copied photo of the writ, External request or joiner, maximum in the next day and stamping it with the emblem of the Republic to submit it to the Registry of the minutes of the competent economic court for its notification and returning it after response to the filing of its paper case.~~

#### Article (17)

Without prejudice to the provisions of any other law, those who address the provisions of this law shall be obliged to specify a selected electronic address through which the economic courts shall publish a unified electronic register dedicated to the registration of the electronic address of the following entities and persons:

1: The State or one of the public legal persons

2: Local and foreign companies or a

private legal person

### 3: Lawyers' offices

The entities and persons referred to in the first paragraph of this article shall apply to the economic courts with their electronic address chosen for registration in that register. Natural persons may also register in this register and the title shall be chosen by them.

However, the parties agree that any other e-mail address shall be declared on the same address, which can be stored and retrieved.

### Article (18)

The announcement of the lawsuit shall be made on the website designated for that purpose at the Economic Court before the specified hearing session date with at least five working days. The announcement of the State shall be made at the chosen e-mail address of the branch of the competent State Affairs Office. The announcement shall be made by the same means to the offices of lawyers registered in the register if it was chosen as legal address by the announced person.

The electronic advertisement is considered efficacious in advertising when it is proven to be sent

**Article (19)**

The parties may deposit the notes, submit the documents, submit the defense, the requests and access to the documents of the suit by the electronic means via designated site.

**Article (20)**

If the defendant does not attend trial sessions, the court may apply the text of article 82 of the Code of Civil and Commercial Procedure

**Article (21)**

If the lawsuit is filed by electronic way, the clerk may notify the adversaries to the judgments and decisions issued during the course of the case, by which the dispute will not end in the same way.

Prepared by:

Dott. Amir Mikhail  
Legal Specialist  
AMEX International

**ANNEX 4: ASSESSMENT PERCEPTION SURVEY**

**USAID Egypt Economic Courts Assessment**  
**Assessment Perception Survey Report**  
**AMEX International**  
**February 20, 2019**

**Table of Contents**

- 1. Methodology**
- 2. Profile of Respondents**
- 3. Survey Results**
- 4. Survey Questionnaire (English)**

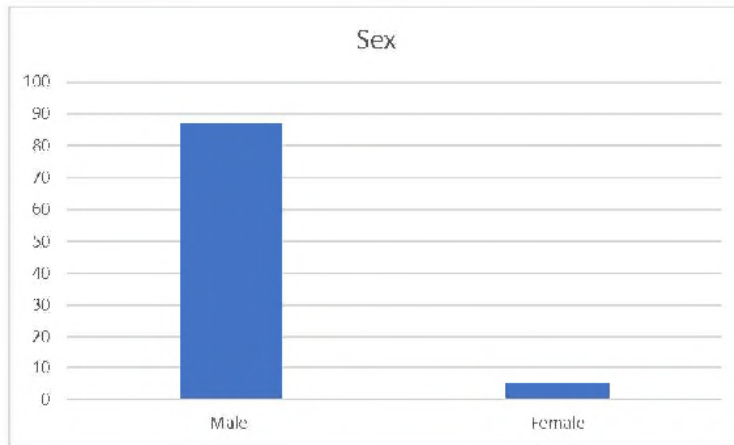
## 1. METHODOLOGY

<b>Objectives</b>	To provide quantitative data on the perception of the economic courts by lawyers and businesspeople who use the courts.
<b>Sample size</b>	N= 90 respondents
<b>Sample distribution</b>	30 respondents per city
<b>Locations</b>	Cairo, Alexandria and Asyut
<b>Target population</b>	Lawyers and businesspeople who use the economic courts
<b>Sampling process</b>	Definition of the selected economic courts Definition of the cities for interviews Identification of economic court users in each city Random selection of 20 lawyers and 10 businesspeople who use economic court users in each city
<b>Field work</b>	From 12/19/2018 to 1/9/2019
<b>Data entry</b>	Entered on tablets
<b>Data analyses</b>	SPSS
<b>Survey Company</b>	Edison Consulting with Egyptian partner Market Opportunities and Innovations

## 2. Profile of Respondents

### C1. Sex

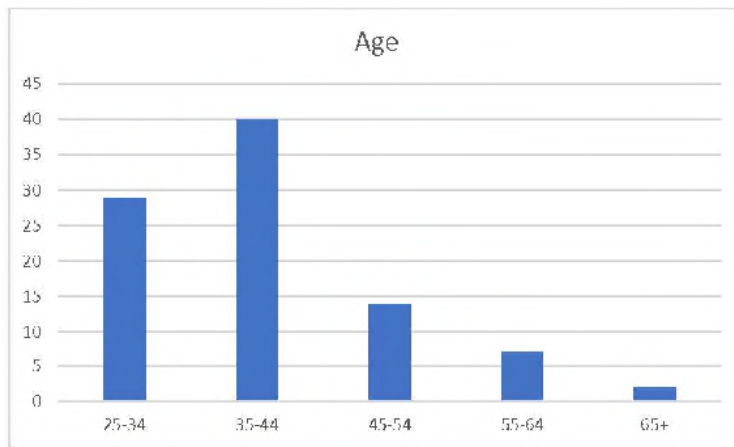
	Number	%
Male	87	95
Female	5	5





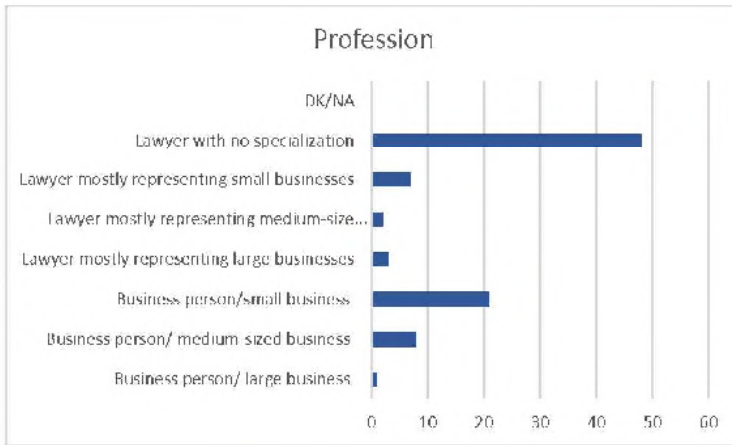
C2. How old are you?

	Number	%
25-34	29	32
35-44	40	43
45-54	14	15
55-64	7	8
65+	2	2



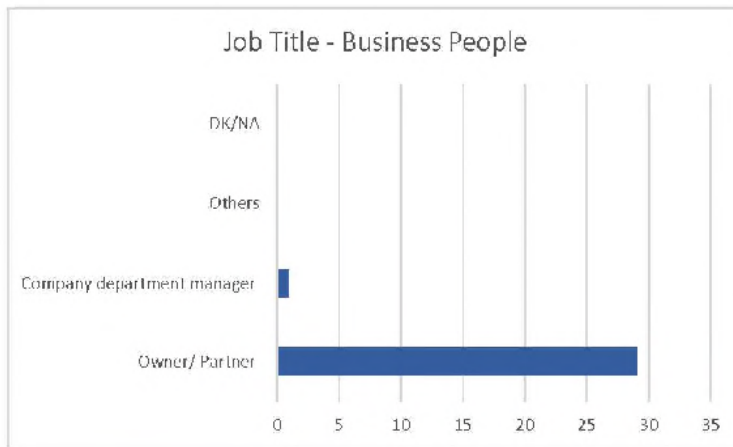
C3. What is your profession?

	Number	%
Business person/ large business	1	1
Business person/ medium-sized business	8	9
Business person/small business	21	23
Lawyer mostly representing large businesses	3	1
Lawyer mostly representing medium-size businesses	2	2
Lawyer mostly representing small businesses	7	8
Lawyer with no specialization	48	53
DK/NA	0	0



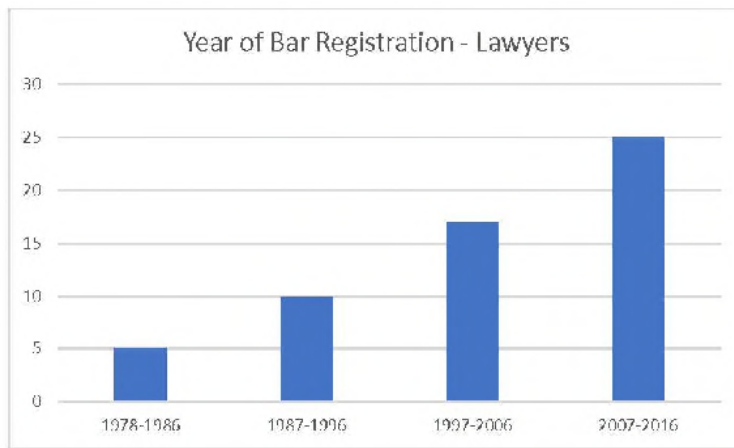
C4. What is your job title?

	Number	%
Owner/ Partner	29	97
Company department manager	1	3
Others	0	
DK/NA		



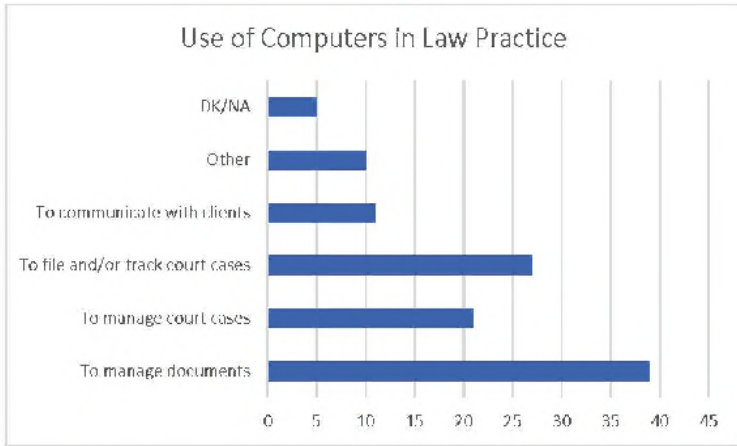
C5. When were you registered at the Bar Association?

	Number	%
1978-1986	5	9
1987-1996	10	18
1997-2006	17	30
2007-2016	25	44



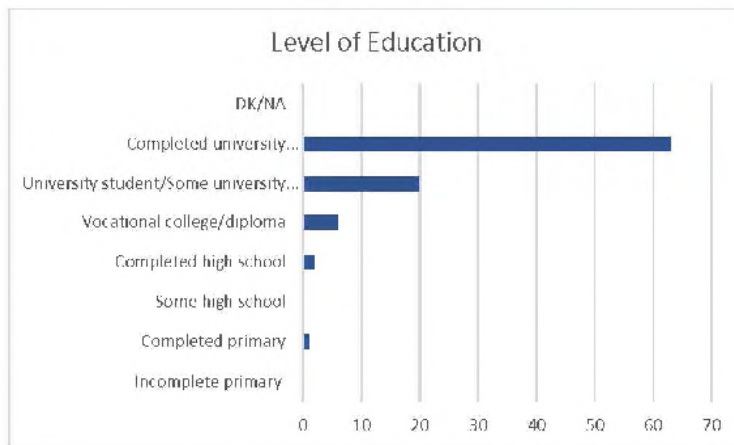
C6. How do you use computers in your law practice?

	Number	%
To manage documents	39	35
To manage court cases	21	19
To file and/or track court cases	27	24
To communicate with clients	11	11
Other	10	9
DK/NA	5	4



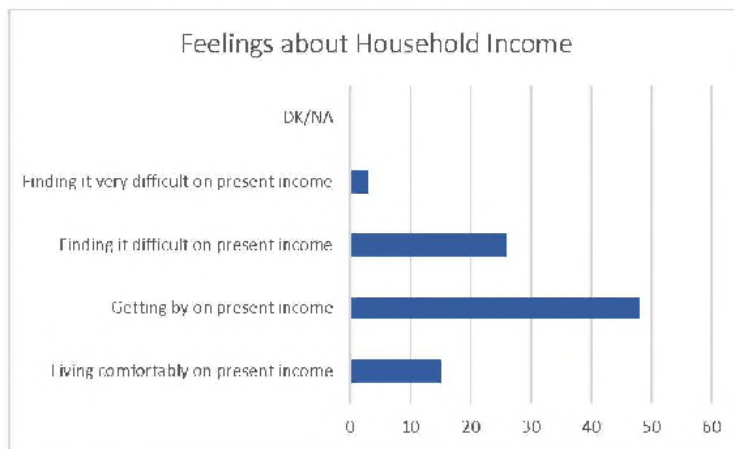
C7. What is the highest level of education you have attained?

	Number	%
Incomplete primary	0	0
Completed primary	1	1
Some high school	0	0
Completed high school	2	2
Vocational college/diploma	6	7
University student/Some university completed	20	22
Completed university undergraduate/postgraduate degree	63	68
DK/NA	0	0



C8. Which one of these phrases comes closest to your own feelings about your household's income these days?

Living comfortably on present income	15	16
Getting by on present income	48	52
Finding it difficult on present income	26	28
Finding it very difficult on present income	3	3
DK/NA	0	0



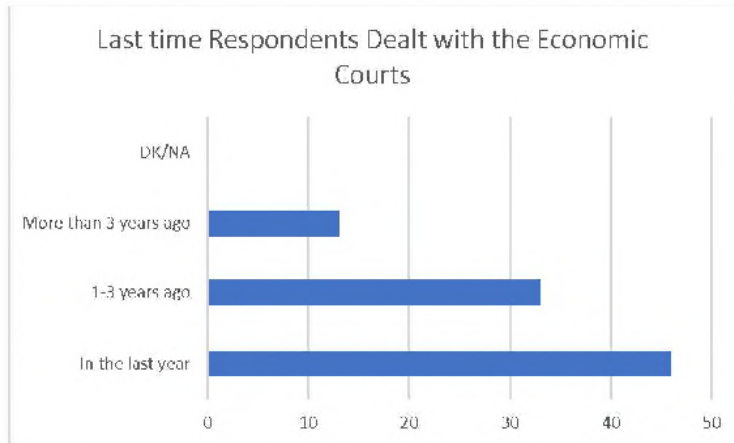
### 3. Perception Survey Results

A.1. Have you or a lawyer representing you ever had an opportunity to use the Economic Courts?

	Number	%
Yes	92	100
No	0	0

A.2. When was the last time you dealt with the Economic Courts?

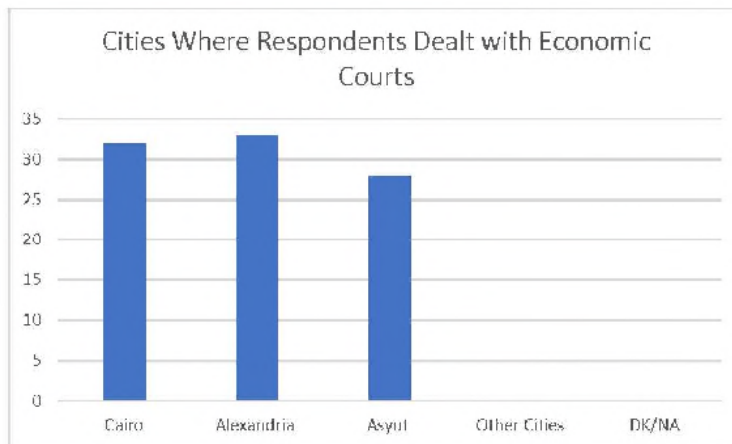
	Number	%
In the last year	46	50
1-3 years ago	33	36
More than 3 years ago	13	14
DK/NA	0	0





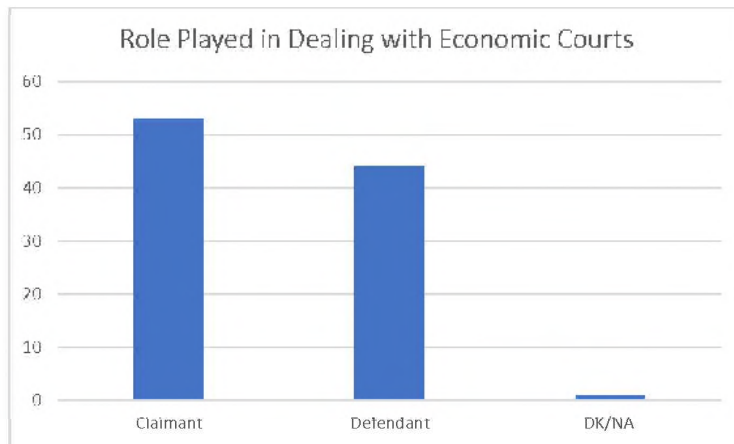
A3. In which city (cities) have you dealt with the Economic Courts?

	Number	%
Cairo	32	35
Alexandria	33	35
Asyut	28	30
Other Cities	0	0
DK/NA	0	0



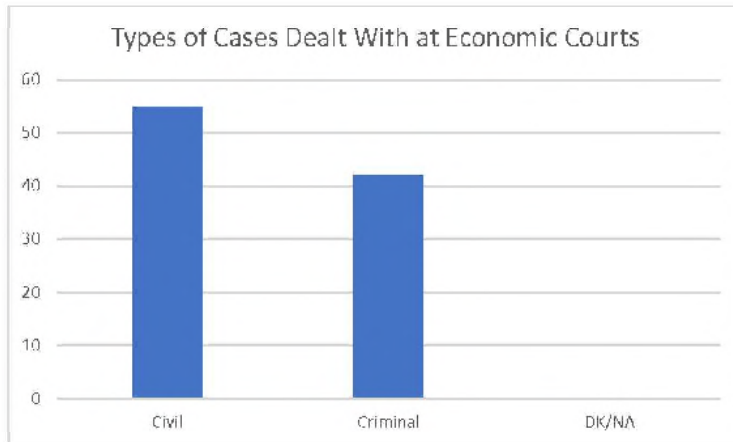
A4. While dealing with the Economic Courts, what role(s) have you played?

	Number	%
Claimant	53	54
Defendant	44	45
DK/NA	1	1



A5. In what type of case(s) have you been involved?

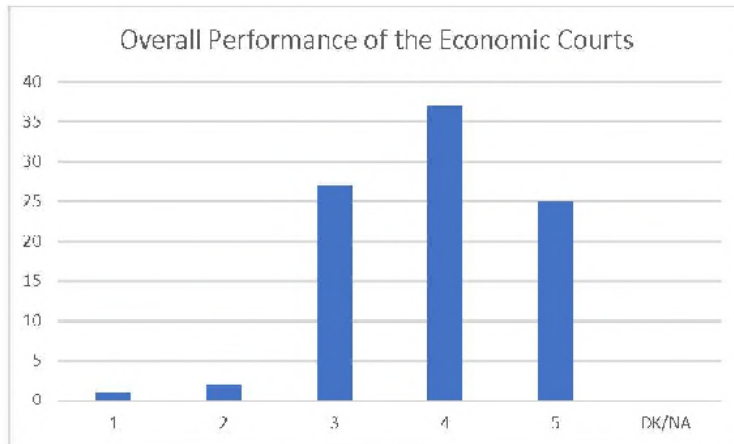
	Number	%
Civil	55	57
Criminal	42	43
DK/NA		0



A6. For the Economic Courts you have used, rate on a scale from 5 to 1, with 5 being the best and 1 being the worst, your perception of:

A6.1. Overall performance of the Economic Courts

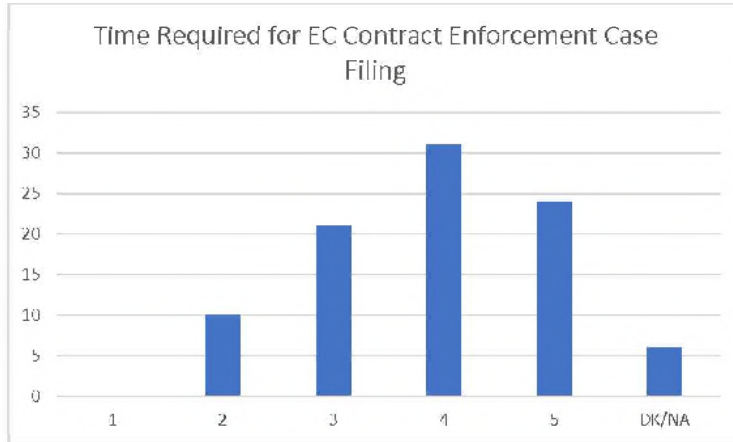
1	%	2	%	3	%	4	%	5	%	DK/NA
1	1	2	2	27	29	37	40	25	27	0



A6. For the Economic Courts you have used, rate on a scale from 5 to 1, with 5 being the best and 1 being the worst, your perception of:

A6.2. Time required for Economic Court contract enforcement case filing

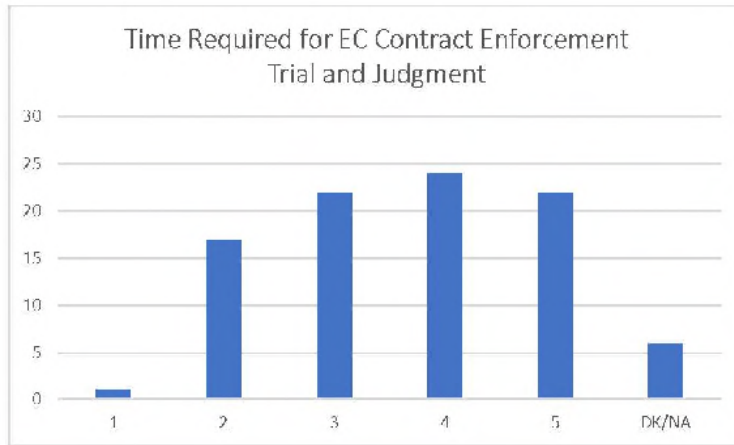
1	%	2	%	3	%	4	%	5	%	DK/NA	%
0	0	10	11	21	23	31	34	24	26	6	7



A6. For the Economic Courts you have used, rate on a scale from 5 to 1, with 5 being the best and 1 being the worst, your perception of:

A6.3. Time required for Economic Court contract enforcement trial and judgment

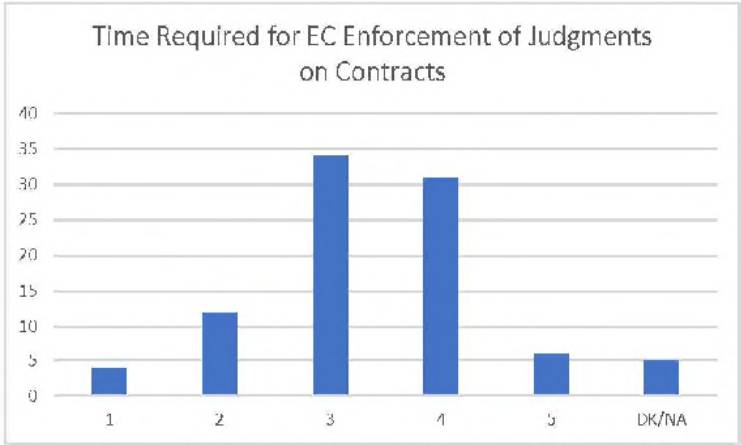
1	%	2	%	3	%	4	%	5	%	DK/NA	%
1	1	17	18	22	24	24	26	22	24	6	7



A6. For the Economic Courts you have used, rate on a scale from 5 to 1, with 5 being the best and 1 being the worst, your perception of:

A6.4 Time required for Economic Court enforcement of judgments on contracts

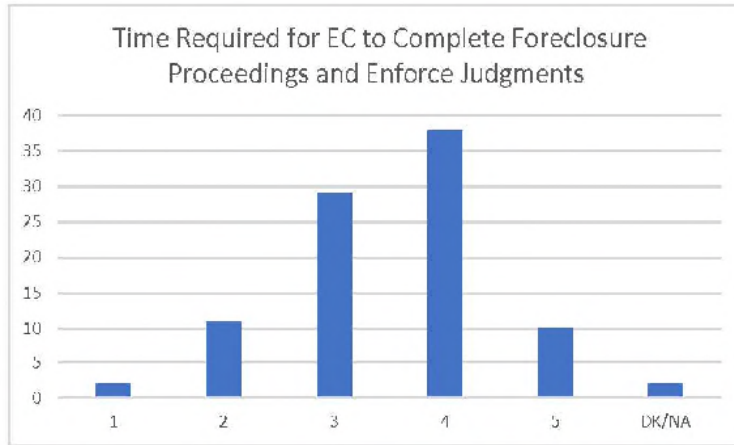
1	%	2	%	3	%	4	%	5	%	DK/NA	%
4	5	12	13	34	37	31	34	6	7	5	5



A6. For the Economic Courts you have used, rate on a scale from 5 to 1, with 5 being the best and 1 being the worst, your perception of:

A6.5. Time required for Economic Courts to complete foreclosure proceedings and enforce judgments

1	%	2	%	3	%	4	%	5	%	DK/NA	%
2	2	11	12	29	32	38	41	10	11	2	2

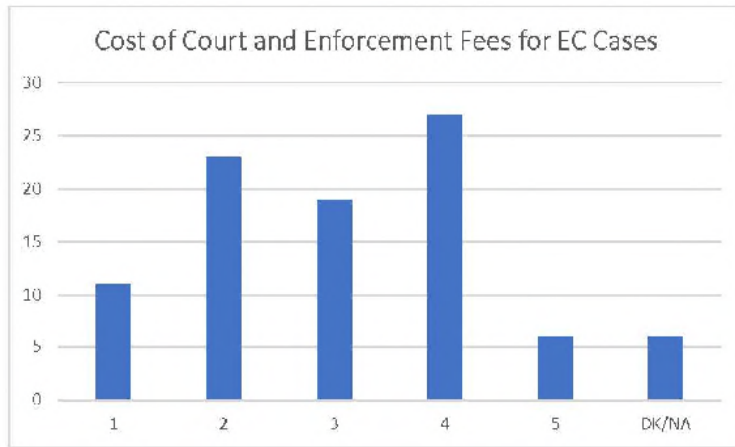




A6. For the Economic Courts you have used, rate on a scale from 5 to 1, with 5 being the best and 1 being the worst, your perception of:

A6.6. Cost of court fees and enforcement fees for Economic Court cases

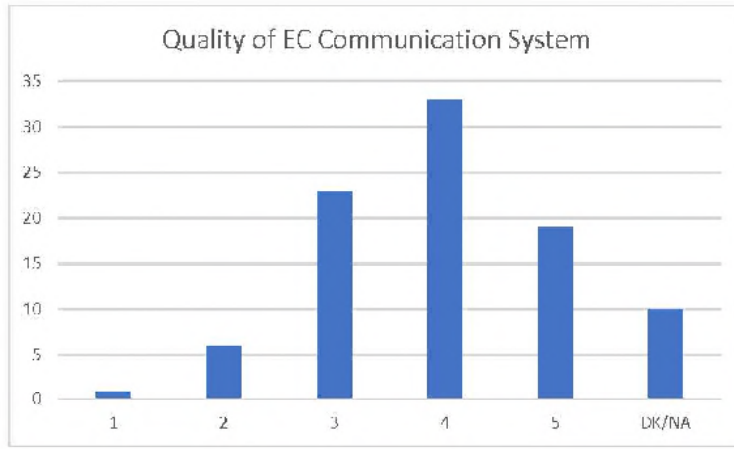
1	%	2	%	3	%	4	%	5	%	DK/NA	%
11	13	23	25	19	21	27	29	6	7	6	7



A6. For the Economic Courts you have used, rate on a scale from 5 to 1, with 5 being the best and 1 being the worst, your perception of:

A6.7 Quality of Economic Court communication system

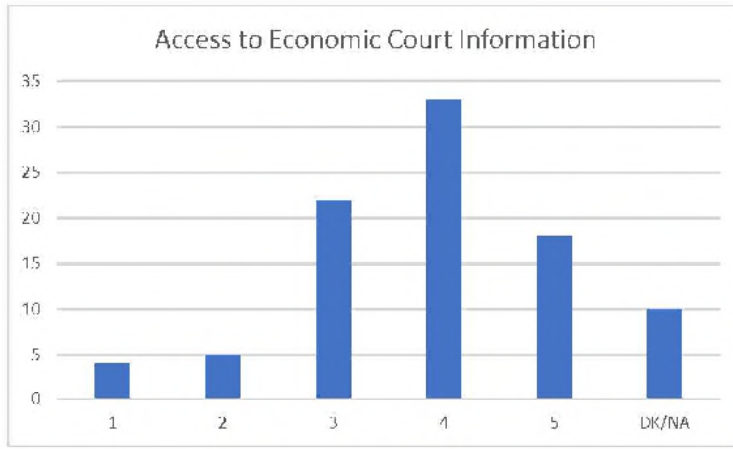
1	%	2	%	3	%	4	%	5	%	DK/NA	%
1	1	6	7	23	25	33	36	19	21	10	11



A6. For the Economic Courts you have used, rate on a scale from 5 to 1, with 5 being the best and 1 being the worst, your perception of:

A6.8. Access to Economic Court information

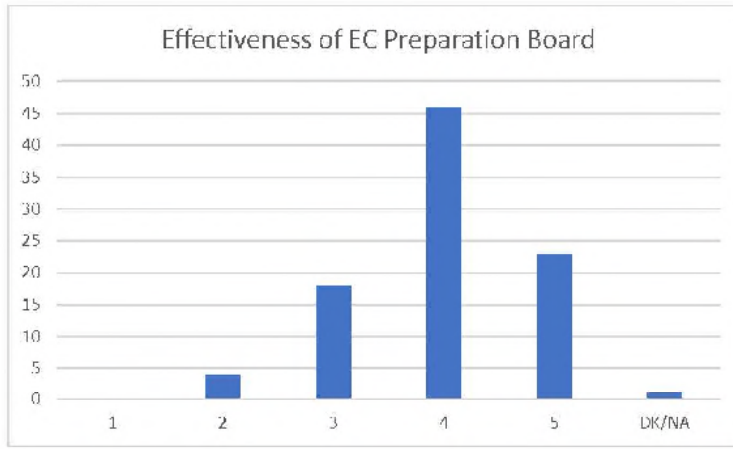
1	%	2	%	3	%	4	%	5	%	DK/NA	%
4	5	5	5	22	24	33	36	18	20	10	11



A6. For the Economic Courts you have used, rate on a scale from 5 to 1, with 5 being the best and 1 being the worst, your perception of:

A6.9. Effectiveness of Economic Court Preparation Board

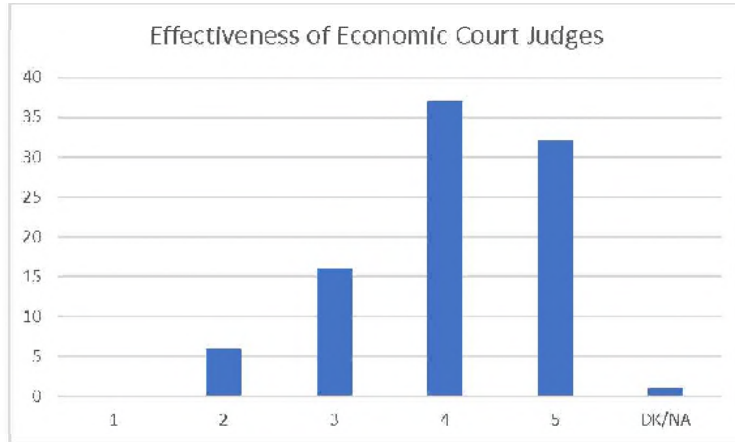
1	%	2	%	3	%	4	%	5	%	DK/NA	%
0	0	4	4	18	20	46	50	23	25	1	1



A6. For the Economic Courts you have used, rate on a scale from 5 to 1, with 5 being the best and 1 being the worst, your perception of:

A6.10. Effectiveness of Economic Court Judges

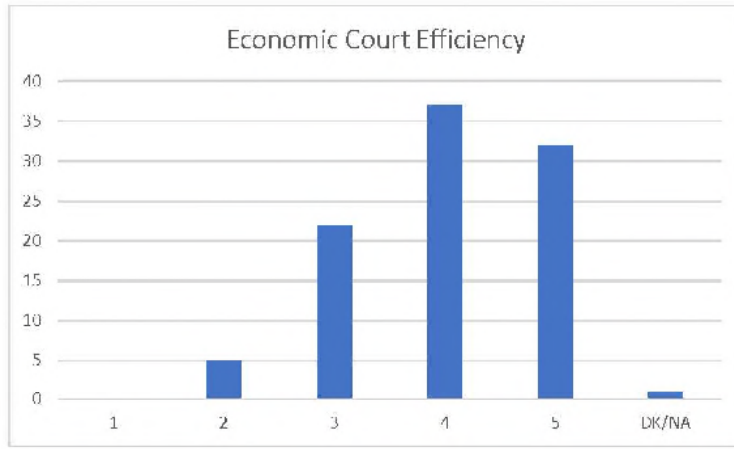
1	%	2	%	3	%	4	%	5	%	DK/NA	%
0	0	6	7	16	17	37	40	32	35	1	1



A6. For the Economic Courts you have used, rate on a scale from 5 to 1, with 5 being the best and 1 being the worst, your perception of:

A6.11. Economic Court Efficiency

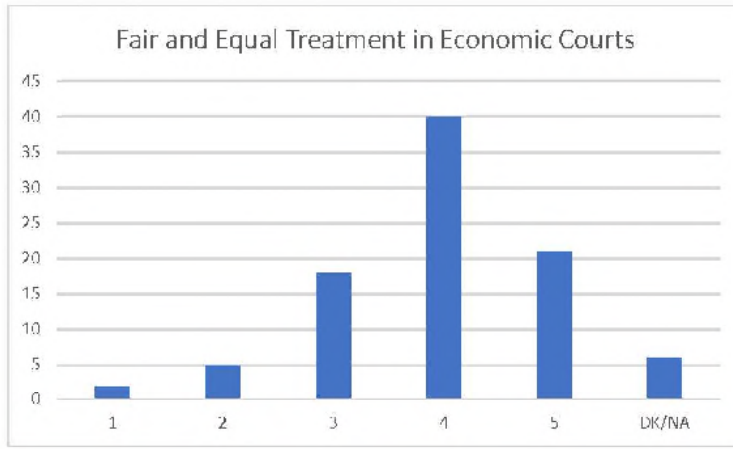
1	%	2	%	3	%	4	%	5	%	DK/NA	%
0	0	5	5	22	23	37	38	32	33	1	1



A6. For the Economic Courts you have used, rate on a scale from 5 to 1, with 5 being the best and 1 being the worst, your perception of:

A6.12. Fair and equal treatment in Economic Courts

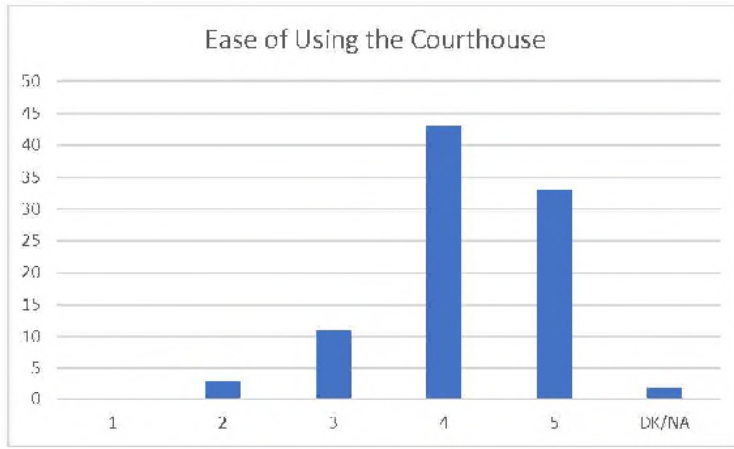
1	%	2	%	3	%	4	%	5	%	DK/NA	%
2	2	5	5	18	20	40	43	21	23	6	7



A6. For the Economic Courts you have used, rate on a scale from 5 to 1, with 5 being the best and 1 being the worst, your perception of:

A6.13. Ease of using the Courthouse

1	%	2	%	3	%	4	%	5	%	DK/NA	%
0	0	3	3	11	12	43	47	33	36	2	2

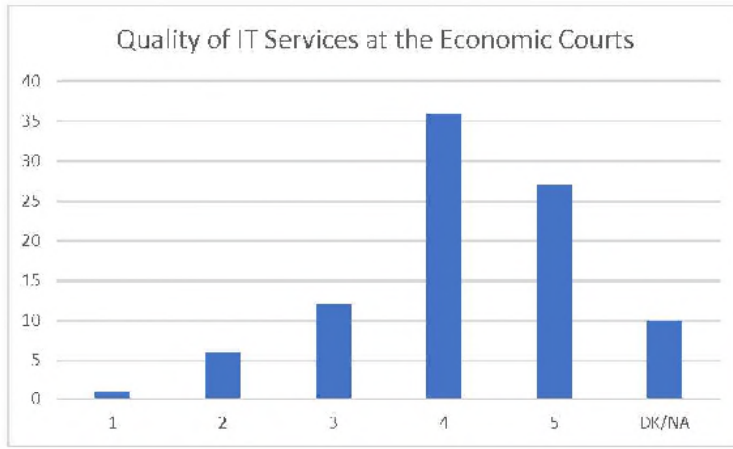




A6. For the Economic Courts you have used, rate on a scale from 5 to 1, with 5 being the best and 1 being the worst, your perception of:

A6.14. Quality of information technology services at the Economic Courts

1	%	2	%	3	%	4	%	5	%	DK/NA	%
1	1	6	7	12	13	36	39	27	29	10	11



A6. For the Economic Courts you have used, rate on a scale from 5 to 1, with 5 being the best and 1 being the worst, your perception of:

A6.15. Quality of Courthouse infrastructure, such as lawyers' facilities, libraries and sitting rooms

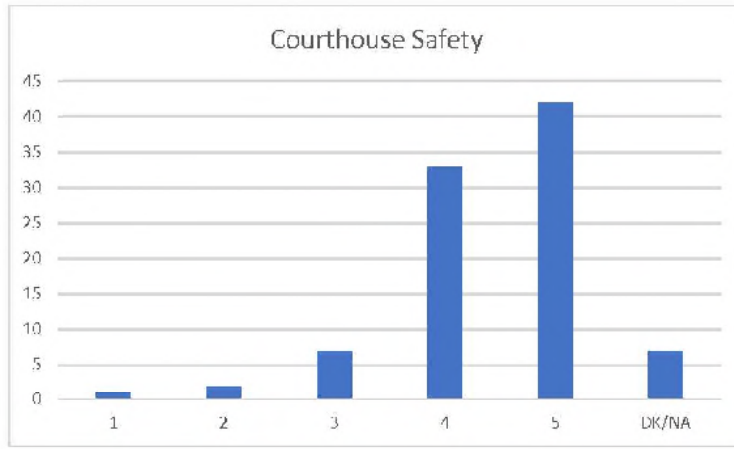
1	%	2	%	3	%	4	%	5	%	DK/NA	%
0	0	1	1	9	10	48	52	31	34	3	3



A6. For the Economic Courts you have used, rate on a scale from 5 to 1, with 5 being the best and 1 being the worst, your perception of:

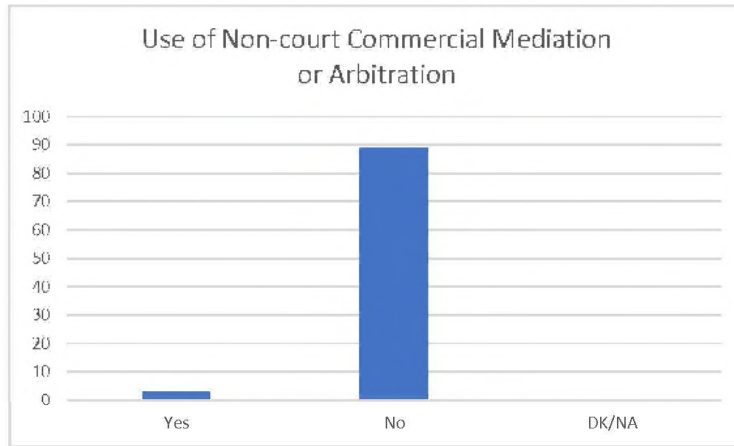
A6.16. Courthouse safety

1	%	2	%	3	%	4	%	5	%	DK/NA	%
1	1	2	2	7	8	33	36	42	46	7	8



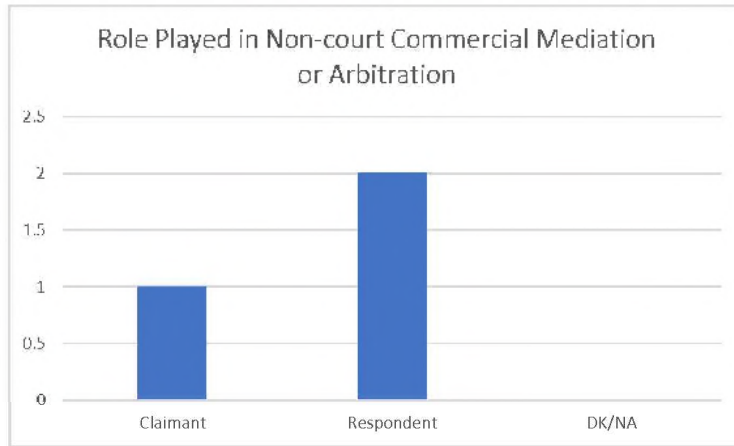
B1. Have you or a lawyer representing you ever used non-court commercial mediation or arbitration?

	Number	%
Yes	3	3
No	89	97
DK/NA	0	0



B2. While dealing with non-court commercial mediation or arbitration, what role(s) have you played?

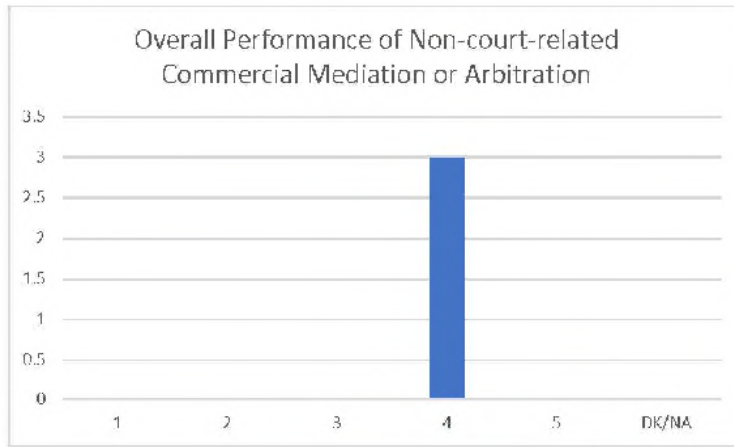
	Number	%
Claimant	1	33
Respondent	2	67
DK/NA	0	0



B3. For the non-court commercial mediation or arbitration you have used, rate on a scale from 5 to 1, with 5 being the best and 1 being the worst, your perception of:

B3.1. Overall performance of non-court-related commercial mediation or arbitration

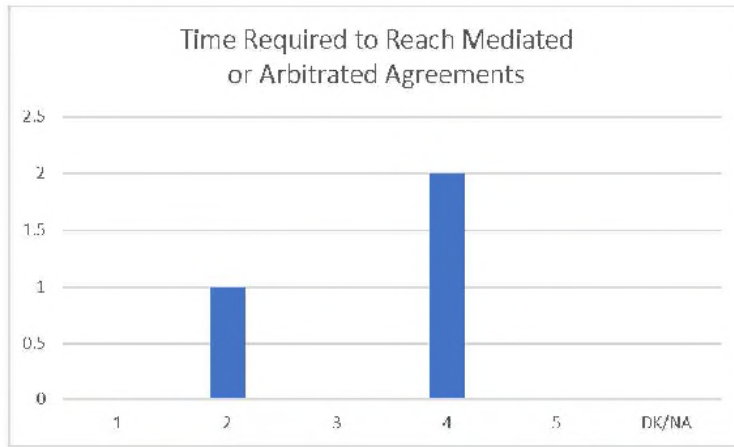
1	%	2	%	3	%	4	%	5	%	DK/NA	%
0	0	0	0	0	0	3	100	0	0	0	0



B3. For the non-court commercial mediation or arbitration you have used, rate on a scale from 5 to 1, with 5 being the best and 1 being the worst, your perception of:

B3.2. Time required to reach mediated or arbitrated agreements

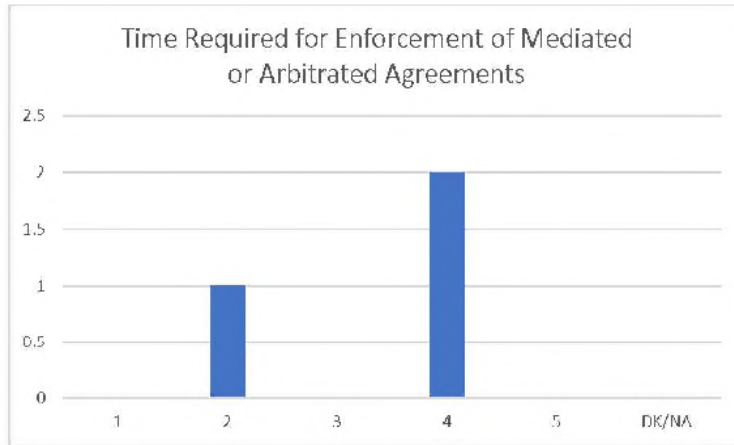
1	%	2	%	3	%	4	%	5	%	DK/NA	%
0	0	1	33	0	0	2	67	0	0	0	0



B3. For the non-court commercial mediation or arbitration you have used, rate on a scale from 5 to 1, with 5 being the best and 1 being the worst, your perception of:

**B3.3. Time required for enforcement of mediated or arbitrated agreements**

1	%	2	%	3	%	4	%	5	%	DK/NA	%
0	0	1	33	0	0	2	67	0	0	0	0





#### 4. Questionnaire

<b>MOI April 2018</b>	<b>Economic Court Survey V3</b>																																								
Questionnaire #																																									
Respondent Name																																									
Company Name																																									
Respondent's title																																									
Respondent's address																																									
Mobile Phone No.	0	1																			Other Mobile Phone	0	1																		
Notes	Ask for respondent's business card and attach with the questionnaire																																								
Recruiter's Name																																									
Interviewer's Name																																									
Back check																																									
Coding																																									
Data Entry																																									
Interview Date																																									
Day of Week: SU MO TU WE TH FR SAT																																									

Good morning/afternoon/evening, I am \_\_\_\_\_ with MOI, a market research agency based in Egypt. We are conducting a study about Economic Courts and non-court commercial mediation or arbitration in Egypt. The interview will take around 15 minutes.

**INTERVIEW START TIME: \_\_HR \_\_MIN**

SECTION A: VIEWS ON ECONOMIC COURTS

A1. Have you or a lawyer representing you ever had an opportunity to use the Economic Courts? <b>INTERVIEWER: READ CATEGORIES 1-2. CIRCLE ONE ANSWER.</b>		
Yes	1	CONTINUE to A2
No	2	SKIP to B1
DK/NA	99	SKIP to B1

A2. When was the last time you dealt with the Economic Courts? <b>INTERVIEWER: READ CATEGORIES 1-3. CIRCLE ONE ANSWER</b>	
In the last year	1
1-3 years ago	2
More than 3 years ago	3
DK/NA	99

A3. In which city (cities) have you dealt with the Economic Courts? <b>INTERVIEWER: READ CATEGORIES 1-4. MULTIPLE ANSWERS POSSIBLE</b>	
Cairo	1
Alexandria	2
Asyut	3
Other Cities	4
DK/NA	99

A4. While dealing with the Economic Courts, what role(s) have you played? <b>INTERVIEWER: READ CATEGORIES 1-2. MULTIPLE ANSWERS POSSIBLE</b>	
Claimant	1
Defendant	2
DK/NA	99

A5. In what type of case(s) have you been involved? <b>INTERVIEWER: READ CATEGORIES 1-2. MULTIPLE ANSWERS POSSIBLE</b>	
Civil	1
Criminal	2
DK/NA	99

A6. For the Economic Courts you have used, rate on a scale from 5 to 1, with 5 being the best and 1 being the worst, your perception of:

A6.1. Overall performance of the Economic Courts <b>INTERVIEWER: SHOW CARD. ONE ANSWER POSSIBLE</b>						
Very Bad Performance					Very Good	DK/NA
Performance						
1	2	3	4	5	99	

A6.2. Time required for Economic Court contract enforcement case filing <b>INTERVIEWER: SHOW CARD. ONE ANSWER POSSIBLE</b>						
Very Bad Performance					Very Good	DK/NA
Performance						
1	2	3	4	5	99	

A6.3. Time required for Economic Court contract enforcement trial and judgment <b>INTERVIEWER: SHOW CARD. ONE ANSWER POSSIBLE</b>						
Very Bad Performance					Very Good	DK/NA
Performance						
1	2	3	4	5	99	

A6.4. Time required for Economic Court enforcement of judgments on contracts <b>INTERVIEWER: SHOW CARD. ONE ANSWER POSSIBLE</b>						
Very Bad Performance					Very Good	DK/NA
Performance						
1	2	3	4	5	99	

A6.5. Time required for Economic Courts to complete foreclosure proceedings and enforce judgments <b>INTERVIEWER: SHOW CARD. ONE ANSWER POSSIBLE</b>						
Very Bad Performance					Very Good	DK/NA
Performance						
1	2	3	4	5	99	

A6.6. Cost of court fees and enforcement fees for Economic Court cases <b>INTERVIEWER: SHOW CARD. ONE ANSWER POSSIBLE</b>						
Very Bad Performance				Very Good		DK/NA
Performance						
1	2	3	4	5	99	

A6.7. Quality of Economic Court communication system <b>INTERVIEWER: SHOW CARD. ONE ANSWER POSSIBLE</b>						
Very Bad Performance				Very Good		DK/NA
Performance						
1	2	3	4	5	99	

A6.8. Access to Economic Court information <b>INTERVIEWER: SHOW CARD. ONE ANSWER POSSIBLE</b>						
Very Bad Performance				Very Good		DK/NA
Performance						
1	2	3	4	5	99	

A6.9. Effectiveness of Economic Court Preparation Board <b>INTERVIEWER: SHOW CARD. ONE ANSWER POSSIBLE</b>						
Very Bad Performance				Very Good		DK/NA
Performance						
1	2	3	4	5	99	

A6.10. Effectiveness of Economic Court Judges <b>INTERVIEWER: SHOW CARD. ONE ANSWER POSSIBLE</b>						
Very Bad Performance				Very Good		DK/NA
Performance						
1	2	3	4	5	99	

A6.11. Economic Court Efficiency <b>INTERVIEWER: SHOW CARD. ONE ANSWER POSSIBLE</b>						
Very Bad Performance				Very Good		DK/NA
Performance						
1	2	3	4	5	99	

A6.12. Fair and equal treatment in Economic Courts <b>INTERVIEWER: SHOW CARD. ONE ANSWER POSSIBLE</b>						
Very Bad Performance				Very Good		DK/NA
Performance						
1	2	3	4	5	99	

A6.13. Ease of using the Courthouse <b>INTERVIEWER: SHOW CARD. ONE ANSWER POSSIBLE</b>						
Very Bad Performance				Very Good		DK/NA
Performance						
1	2	3	4	5	99	

A6.14. Quality of information technology services at the Economic Courts <b>INTERVIEWER: SHOW CARD. ONE ANSWER POSSIBLE</b>						
Very Bad Performance				Very Good		DK/NA
Performance						
1	2	3	4	5	99	

A6.15. Quality of Courthouse infrastructure, such as lawyers' facilities, libraries and sitting rooms <b>INTERVIEWER: SHOW CARD. ONE ANSWER POSSIBLE</b>						
Very Bad Performance				Very Good		DK/NA
Performance						
1	2	3	4	5	99	

A6.16. Courthouse safety <b>INTERVIEWER: SHOW CARD. ONE ANSWER POSSIBLE</b>					
Very Bad Performance			Very Good		DK/NA
Performance					
1	2	3	4	5	99

SECTION B. VIEWS ON NON-COURT COMMERCIAL MEDIATION OR ARBITRATION

B1. Have you or a lawyer representing you ever used non-court commercial mediation or arbitration?

<b>INTERVIEWER: READ CATEGORIES 1-2. CIRCLE ONE ANSWER</b>			
Yes	1	CONTINUE	
No	2	SKIP to C1	
DK/NA	99	SKIP to C1	

B2. While dealing with non-court commercial mediation or arbitration, what role(s) have you played?

<b>INTERVIEWER: READ CATEGORIES 1-2. MULTIPLE ANSWERS POSSIBLE</b>	
Claimant	1
Respondent	2
DK/NA	99

B3. For the non-court commercial mediation or arbitration you have used, rate on a scale from 5 to 1, with 5 being the best and 1 being the worst, your perception of:

B3.1. Overall performance of non-court-related commercial mediation or arbitration <b>INTERVIEWER: SHOW CARD. ONE ANSWER POSSIBLE</b>					
Very Bad Performance			Very Good		DK/NA
Performance					
1	2	3	4	5	99

B3.2. Time required to reach mediated or arbitrated agreements <b>INTERVIEWER: SHOW CARD. ONE ANSWER POSSIBLE</b>						
Very Bad Performance Performance					Very Good	DK/NA
1	2	3	4	5	99	

B3.3. Time required for enforcement of mediated or arbitrated agreements <b>INTERVIEWER: SHOW CARD. ONE ANSWER POSSIBLE</b>						
Very Bad Performance Performance					Very Good	DK/NA
1	2	3	4	5	99	

**SECTION C: DEMOGRAPHIC INFORMATION**

C1. Sex of respondent (**DO NOT ASK – RECORD ONLY**)

	CIRCLE ONE RESPONSE
Male	1
Female	2

C2. How old are you?  
**INTERVIEWER: RECORD AGE IN YEARS.**

	(Enter number)
	_____ years
DK/NA	99



C3. What is your profession?

**INTERVIEWER: SHOW CARD. READ CATEGORIES 1-7, IF NECESSARY**

Business person/ large business	1	CONTINUE
Business person/ medium-sized business	2	CONTINUE
Business person/small business	3	CONTINUE
Lawyer mostly representing large businesses	4	SKIP TO C5
Lawyer mostly representing medium-size businesses	5	SKIP TO C5
Lawyer mostly representing small businesses	6	SKIP TO C5
Lawyer with no specialization	7	SKIP TO C5
DK/NA	99	CONTINUE

C4. What is your job title?

**INTERVIEWER: ONE ANSWER POSSIBLE**

Owner/ Partner	1	SKIP TO C7
Company department manager	2	SKIP TO C7
Others, specify: _____	3	SKIP TO C7
DK/NA	99	SKIP TO C7

C5. When were you registered at the Bar Association?

**INTERVIEWER: ONE ANSWER POSSIBLE**

	(Enter Year)
	____year
DK/NA	99

C6. How do you use computers in your law practice?

<b>INTERVIEWER: READ CATEGORIES 1-5. MULTIPLE ANSWERS POSSIBLE</b>	
To manage documents	1
To manage court cases	2
To file and/or track court cases	3
To communicate with clients	4
Other	5
DK/NA	99

C7. What is the highest level of education you have attained?  
**(DO NOT ASK – RECORD ONLY). SHOW CARD, IF NECESSARY**

	CIRCLE ONE RESPONSE
Incomplete primary	1
Completed primary	2
Some high school	3
Completed high school	4
Vocational college/diploma	5
University student/Some university completed	6
Completed university undergraduate/postgraduate degree	7
DK/NA	99

C8 Which one of these phrases comes closest to your own feelings about your household's income these days?

**INTERVIEWER: USE SHOW CARD C7 AND READ CATEGORIES 1-4, IF NECESSARY**

	CIRCLE ONE RESPONSE
Living comfortably on present income	1
Getting by on present income	2
Finding it difficult on present income	3
Finding it very difficult on present income	4
DK/NA	99

**INTERVIEWER: Thank the respondent and finish the interview**

SECTION D: INTERVIEW INFORMATION

**FOR INTERVIEWER COMPLETION ONLY -- DO NOT ASK RESPONDENT!**

D1. FINISH TIME (HHMM): \_\_\_\_\_

D2. TOTAL MINUTES: \_\_\_\_\_

D3. NUMBER OF ATTEMPTS: \_\_\_\_\_

D4. Overall, how did the respondent behave during the interview?

	CIRCLE ONE RESPONSE
Interested	1
Indifferent	2
Distracted	3
Became tired	4
Angry	5

D5. PLEASE NOTE ANY QUESTIONS THAT CAUSED PARTICULAR DIFFICULTIES FOR THE RESPONDENT.  
\_\_\_\_\_

**ANNEX 5: MINISTRY OF JUSTICE DECREE NO.1929 - YEAR 2008**

**Arab Republic of Egypt**

**Ministry of justice**

**Minister's office**

**Decision of the minister of justice no.1929 year 2008 on the  
preparation of lawsuits and disputes at the economic courts**

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**The minister of justice**

Having reviewed the constitution,  
The civil and trade pleading laws,  
The law of evidence in the civil and trade articles no. 25 year 1968, and  
The law of the economic courts issued by the law no. 120 year 2008.

**Decided**

**(Article no. 1)**

The preparation body stated in article no. 8 of law no. 120 year 2008 for establishing the economic courts, shall undertake the preparation of disputes and lawsuits which are within the jurisdiction of these courts, except criminal, summary, appealed lawsuits, provisional orders, performance orders, and the orders on petitions and their complaints. The body shall offer conciliation and try to conciliate between the parties regarding lawsuits where conciliation is permitted.

**(Article no.2)**

The clerk office shall present the disputes and lawsuits which are within the jurisdiction of the body to its president in the same day of recording their summons. The president of the body shall appoint a member or more of the body members in the next day at most and shall refer the lawsuit's file to him to undertake the preparation procedures and offer conciliation to the parties under his supervision.

**(Article no.3)**

The body member shall undertake the preparation of disputes and lawsuits referred to him through preparing them to consider their subjects as soon as possible, and for this aim he has the right to the following:

- 1- Study the subjects and documents of the disputes and lawsuits raised by the parties.
- 2- Fulfill the required documents for the settlement of the disputes and lawsuits according to the nature of the dispute or the lawsuit raised before the court, provided that this fulfillment shall take place with the acknowledgement of the parties during a period of time determined by the body member, with a permission to obtain the required documents which are required to be submitted from governmental bodies.
- 3- Summon the parties to hold hearings to hear their points of view and discuss the facts which need explanation in the disputes and lawsuits, and to know the points of agreement and disagreement between the parties.
- 4- Charge the parties to present their requests and evidences during the hearings, including their requests regarding the introduction of new parties and the reasons for that, and presenting the accidental requests and their evidences.
- 5- Do the required tries to conciliate between the parties, hear their points of view in it, and know what can be offered by every party to achieve this conciliation.
- 6- Prepare a brief memorandum to the competent circuit which will try the dispute or the lawsuit including; the preparation procedures taken by the body, the held hearings, the points of view of each party, their evidences, the documents presented by them, their requests in the dispute or the lawsuit, the points of agreement and disagreement between the parties, and the result of offering conciliation between them.

**(Article no.4)**

The competent member of the preparation body shall determine the time of hearings. The time of the first hearing shall not exceed seven days of presenting the dispute or the lawsuit to him, the clerk office shall notify the parties to the hearings and any other decision issued by him. The notification shall be with a return letter, telegram, telex, fax or whatsoever of communication means that has a proof as lawful evidence.

**(Article no.5)**

The preparation hearings shall be held nonpublic, and the body member shall have a secretary to prove the attendance of the parties and record the facts of the hearings in minutes prepared for this aim according to the general rules. The attendance of parties in the hearing shall be in personal or through a legal representative.

**(Article no.6)**

The body member shall conclude the preparation of the dispute or the lawsuit during a period not exceeding 30 days from the date of recording it in the clerk office of the court. The body member shall prepare a brief memorandum stating the parties' requests, their evidences, and the points of agreement and disagreement between them, and deposit it in the lawsuit's file, and raise it to the president of the body to submit it to the competent circuit in the determined hearing before the end of the mentioned period.

In case the preparation procedures didn't finish, the member of the body shall present the matter to the president of the body by a memorandum explaining the reasons for not finishing the procedures. The president of the body may ask the president of the competent circuit to offer the body a new period for preparation not exceeding another 30 days.

In case the offered period came to an end without finishing the preparation, the president of the body shall send the lawsuit's file and the procedures taken, in this context, to the president of the competent circuit in the next day following the end of the said period with a memorandum including what have been taken of preparation procedures and what have not and the reasons for that.

**(Article no. 7)**

The body member shall offer conciliation and try to conciliate between the parties in order to settle the dispute friendly. The body member is not permitted to give a legal opinion to the interest of one party against the other. The body member has the right, in the context of encouraging the parties to accept conciliation, to hold joint hearings with them or private hearings with every party alone to explain the subject of the dispute, and to discuss the solutions which they present and develop it until reaching an agreed formula between them, provided that he shall offer them equal opportunities to present their points of view. And the body member shall keep the confidentiality of the information which they declared during their private hearings and requested not to be disclosed.

In case they reached conciliation in all lawsuit's aspects, this shall be proved in a special minutes signed by the parties and raised by the president of the preparation body to the competent circuit.

In case the conciliation efforts reached an agreement to conciliation in some points of the disputes, the body member shall prepare a memorandum of that and attach it to the preparation file and the memorandum raised to the competent circuit which tries the dispute requesting the attachment of conciliation to the minutes of the hearing and make it as an executive document.

If conciliation did not take place, and the file of the lawsuit was referred to the competent circuit, so it wouldn't be permitted to take into consideration the papers, documents, letters, or the assignments presented or used by any of the parties regarding conciliation as an evidence or document before the court or any other judicial body except if the party who presented it insisted on it.

**(Article no.8)**

The preparation body member may seek the help of experts or specialized persons to have their opinion in oral or through a brief memorandum in any of the technical matters regarding the preparation of the dispute, the lawsuit, or the conciliation, and this shall be by a written decision appointing the expert, and determining his duty and the appointed hearing in which he will attend.

The expert's fees shall be amounted according to the stated rules in the decision of the minister of justice no.6928 year 2008.

**(Article no.9)**

The preparation body member shall not be a member in the circuit which will try the subject of the lawsuit, and the information given by the parties to reach conciliation shall not be disclosed by him.

**(Article no.10)**

This decision shall be published in "Alwaqa'i Almesreya" and shall take effect on 1/10/2008

The Minister of Justice  
Signed



**ANNEX 6: SUMMARY OF ENFORCEMENT PROCESS AND ANALYSIS OF PROBLEMS WITH ENFORCEMENT OF EC JUDGMENTS**

USAID project  
Assessment of the Egyptian Economic Courts

Thursday 13<sup>th</sup> December 2018

## Executing the Civil Judgments of the Economic Courts in Egypt

The executive instrument consists of two pillars,

- The first one, objective, the essence of the executive instrument and requires that the fixed right in the instrument to be existing, specified of amount and the due to be paid, Art.280/1 Pleading.
- The second one, formal, which is to have the Writ of execution.

The executive instruments shall be only limited to instruments under law of the establishing the economic courts No. 120 of 2008 as follows:

- 1) Rulings issued by the Economic Courts "Art. 7 of Law 120 of 2008"
- 2) Rulings issued by the interim relief judge in economic courts, Injunction on a petitions, **temporary orders**, and Writ of Debt in matters that are competent by the economic courts "Art. 3, 7 of Law 120 of 2008"

### ❑ Execution preliminaries:

Execution preliminaries of the provisions are as follows:

**Notification of the Executive Instrument:** It should includes, the date of notification, the name of the applicant, the name of the associate, the signatory, the name of the addressee, the recipient of the notification copy and to call the addressee "the debtor" for fulfillment with mandatory to be accompanied by a copy of the executive document , Art. 280 /1,2,9 of C. Procedures code "

1. Collapse of the scheduled execution date legally; it is at least a full day between the declaration of the executive instrument and the commencement of the Execution procedures.

2.. Application for Execution: The application must include the name, title and home of the applicant, the name of the applicant, his title and home, the name of the enforcee, his title and his country, the determination of the execution route to be followed and the funds to be executed upon. The application must be accompanied by an executive copy and proof of fulfillment of the condition if the execution is suspended on a standing condition, as if the

execution is accompanied by the condition of providing a guarantee; if the applicant is a successor of the creditor, he must submit proof of his succession.

#### || Execution procedures:

- The application applicant shall submit the execution papers, which is the executive instrument and its supporting documents, if any, with two copies of the execution papers attached.
- The execution documents shall be submitted to the first execution associate, who shall present the papers to the head of the enforcement department or one of the judges of that department to examine the papers for the report either by filling the missing ones or by accepting the papers and assigning the execution to one of the competent execution associates.
- The due fee shall be estimated and the applicant shall submit the proof payment for that fee.
- The Execution file shall be handed over to the execution first associate assigned to the execution to set a commencement date for the execution process and shall present the obstacles that it faces during the process to the competent execution judge.
- If a first Execution Complication is raised in the execution or objective execution dispute with a precedent effect after the acceptance of the execution papers, the execution procedures shall be suspended until the end of the precedent effect.

#### | Execution ways:

Execution has two types:

**First:** direct execution: It is the way in which the compulsory execution of the obligation that is not belongs to amount of money.

**Second:** Indirect Execution: It is the Executive seizure and expropriation; it is the way should be followed when the subject of obligation is originally amount of money or as compensation because the original obligation cannot be executed in kind.

Execution by seizure passes through three stages

- 1 - The seizure of money
- 2 - Sale of the seized money
- 3 - distribution of the sale proceeds.

Execution by expropriation "real estate execution ": goes through four steps, which are:

- 1- Summon of expropriation notice and registration of notice at Real Estate Publicity Department.
- 2- To Prepare list of sale terms of the seized property and deposit the list of the Registry of the Court and the declaration of this deposit so that any interested person can make his

- observations and objections until they are resolved before reaching the stage of the sale procedures.
- 3- After the dismissal and resolution of the objections, the sale shall be done by public auction. Once the sale has been made, the judge shall judge the rate of sale on the buyer.
  - 4- Distribution of the proceeds of the sale.

□ **Execution disputes:**

Execution disputes can be divided into two types:

**The first type:** the dispute of the Execution temporary and urgent; this type is divided into two parts, one prior the Execution which is the temporary Execution Complication, and what is after the execution which is urgent Execution disputes such as the claim of inconsideration of attachment, the claim limitation of attachment, the deposit and customize, and urgent cases based one of the execution procedures.

**The second type** is the substantive execution disputes, namely, in which the issues of the dispute ask to resolve the matter of opposition to execution in terms of deciding the validity and nullity of the procedures of execution.

**An example of the substantive execution disputes:** the claim to recover the confiscated movables and the cancellation of the seizure signed on them, the claim of acquittal with the request for cancellation of the attachment, the action of the lifting of the detention, the claim of nullification of the detention.

Procedures to file Execution Complication: in the usual way of filing claims, to submit the Writ of summons at Registry of the court, and to be notified in the same way in proportion to the urgent cases, i.e, to call the defendant to appear before the court in twenty-four hours.

The Complication can be presented to the execution associate in writing or verbally. The execution associate should register the Complication on the execution minutes of meeting, to set a hearing to look into the issue before the competent enforcement judge and notify the absentee of the litigants and the concerned person to pay the Complication fee to the execution associate immediately upon its creation or at the following day.

□ **The competent judge for the consideration of implementation disputes:**

1. The Trial Chambers shall be competent in the Economic Courts to hear the disputes of provisional and substantive execution.
2. The heads of the Trial Chambers shall issue decisions and orders concerning execution.

3. The Trial Chambers shall be competent in the Economic Courts to hear grievances from the decisions and orders set forth in the preceding article, provided that the decision or order is not made by the members of the Chamber.
4. The Appeals Chambers shall be competent in the Economic Courts to hear appeals against the decisions of the Trial Chambers in the disputes referred to in Articles I and III.
  - Orders for petitions issued by the heads of the Trial Chambers of the Economic Courts as executing judges:
    - 1) Permission to execute before 7:00 am or after 8:00 pm or on public holidays. (Article 7 Pleadings)
    - 2) Formulation of the executive agreement on the financing agreement and the seizure order on the guarantor property. (Article 13 of the Mortgage Law)
    - 3) Order to appoint the real estate agent at the request of the financier. (Article 16 of the Mortgage Law).
    - 4) The order to replace the real estate agent at the request of each interested party (Article 16 of the Real Estate Finance Law)
    - 5) Estimation of the expenses of the execution procedures that have been suspended. (Article 21 of the Mortgage Law).
    - 6) Distribution of the proceeds of implementation (Article 26 of the Real Estate Finance Law)
    - 7) Order to execute official instruments issued in a foreign country (Article 300 pleadings)
    - 8) Order for provisional seizure and assessment of the debt of the barrier is temporary if the creditor does not have an enforceable or non-enforceable judgment (Article 319)
    - 9) Order Attachment of Debtor 's Receivable With Third Parties/ garnishment if the creditor does not have an executive instrument or judgment, even if it is not enforceable (Article 327 pleadings)
    - 10) the order to estimate the expenses spent by the detainee (Article 345 pleadings)
    - 11) Authorization to search the debtor for the seizure of his pocket (article 356 pleadings)
    - 12) Order to appoint an expert to estimate the value of precious metals such as jewels, gold or silver alloys, jewelry or precious stones. (Article 358 pleadings)
    - 13) Order the transfer of reserved objects in the absence of the debtor or who accepts the custody (Article 365 pleadings)
    - 14) Order to estimate the remuneration of the guard - if he is not the debtor or the barrier (Article 367 pleadings)
    - 15) ordering the guard to manage or exploit the funds seized or order the replacement of another guard to do so (Article 368 pleadings)
    - 16) Order exemption from guardianship (Article 369 pleadings)
    - 17) Order to harvest the (Article 370 pleadings)

- 18) Order to extend the date of sale of movables confiscated (Article 375 pleadings)
- 19) The order to make the sale before the expiry of eight days from the time of the seizure if the reserved items are subject to damage or goods offered to fluctuate prices (Article 376 pleadings)
- 20) Order to determine where the sale takes place in case it differs from the place of detention (Article 377 pleadings)
- 21) Order to increase the means of advertising the sale of the attachments (Article 379 pleadings)
- 22) Order appointing a broker or third party in the sale of shares and instruments (Article 400 pleadings)
- 23) Order the Process Server to enter the property to obtain the necessary data to describe the property and its components. (Article 401 pleadings)
- 24) Permission for those who have made a subsequent warning in the registration (registration of expropriation) in the solutions from the previous alert, and to take the procedures (article 402 pleadings)
- 25) Order solutions on the margin of registration of the previous eviction notice (Article 403 pleadings)
- 26) Order to harvesting the crops and reaping the natural fruits and selling them (Article 406)
- 27) The order to specify the date of sale, if the day of sale specified in the list of conditions of sale has fallen by submitting objections to the list (Article 426 pleadings)
- 28) the order to conduct the sale outside the seat of the court, determine the place of sale (Article 427 pleadings)
- 29) Order to increase the announcement of the sale or shortening it (Article 431 pleadings)
- 30) The order to estimate the expenses of the implementation procedures, including the fees of the lawyer and declare this estimate in the session before the opening of the auction (Article 434 pleadings)
- 31) 29) Order to stop the sale for all the objects reserved in the circumstances stipulated in Article (Article 457 pleadings)

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2019

AMEX International

Prepared by:  
Amir Mikhail  
Legal Expert

USAID/Egypt Assessment of Economic Courts

*Submitted to:*

*Mr. Brian LaDuc  
Team Leader  
Court Administration Specialist*

**[ Analysis of Problems with Enforcement of EC Judgements ]**

**Complications, Obstacles and Gaps of the Court Judgments and Orders**



## 1. RATIONALE

### (1) الأساس المنطقي

#### 1.1. The context

In Egypt, access to justice is a constitutional right. Free access and equality before the judicial system are its key principles. The Ministry of Justice is responsible for promoting justice through setting and implementing plans that guarantee access and ensure good administration on the basis of three main pillars: ensuring good law, efficient judiciary and enforceability of judgments.

1-1 السياق  
في مصر، اللجوء إلى العدالة هو حق دستوري. وتعتبر حرية الوصول والمساواة أمام النظام القضائي هي مبادئها الأساسية. ووزارة العدل مسؤولة عن تعزيز العدالة من خلال وضع وتنفيذ الخطط التي تضمن الوصول وضمان الإدارة الجيدة على أساس ثلاثة أعمدة رئيسية: ضمان القانون الجيد والقضاء الفعال وإنفاذ الأحكام.

#### 1.2. Current situation

### 2.1. الوضع الحالي:

Doubtless, the judicial system recently has witnessed an unprecedented development in the completion of the separation in civil, commercial and criminal cases comparing with previous years, especially after the establishment of the Economic Courts "EC" and starting the first phase of implementing high-level automation for 29 courts of first instance, Court of Cassation, 8 Courts of Appeal, 19 Appeal Commission and 70 Partial Court as a step towards eliminating corruption in the framework of the implementation of the State Strategy for Sustainable Development " Vision of Egypt 2030 ", in addition to using the technology in filing, dismissal and archiving the lawsuits. Also, Cairo Economic Court, the most important model of EC in Egypt, has a dedicated website to publish all the news related to it.

مما لا شك فيه ان منظومة القضاء في السنوات الأخير شهدت تطوراً غير مسبوق في شأن إنجاز الفصل في الدعاوى المدنية والتجارية والجنائية على حد سواء مقارنة بسنوات أخرى سابقة، خاصة بعد إنشاء المحاكم الاقتصادية وبتدأ أول مرحلة من الميكنة عالية المستوى لعدد 29 محكمة ابتدائية، و محكمة النقض، و 8 محاكم استئناف و 19 مأمورية استئناف تتبعها، و 70 محكمة جزئية، وذلك كخطوة نحو القضاء على الفساد في إطار تنفيذ استراتيجية الدولة للتنمية المستدامة "رؤية مصر 2030"، بالإضافة إلى استخدام التكنولوجيا في إقامة الدعاوى وحفظها وأرشفتها، كما يوجد لمحكمة القاهرة الاقتصادية - وهي من أهم نماذج المحاكم الاقتصادية في مصر- موقع إلكتروني مخصص لنشر كافة الأخبار المتعلقة بها.

The stage of executing the judicial judgments is the highest stage in the

يمكن القول بأن مرحلة تنفيذ الأحكام القضائية هي أسمى مرحلة في سبيل إحقاق الحقوق، ومن ثم يمكن

realization of rights, thus it can be considered as the basic criterion for distinguishing the so-called state of law from the bureaucratic state and the tyranny in which the dominance of power prevails over the law and the problem of the implementation of judgments that gained "the force of res judicata"; this is one of the common problems that been faced in litigations, whether it concern the relations governed by the private law or public law.

## 2. Execution Complications in General

The Enforcement Grievance plays an important role in obstructing the executions of judgements and preventing the prevailing party from obtaining his right immediately after the verdict, when the convicted person/losing party make objection or use other relatives or friends to do it. Therefore, it is necessary to amend some provisions that govern the problems to stipulate that the ruling on the timely execution problems, that the decision in such case shall not exceeding two weeks from the date of the first session. It should also states that the lawsuit should not be postponed to submit documents from the complainant since Article 312 pleading has allowed him to present his documents to the execution assistant. Moreover, to double the fine provided for in Article 315 pleadings, which may be applied to the complainant who loses his claim and must be full-bodied and not permissive to the judge; not only but also to punish the complainant by imprisonment if it is proved that the seriousness of the complication.

اعتبارها بمثابة المعيار الأساسي لتمييز ما يسمى بدولة القانون عن الدولة البيروقراطية ودولة الاستبداد التي تسمو فيها هيمنة القوة على القانون، وتعد إشكالية تنفيذ الأحكام القضائية التي اكتسبت قوة الشيء المقضي به، هي من الإشكاليات الشائعة في التقاضي، سواء تعلق الأمر بالقضايا التي تهم العلاقات التي تحكمها قواعد القانون الخاص أو القضايا التي تهم العلاقات التي تنظمها قواعد القانون العام.

## (2) إشكالات التنفيذ بوجه عام

تلعب إشكالات التنفيذ دورا هاما في عرقلة التنفيذ والحيلولة بين حصول المحكوم له علي حقه فوز صنور الحكم وذلك حين يقوم المحكوم ضده بالاستشكال أو تسخير الغير من أقاربه أو أصدقائه لرفعه، لذا فإننا نرى ضرورة تعديل بعض النصوص التي تحكم الإشكالات حتي ينص فيها علي أن يكون الفصل في إشكالات التنفيذ الوقتية التي ترفع من المحكوم ضده أو الغير في مدة لا تتجاوز أسبوعين من ميعاد الجلسة الأولى، كما ينص فيها علي عدم تأجيل الدعوي لتقديم مستندات من المستشكل بعد أن سمحت له المادة 312 مرافعات بتقديم مستداته إلي معاون التنفيذ عند رفع الإشكال أمامه. وأيضا يجب مضاعفة الغرامة المنصوص عليها في المادة 315 مرافعات والتي يجوز الحكم بها علي المستشكل الذي يخسر دعواه ويجب أن تكون وجوبية وليست جوازية للقاضي بل وإذا ثبتت عدم جدية الاستشكال ينبغي معاقبة الممتشكل بالحبس.

## 2.2. Execution gaps

## 1.2 . ثغرات التنفيذ

The Execution officer is the only competent one for executing the criminal judgements, where for the civil judgements, the execution of which is concerning with the Bailiff/ Process Server of the court. The law has drawn up various procedures for the execution of civil judgement. The legislator cited several gaps to prevent the execution of it, for example, it is permissible to file complication from the convicted person despite the ruling has become final, as well as the possibility of setting it up from third party despite spiteful of this way and that the judiciary often rejected these two complications. However, the legislator also authorized the losing party of his complication, to object again to the execution of the judgement by raising another objection whatsoever; So as to prolong the execution because it is in this case will be presented to the judge to overcome this obstacle. The execution judge issues the decision without causing for the execution of the judgment. Hence, it is clear that the One who hold right, in order to obtain his right, should pass the following stages, First: To file first instance case, Second: issuance of judgements of 1<sup>st</sup> instance court. Third: to wait for forty days in order to see whether the convicted person will appeal or not. Fourth: upon collapse of the appeal and issuance of final judgment, the prevailing party /the right holder is jeopardized to each of the execution complication. Forth: followed execution obstacle. It means that he has to go through four stages separately, which exposes him to the

الأحكام الجنائية المنوط بتنفيذها هو ضابط التنفيذ لأخيراً، أما الأحكام المدنية فالقائم بتنفيذها هو قلم المحضرين في المحكمة. وقد رسم القانون إجراءات متعددة لتنفيذ الحكم المدني. وأورد المشرع ثغرات عديدة للحيلولة دون تنفيذ الحكم منها علي سبيل المثال جواز إقامة استكمال من المحكوم ضده رغم ان الحكم أصبح نهائياً وكذلك جواز إقامة الاستكمال من الغير رغم كينية هذا الطريق ورغم القضاء غالباً برفض هذين الاشكاليين. ومع ذلك أجاز المشرع أيضاً للمستشكل خاسر اشكاليه وهو المحكوم ضده أن يعترض مرة أخرى علي تنفيذ الحكم وذلك بإثارة عقبه في تنفيذه أي كانت هذه العقبة وذلك لإطالة أمد التنفيذ لأن الأمر في هذه الحالة سوف يعرض علي قاضي التنفيذ لتليل هذه العقبة. وقاضي التنفيذ يقوم بإصدار القرار بتأشيرة دون تسبب لتنفيذ الحكم ومن هنا يتضح أن صاحب الحق في سبيل الحصول علي حقه ينبغي عليه أن يمر بالمراحل الأتية: أولاً: إقامة دعوي ابتدائية وثانياً: صدور حكم فيها لصالحه، ثالثاً: الانتظار لمدة أربعين يوم للوقوف علي ما إذا كان المحكوم ضده سيقوم بالاستئناف من عدمه. رابعاً: وعند انقضاء الاستئناف وصدور حكم نهائي لصاحب الحق فإنه يتعرض لكل من استكمال التنفيذ ثم عقبه التنفيذ كل علي حده أي يتعين عليه أن يخوض أربع مراحل مما يعرضه لخسارة الوقت والجهد والمال نظراً

loss of time and effort and money due to the malicious behaviors of the convicted person against him in this dispute raises on the one hand and the routine and slow performance of Bailiff/ Process Server to execute the judgement of the other hand. He suffers the two things until he gets his right and the execution of the judicial ruling due to the length of the proceedings and as a result that the lawmaker always standing with the weak side, who is sentenced.

In general, the most serious stage of litigation that requires special attention is the execution of the judgment, opponents are engaged for years and years to obtain a final verdict in order to execute it, thus if we do not care to meet such legitimate right, the judgment becomes just ink on paper. To do so, it is a must to implement the following matters:

- reorganization and structuring of the system of Bailiff/ Process Server and the legislative reorganization of this category, along with customization and confirming financial incentives for them to avoid manipulation or collusion when executing the judgement.
- The establishment of a special division of Judicial Police belongs and supervised by the Ministry of Justice, whose function is to administer and assist in the execution of Judgment.
- Judicial specialization; to make a judge specialized in the execution of judgement, so that he can recognize obstacles and problems

لما يلاقيه من كيدية المحكوم ضده فيما يشه من نزاع هذا من ناحية وما يعانیه من روتين وبطء قلم المحضرين القائم بالتنفيذ من جهة أخرى، فهو يعاني الأمرين حتى يحصل علي حقه ويتم تنفيذ الحكم القضائي نظرا لطول إجراءات التقاضي ووقوف المشرع دائما مع الجانب الذي يعتبر ضعيفا وهو المحكوم ضده.

علي العموم فإن أخطر مرحلة من مراحل التقاضي التي تقتضي عناية خاصة هي مرحلة تنفيذ الحكم فالخصوم يتناضلون لسنوات وسنوات للحصول علي حكم نهائي بغية تنفيذه فإذا لم نهتم بتنفيذه فإن الحكم يصبح حبرا علي ورق فقط. وللعناية بتنفيذ الحكم فإنه يجب اتباع المسائل الآتية:

- إعادة تنظيم وهيكله ونظام المحضرين وإعادة التنظيم التشريعي لهذه الفئة مع تقرير حوافز مادية لهم منعا للتلاعب أو التواطؤ عند تنفيذ الحكم.
- إنشاء شعبة خاصة تابعة لوزارة العدل من الشرطة القضائية، تكون وظيفتها تسيير ومعاونة تنفيذ الحكم.
- التخصص القضائي بجعل قاض منخصص في تنفيذ الأحكام حتي يستطيع أن يدرك العقبات والأشكالات التي تعترض التنفيذ

of the executions and makes definite decisions to implement it easily and shortly as soon as possible.

- d) Legislative reorganization of the execution of the judgement and obstructions exposed to the execution of the Regression of those who have bad intentions in the issue of execution obstruction so that the execution shall be easy and in the shortest possible time.

ويصدر قرارات حاسمة بغية تنفيذ الحكم في أسرع وقت ممكن.

د) إعادة التنظيم التشريعي لتنفيذ الأحكام وعرقلة كل ما يتعرض للتنفيذ ورد المتحايين عن قصدهم السيء في مسألة عرقلة التنفيذ حتي يتسنى التنفيذ في سهولة ويسر وفي أقل وقت ممكن.

### 2.3. Achieving justice

As for the execution of civil and commercial provisions in accordance with the Code of Pleadings, Article 82 of the law stipulates that compulsory execution may be carried out only by an executive instrument, namely, the court rulings, orders and notaries, and the minutes of conciliation ratified by the courts.

### 2.4. Complications of execution have two ways:

- a) The normal way, this is to file a lawsuit before the competent court, through specified procedures by law.
- b) The second way, which is provided in Article 313, orally before the bailiff at the execution, in the relevant record and to pay the fee prescribed. In such case, the complication is considered to be done from the date of submission before the bailiff, and its effect take place, apply to the followed procedures; the lawsuit, in this case, is considered just a filing of complication.

The most recent solutions been taken lately by the MOJ were the amendments to the Pleadings Law No.

### 2.2 تحقيق العدالة

بالنسبة لتنفيذ الأحكام المدنية والتجارية طبقا لقانون المرافعات نصت المادة 82 من القانون علي انه لا يجوز التنفيذ الجبري إلا لسند تنفيذي وهو أحكام المحاكم والأوامر والمحركات الموثقة ومحاضر الصلح التي تصدق عليها المحاكم.

### 3.2. إشكالات التنفيذ لها طريقان هما:

- أ) الطريق العادي وهو المتبع في طريقة رفع الدعوي امام المحكمة المختصة بالإجراءات التي حددها القانون.
- ب) الطريق الثاني وهو ما نصت عليه المادة 313 وهو ابداء الاشكال شفويا امام المحضر عند التنفيذ وإثباته في المحضر الخاص بذلك ودفع الرسم المقرر وفي هذه الحالة يعتبر الاشكال قد تم من تاريخ ابدائه امام المحضر حتي ولو تم التنفيذ قبل ان يحكم القاضي في الاشكال فان اثره ينسحب الي كافة الاجراءات اللاحقة عليه، وتعتبر الدعوي في هذه الحالة مجرد تحريك للإشكال.

وكان أبرز تلك الحلول المتخذة مؤخرا من قبل وزارة العدل تعديلات قانون المرافعات بالقانون

76 of 2007, which established what is called the execution department in terms of articles 274 to 279 and the subsequent ministerial decisions of regulating the administration of the execution department at the first instance courts

To ensure the appropriate solution, we review the situation of execution for civil judgments in Egypt issued after a long effort before the courts as follows:

76 لسنة 2007 والذي جاء بما يسمي ادارة التنفيذ في المواد من 274 حتي 279 وما تبع ذلك من قرارات وزارية بشأن تنظيم ادارة التنفيذ داخل المحاكم الابتدائية.

وحتى نضمن ايجاد الحل المناسب نستعرض الحال في تنفيذ الاحكام المدنية في مصر والتي تصدر بعد جهد طويل نخل اروقة المحاكم فيتضح الاتي:

#### First: Execution on the movable property:

- 1) Enforcement fees and the prevailing party is the one who is committed by which are collected relatively then add to the judgment at the time of execution and may impede its implementation due to inability of the prevailing party to pay or the lack of reassurance to execute the judgement; it is noted that the courts insist on collecting in advance, although there is no harm to be collected together with the execution of the judgement.
- 2) The Claims of the timely execution " Execution Complications", from the losing party or the third party, which are held one after the other before incompetent courts, locally or qualitatively, and its impact of disrupting the execution of the judgements.
- 3) shutting down the property subject to execution, which leads to run consequent investigation to find out the reason for closure and presenting such matter more than once to the execution department before obtaining

#### أولاً: التنفيذ علي المنقول:

(1) رسوم التنفيذ والملزم بها الصادر لصالحه الحكم والتي تحصل نسبياً ثم تضاف علي الحكم عند تنفيذه وقد تعوق التنفيذ لعدم قدرة الصادر لصالحه الحكم علي سدادها او لعدم اطمئنانه لتنفيذ الحكم حتي يسند اموال جديدة والملاحظ ان المحاكم تصر علي تحصيلها مقدماً مع انه لن يضير العدالة شيئاً ان تم تحصيلها مع تنفيذ الحكم.

(2) دعاوي التنفيذ الوقتية ' اشكالات التنفيذ' سواء من الصادر ضده الحكم او من الغير التابع له وما لها من اثر واقف والتي اصبحت شوكة في تنفيذ الحكم القضائي والتي تقام الواحد تلو الاخر. وأمام محاكم غير مختصة محلياً او نوعياً حتي يتعطل بها التنفيذ.

(3) غلق العين التي يتم التنفيذ عليها وما يستتبع ذلك من تحريات لمعرفة سبب الغلق وعرض اكثر من مرة علي ادارة التنفيذ قبل الحصول علي الاذن بالكسر وعند

- permission to break into the property, then later on, the losing party appears to impede the execution in another way.
- الحصول عليه يظهر الصادر ضده الحكم ليعوق التنفيذ بشكل جديد.
- 4) Claims for the recovery of the attached properties held by the wives, children and the family of the convicted person/losing party, in addition to other than Article 305 pleadings.
- (4) دعوى استرداد المحجوز عليه التي تقام من زوجات وأبناء وعائلة الصادر ضده الحكم بخلاف التمسك بالمادة 305 مرافعات.
- 5) The claims of invalid attachment, which is a catch-up errors of the execution assistants "bailiff", and there are many cases of it .
- (5) دعوى بطلان الحجز والتي تقام تصديدا لأخطاء معاوني التنفيذ 'المحضرين' وهي كثيرة.
- 6) The crowd during the execution, which causes the resort to security studies for providing necessary numbers of troops of the execution, which leads to consume time, effort and spending money on those forces more than the execution value itself.
- (6) التجمهر اثناء التنفيذ والذي يتسبب في اللجوء للدراسات الامنية لأعداد قوات مساعده في التنفيذ وما يستهلك ذلك من وقت وجهد وأموال تصرف علي تلك القوات ممكن ان تكون اكثر مما ينفذ به.
- 7) Tension and quarrel during the execution between prevailing party and convicted person/losing party, which may lead to crime during the execution; and there are many cases of it.
- (7) التشنج والتشاجر اثناء التنفيذ بين الصادر لصالحه الحكم والصادر ضده الحكم والذي قد ياتي بجريمة اثناء التنفيذ وهناك حالات كثر من ذلك.
- 8) Execution assistants "Bailiff", those whom the Court of Cassation said that there is no control over them but their consciences.
- (8) معاوني التنفيذ 'المحضرين' وهم من قالت عنهم محكمة النقض انه لا رقيب عليهم سوى ضمائرهم.

### Second: Execution on the property:

ثانيا: التنفيذ علي العقار:

- 1) The implementation of the property requires the notification process for expropriation and to follow-up its registration since the beginning, hence the conflict with the convicted-losing party starts, which is usual habit, to transfer the
- (1) يحتاج التنفيذ علي العقار اللجوء لاجراءات تنبية نزع الملكية وما يتتبع ذلك من تسجيله فيبدأ الصراع مع الصادر ضده الحكم الذي عاده ما يقوم بنقل ملكية العقار المطلوب التنفيذ عليه للغير ويقوم باتخاذ اجراءات

ownership and registration procedures of the property subject of execution to third party before in order to obstacle the registration of the said notification.

التسجيل قبل اصدار له الحكم ووضع  
المعوقات لعدم تسجيل التنبيه المشار  
إليه.

2) Objections to the sale of the property subject matter of the Execution, which enters new tunnel as if we start the conflict from the beginning again.

(2) الاعتراضات علي البيع للعقار موضع التنفيذ والتي تدخل بالحكم الي نفق جديد كأننا نبدأ النزاع مرة اخري.

3) If those objections ended with the refusal, the prevailing party cannot find a way but to buy the property better than nothing, otherwise he will not get anything; the property may be less valuable than awarded.

(3) وإذا انتهت تلك الاعتراضات بالرفض لا يجد اصنار له الحكم بدءا من شراء العقار لصالحه بكل ما صدر به الحكم والا لن يحصل علي شي وقد يكون العقار اقل قيمة من المحكوم به.

4) If one managed to pass through all of these obstacles, he shall have to begin a new order, which is the execution of the award of winning bidder to purchase the property.

(4) وإذا تمكن احد من المرور من كل ذلك، بات عليه ان يبدأ امرا جديدا وهو تنفيذ الحكم بايقاع البيع.

**Third: Discharge of the receiver of attached property:**

**ثالثا: حجب ما للمدين لدي الغير:**

1) Dates are very precise and any mistakes might occur, could fall the entire attachment.

(1) مواعيد في غاية الدقة واي خطأ في ميعاد منه يسقط الحجز برمته.

2) Calls of waiving, negligence of the attachment, the dispute in confirming the execution, recovery of the attached property and the consequent of other, new and long obstacles for the execution.

(2) دعاوي رفع الحجز وبطلانه والمنازعة في التقرير بالحجز واسترداد المحجوز عليه ومايستتبع ذلك من معوقات اخري وجديدة وطويلة للتنفيذ.



The aforementioned obstacles and difficulties of executions in Egypt, are just a model and a real presentation of what is happening in reality, and as a result, most of law professionals in Egypt are trying to find a criminal way to ensure the execution of the obligation so as not to get a judgment then face complications and obstacles to execute the civil judgments. The most prominent evidence is the banking transactions, which are basically subject to the law of banks and civil and commercial contracts, but everybody knows that the client is obliged to sign on guarantee cheques in favor of the bank he deal with, so as to be used at the Criminal Court when the fails to honor his obligation, so that the bank can avoid worst case scenario for the disputes to be governed by law Civil and commercial law, furthermore, to end with a judgement facing difficulties and obstacles in execution remain for years at the time where the awarded right could be affected due to changes of market value, interest rates and currency would results a big loss .

ليس كل ما سلف ذكره هو كل معوقات وصعوبات التنفيذ في مصر ولكنه مجرد نموذج وعرض حقيقي لما يكون بارض الواقع وكان نتيجة ذلك ان العاملين بالقانون في مصر كل واحد منهم يحاول ايجاد طريق جنائي يضمن به تنفيذ الالتزام حتي لا يجر الي الحصول علي حكم قضائي ثم يواجه عقبات ومعوقات تنفيذ الاحكام المدنية وبرز دليل علي ذلك التعاملات البنكية التي هي في الاماس تخضع لقانون البنوك وللمعقود المدنية والتجارية ولكن ويعلم الكل بان العميل يجد نفسه ملتزما بتوقيع شيك ضمان لصالح البنك المتعامل معه حتي يمكن استخدامه المحكمة الجنائية وذلك متى فشل في الوفاء بتنفيذ التزامه، حيث يمكن للبنك تجنب أسوأ سيناريو يمكن أن تصل إليه المنازعة متى كان يحكمها القانون القانون المدني والتجاري ولنتهاؤها بصدور حكم قضائي يواجه بصعوبات ومعوقات في التنفيذ تمتد لسنوات من الممكن ان يتأثر بها الحق المفضى به نتيجة لتغيرات القيمة السوقية واسعار الفائدة والعملات وتكون الخسارة كبيرة.

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**ANNEX 7: ADR IN EGYPT**

2019

AMEX International

Prepared by:  
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## USAID/Egypt Assessment of Economic Courts

*Submitted to:*

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**[ Alternative Disputes Resolutions in Egypt ]**

Mediation, Disputes Settlement Committees, Arbitration, and Reconciliation

### Egyptian experience on alternatives to the lawsuit

In order to solve the problem of the slow prosecution of people, the Egyptian lawmaker has decided to solve the disputes through alternative means outside the courts and official judicial bodies in order to find ways to expeditiously resolve the dispute by amicable means and to save the litigation expenses and litigants efforts, also to limit the disputes numbers that are proposed to the courts.

The Egyptian lawmaker has organized four alternative ways to resolve the disputes amicably which are:

Mediation, Disputes Settlement Committees, Arbitration, and Reconciliation.

#### First: Mediation

Is a friendly way of resolving disputes, in which the mediator, if the disputed parties do not reach a solution, offers appropriate solutions to the parties in order to approved it

The legislator did make a single law to regulate the ADR, but cited it in a series of separate laws, for example:

1. The Mediation under Law No. 79 of 1975 concerning the issuance of the Social Insurance Law. It should be submitted through a request to the Dispute Resolution Committees, if not, the case shall be rejected.
2. The Mediation in law No. 1 of 2000 concerning the issuance of law regulating some of the proceedings conditions in matters of personal status in order to conciliate between the litigants.

The mediation here is mandatory way, and the judge may not rule in the cases of legal

### التجربة المصرية بشأن بدائل الدعوى

سلك المشرع المصري سبيل حل المنازعات بالطرق البديلة خارج نطاق المحاكم والهيئات القضائية الرسمية، رغبة في علاج مشكلة بطء التقاضي التي يعاني منها الناس قاصدا اتخاذ السبل الكفيلة بسرعة حسم النزاع بالطرق الودية، وتوفير نفقات التقاضي وجهد المتقاضين، والحد من اعداد المنازعات التي تعرض على المحاكم .

وقد نظم المشرع المصري أربعة من الطرق البديلة لحسم المنازعات ونما دون طرح النزاع على قضاء الدولة، وهي:

الوساطة، لجان فض المنازعات، التحكيم، الصلح.

#### أولا: الوساطة

هي طريق ودي لحل المنازعات، يقوم فيها الوسيط - في حالة عدم توصل اطراف النزاع الى حل- بعرض مايرام مناسبا من حلول على طرفي النزاع للموافقة عليه.

لم يفرد المشرع قانون واحد لتنظيم الطرق البديلة لحسم المنازعات، وإنما اورد ذلك في مجموعة من القوانين المتفرقة ومثال ذلك:

- 1- الوساطة في قانون رقم 79 لسنة 1975 بشأن إصدار قانون التأمين الاجتماعي ويتم عن طريق تقديم طلب الى لجان فض المنازعات ويترتب على عدم تقديم هذا الطلب عدم قبول الدعوى.
- 2- الوساطة في القانون رقم 1 لسنة 2000 باصدار قانون تنظيم بعض اوضاع اجراءات التقاضي في مسائل الاحوال الشخصية وذلك لمحاولة الصلح بين الخصوم .

والوساطة هنا ضيق الزامى، ولا يجوز للتقاضي الحكم في دعوى الولايه على النفس والطلاق ان

guardianship and divorce to rule in such lawsuits before intervening in reconciliation between the parties.

#### Second: Dispute Settlement Committee

It is an alternative way to resolve the disputes that arise between government agencies and public persons on the one hand, and between individuals and private legal persons on the other hand, whether it was civil, commercial or administrative disputes without conducting normal litigation ways before state courts. For that, the legislator established the Conciliation Committees under Law No. 7 of 2000.

It is noticeable that this instrument, despite it is mandatory, but the Committee's report is not binding the competent court whenever the dispute is referred to the court in later stage.

#### Third: Arbitration

It is an alternative way to settle the disputes, whereby the parties usually agree to submit the dispute to one or three arbitrators to adjudicate the dispute instead of the ordinary court of competent jurisdiction.

The Egyptian legislator regulated the Arbitration under Law No. 27 of 1994 in terms of its nature, the conditions of validity and the proceedings mission of the Arbitration Panel, its Award, the validity of its ruling and the appeal cases on the Arbitration Award due to nullity in accordance with Article 52 of the said law.

#### Forth: Conciliation

The Egyptian legislator defined the reconciliation in the Civil Code as "Compromise is a contract by which two parties put an end to a dispute that has arisen, or prevent a dispute that is expected to arise, by the mutual surrender of part or their respective claims." (Article 549 of civil code)

يحكم في تلك الدعاوى قبل التدخل بالصلح بين اطرافها.

#### ثانيا : لجان فض المنازعات

وهو طريق بديل لفض المنازعات التي تنشأ بين الجهات الحكومية والأشخاص العامة من جهة وبين الأفراد والأشخاص الخاصة من جهة أخرى سواء كانت المنازعات مدنية أو تجارية أو إدارية دون سلوك سبيل التقاضي العادي أمام محاكم الدولة وأنشأ لذلك لجان التوفيق بموجب القانون رقم 7 لسنة 2000.

والملاحظ ان هذا الطريق وإن كان الزامياً، إلا ان تقرير اللجنة غير ملزم للمحكمة المختصة اذا ما احيل اليها النزاع فيما بعد.

#### ثالثا : التحكيم

وهو طريق بديل لفض الخصومات، بموجبه يتفق الطرفان عادة على عرض النزاع على محكم فرد او ثلاثة محكمين ليفصلوا في النزاع بدلا من محكمة القضاء العادي المختصة بنظره.

وقد نظمت المشرع المصري بالقانون رقم 27 لسنة 1994 من حيث ماهيته وشروط صحته واجراءات مباشره هيئة التحكيم لمهمتها وحجية حكمها وحالات الطعن بالبطلان على حكم التحكيم وفقا للمادة 52 من القانون سالف الذكر.

#### رابعا : الصلح

عرف المشرع المصري الصلح في القانون المدني بأنه عقد يحسم به الطرفان نزاعا قائما أو يتوقيان به نزاعا محتملا، وذلك بأن ينزل كل منهما عن جزء من ادعائه (مادة 549 مدنى) .

**A - Conciliation in Civil Articles****(أ) الصلح في المواد المدنية****1 - Councils of reconciliation****1- مجالس الصلح**

The legislator stipulated in Article 64 of the Civil and Commercial Procedures Law No. 13 of 1968, that "the presence of the case before a conciliation council shall be conducted to reconcile the litigants with the exception of cases in which conciliation, urgent proceedings, execution disputes and applications for payment orders".

نص عليها المشرع في المادة 64 من قانون المرافعات المدنية والتجارية رقم 13 لسنة 1968 وذلك بأن يكون حضور الدعوى أمام مجلس صلح يتولى التوفيق بين الخصوم وذلك فيما عدا الدعاوى التي لا يجوز فيها الصلح والدعاوى المستعجلة ومنازعات التنفيذ والطبقات الخاصة بأوامر الأداء".

A decision of the President of the Republic shall issue the regulating of reconciliation council and the procedures that should be followed before it. The Minister of Justice shall issue a resolution to determine the summary court where the reconciliation councils shall be constituted in its jurisdiction. (Article 64/3 Civil Procedure)

ويصدر بتنظيم مجلس الصلح والإجراءات التي تتبع أمامه قرار من رئيس الجمهورية ويحدد وزير العدل بقرار منه المحكمة الجزئية التي تشكل مجالس الصلح بدائلتها " المادة 3/64 مرافعات "

Until now, it is noted that the aforementioned has not yet been issued!

ويلاحظ أنه حتى اليوم لم تصدر القرارات ساقفة البيان !

Therefore, the evaluation of this system depends on practical application, which has not been achieved so far.

وبالتالي فإن تقييم هذا النظام مرهون بالتطبيق العملي الذي لم يتحقق حتى الآن.

**B) Proof of reconciliation of liabilities****(ب) إثبات تصالح الخصوم**

The Egyptian legislator allowed the litigants to ask the court, whatever the status of the case is, to confirm what they agreed upon, and to be sign by them or from their agents in the minutes of the hearing. If they have written what they agreed upon, the written agreement shall be attached to the minutes of the session and its content shall be embodied therein. The minutes of hearing, in both of the cases, shall have the power of the executive instrument.

أجاز المشرع المصري للخصوم أن يطلبوا من المحكمة في أية حالة تكون عليها الدعوى ، إثبات مااتفقوا عليه في محضر الجلسة ويوقع منهم أو من وكلائهم فإن كان قد كتبوا ما اتفقوا عليه، ألحق الاتفاق المكتوب بمحضر الجلسة وأثبت محتواه فيه ، ويكون لمحضر الجلسة في الحائتين قوة السند التنفيذي.

It is noted that the role of the judge is similar to the role of the notary who confirm what the dispute parties have agreed upon without having the authority to resolve the issue of the dispute (Article 103/1 Civil Procedure).

ويلاحظ أن دور القاضي في هذه الحالة يكون دور الموثق الذي يثبت ما أئفق عليه اطراف النزاع دون أن يكون له سلطة الفصل في موضوع النزاع (مادة 1/103 مرافعات).

### C) Conciliation through the case preparation board:

The Egyptian legislator stipulated in Article 8 of Law No. 120 of 2008 on the Establishment of Economic Courts, that: "At each economic court, a board shall be established to prepare the disputes and claims that fall within the court jurisdiction, except for criminal and appealed-against claims as well as the claims and orders herein stipulated under Articles (3) and (7)."

The practical evaluation of this system shows that only 40% of the disputes were only settled, where the majority were failed and /or didn't work out because of many reasons related to notification problems, disagreement between the litigants and preference to settle the dispute by the court.

### D) Reconciliation in the Code of Criminal Procedure:

The Egyptian legislator has been influenced by the modern practices that give the victim considerable influence on the criminal case. He introduced the system of reconciliation in violations and misdemeanors punishable by a fine and a permissive detention of no more than 6 months (Article 18 bis of the Criminal Procedure Code No. 74 of 2007) then, expanded the reconciliation on crimes of Wrongful death, Swindling, Breach of Trust, and other offenses; he permitted the settlement in any situation in which the case is concerned (Article 18 bis A of the aforementioned law, amended by Law No. 145 of 2006)

Also, he authorized reconciliation in some of the Cheques' crimes (Article 534 of the new Trade Law No. 17 of 1999).

Moreover, he extended the reconciliation include the crimes of Defalcation,

### ج) الصلح من خلال هيئة تحضير الدعوى

نص المشرع المصري في المادة 8 من قانون انشاء المحاكم الاقتصادية رقم 120 لسنة 2008 على أن " تنشأ بكل محكمة اقتصادية هيئة لتحضير المنازعات والدعاوى التي تختص بها هذه المحكمة، وذلك فيما عدا الدعاوى الجنائية والدعاوى المستأنفة والدعاوى والأوامر المنصوص عليها في المادتين (3) و (7) من هذا القانون

ويبين التقييم العملي لهذا النظام أن 40% فقط من النزاعات لم تتم تصويتها إلا في الحالات التي فشلت فيها بشكل رئيسي و / أو لم تنجح بسبب الحديد من الأسباب المتعلقة بمشكلات الإخطار ، والخلاف بين الخصوم والأفضلية لتسوية النزاع من قبل المحكمة.

### د) الصلح في قانون الإجراءات الجنائية: -

تأثر المشرع المصري بالاتجاهات الحديثة التي تمنح المجنى عليه قنرا ملحوظا من التأثير على الدعوى الجنائية ، حيث استحدث نظام التصالح في المخالفات والجنح المعاقب عليها بالغرابة أو الحبس الجوازي الذي لايزيد عن 6 اشهر ( مادة 18 مكررا من قانون الاجراءات الجنائية رقم 74 لسنة 2007 )، ثم توسع في التصالح بشأن جرائم القتل الخطأ والنصب وخيانه الامانه وبعض الجرائم والمخالفات الاخرى واجاز الصلح في أية حالة تكون عليها الدعوى ( مادة 18 مكررا أ من القانون سالف الذكر المعدل بقانون رقم 145 لسنة 2006 ).

كما اجاز الصلح في بعض جرائم الشيك ( مادة 534 من قانون التجارة الجديد رقم 17 لسنة 1999).

وفضلا عن ذلك، مد نظام الصلح ليشمل جرائم اختلاس المال العام والعدوان عليه والغتر (مواد 112 -

Encroachment on and Peculation of Public Fund (Articles 112-119 bis of Penal Code).

119 مكررا من قانون العقوبات).

#### F) Conciliation in private criminal laws:

#### هـ ( الصلح فى القوانين الجنائية لخاصة:

The legislator approved reconciliation in tax and customs laws (Law No. 91 of 2005 on Income Tax and Customs Law No. 66 of 1963 as amended).

أقر المشرع التصالح فى القوانين الضريبية و الجمركية (القانون 91 لسنة 2005 الخاص بالضريبة على الدخل، وقانون الجمارك رقم 66 لسنة 1963 المعدل).

In late 2009, IFC started a project to promote the use of commercial mediation with CRCICA, the MoJ and GAFI as clients. The objective of the project is to train and accredit mediators to an international standard, train trainers to ensure sustainability of the training, raise the clients' capacity to attract and manage mediation cases, and raise 2 / 4 public recognition of the use of mediation as an alternative method of dispute resolution. By December 2013, the project had facilitated the accreditation of 74 mediators (private professionals and judges) out of whom 18 were trained as trainers. As a result, 312 commercial cases were resolved through mediation, leading to the release of over \$ 130 million in funds and private sector savings of more than \$21 million.

فى أواخر عام 2009 ، بدأت مؤسسة التمويل الدولية مشروعًا لتعزيز استخدام الوساطة التجارية مع مركز القاهرة الإقليمي للتحكيم التجاري ووزارة العدل و الهيئة العامة للاستثمار كعملاء. والهدف من المشروع هو تدريب الوسطاء واعتمادهم وفق معايير دولية ، وتدريب المدربين لضمان استدامة التدريب ، ورفع قدرة العملاء على اجتذاب حالات الوساطة وإدارتها ، وزيادة الاعتراف العام باستخدام الوساطة كطريقة بديلة لتسوية المنازعات. وبحلول كانون الأول / ديسمبر 2013 ، سهل المشروع اعتماد 74 وسيطاً (من المهنيين والقضاة الخاصين) ، تم تدريب 18 منهم كمدربين. ونتيجة لذلك ، تم حل 312 قضية تجارية عن طريق الوساطة ، مما أدى إلى الإفراج عن أكثر من 130 مليون دولار من الأموال والمخزونات فى القطاع الخاص بما يزيد على 21 مليون دولار.

In late 2012, the MoJ decided to draft a Mediation Law to further enhance the use of alternative dispute resolution by creating a legal framework for mediation in collaboration with IFC's assistance to finalize the law.

فى أواخر عام 2012 ، قررت وزارة العدل صياغة قانون للوساطة لمواصلة تعزيز استخدام الحلول البديلة لتسوية النزاعات عن طريق إنشاء إطار قانوني للوساطة بالتعاون مع مؤسسة التمويل الدولية للمساعدة فى وضع النمسات الأخيرة على القانون.

The Law was submitted to cabinet's review shortly after the ceremony. Given the fall of the regime in June 2013, the law was re-submitted again for cabinet review in November 2013, however it has not been issued till date

تم تقديم القانون لمراجعة مجلس الوزراء بعد فترة قصيرة من الحفل. بالنظر إلى سقوط النظام فى يونيو 2013 ، تم إعادة تقديم القانون مرة أخرى لمراجعة مجلس الوزراء فى نوفمبر 2013، وعلى الرغم من ذلك، فإنه لم يصدر حتى الآن.



The Legislator has approved reconciliation in the economic crimes that the economic courts are competent to consider in accordance with the law of 120 of 2008, and authorized reconciliation in other laws such as the Civil Status Law 126 of 2008 and the Traffic Law No. 66 of 1973 as amended by Law No. 181 of 2008.

On 12 March 2015, substantial amendments have been made on the Egyptian Investment Law no. 8/1997 (Investment Law). The amendments generally aim at attracting new investments to Egypt through offering further incentives and guarantees, removing obstacles, and streamlining the procedure.

Incentives include, for example, trimming sales tax to 5% from as high as 10%, and setting customs duties on equipment used for production at 2%. Further non-tax incentives are offered to labor-intensive projects or investments in remote areas or in certain sectors such as energy, agriculture and transportation. One of the long waited guarantees was shielding companies' executives from criminal prosecution for legal violations committed by the company.

In relation to dispute resolution, the amendments tried to limit Egypt's recent exposure to investor-state arbitration. The number of cases initiated against Egypt before ICSID alone has reached 14 since the 2011 uprising. Accordingly, a new chapter is added to the Investment Law creating alternative out-of-court forums to amicably settle investor-state disputes. Furthermore, the reference in the Investment Law to investor-state treaty arbitration or the ICSID has been removed.

#### Alternative Forums for Investor-State Disputes

A new Chapter Seven is added to the Investment Law under title "Investment

أقر المشرع التصالح في الجرائم الاقتصادية التي تختص المحاكم الاقتصادية بنظرها وفقا لقانون 120 لسنة 2008 ، وإجاز التصالح في قوانين أخرى مثل قانون الأحوال المدنية 126 لسنة 2008 وقانون المرور رقم 66 لسنة ١٩٧٣ المعدل بقانون رقم 181 لسنة 2008.

في 12 مارس 2015 ، تم إدخال تعديلات جوهرية على قانون الاستثمار المصري رقم 1997/8 (قانون الاستثمار). وتهدف هذه التعديلات عموما إلى جذب استثمارات جديدة لمصر من خلال تقديم المزيد من الحوافز والضمانات ، وإزالة العقبات ، وتبسيط الإجراءات.

وتشمل الحوافز ، على سبيل المثال ، خفض ضريبة المبيعات إلى 5% من 10% ، ووضع الرسوم الجمركية على المعدات المستخدمة للإنتاج عند 2%. يتم تقديم المزيد من الحوافز غير الضريبية للمشاريع أو الاستثمارات كثيفة العمالة في المناطق النائية أو في قطاعات معينة مثل الطاقة والزراعة والنقل. وكان أحد الضمانات الطويلة المنتظرة حماية المدراء التنفيذيين لشركات من المقاضاة الجنائية بسبب الانتهاكات القانونية التي ارتكبتها الشركة.

فيما يتعلق بتسوية المنازعات، حاولت التعديلات الحد من تعرض مصر في الآونة الأخيرة للتحكيم بين المستثمرين والدول. بلغ عدد القضايا المرفوعة ضد مصر أمام المركز الدولي لتسوية منازعات الاستثمار فقط 14 قضية منذ انتفاضة عام 2011. ونتيجة لذلك ، تم إضافة فصل جديد إلى قانون الاستثمار لإنشاء محافل بديلة لتسوية المنازعات بين المستثمرين والدول بطريقة ودية خارج المحكمة. وعلاوة على ذلك ، تمت إزالة الإشارة في قانون الاستثمار إلى التحكيم التعاهدي مع الدول المستثمرة أو المركز الدولي لتسوية منازعات الاستثمار .

منتديات بديلة مختصة بالمنازعات بين الدول والمستثمرين

تم إضافة الفصل السابع الجديد إلى قانون الاستثمار تحت عنوان "تسوية منازعات الاستثمار". وقد أنشأ هذا الفصل

Disputes Settlement". The chapter created three out-of-court forums to encourage amicable settlement of investment disputes with the government.

### 1. The Complaint Committee

The Complaint Committee is competent to consider challenges against administrative decisions issued by GAFI in connection with the implementation of the Investment Law and its executive regulations.

The head of the committee shall be one of the vice presidents of the Conseil d'Etat. Members shall include two judges from the Conseil d'Etat, and two outside consultants with relevant expertise to be selected by the Investment Minister.

The investor shall submit its challenge to the committee within 15 business days from the date of being aware of the challenged decision. The Committee is authorized to order examination of the parties and the witnesses and to compel submission of documents. The enforceability of such orders is however doubtful.

The committee will issue its decision within 60 days from the date of submitting the challenge. The lapse of the 60 days without a reply is considered a refusal of the challenge. The decision of the committee will be final and binding on GAFI.

Resorting to the committee is voluntary and its decisions are not binding on the investor. In the meantime, the committee is not required to disclose the reasons beyond its decisions; it may even take a passive stance by not replying to the challenge for 60 days which will automatically be considered a rejection. This means that there will be no subsequent review of the committee's decisions. All this would render the effectiveness of this committee questionable.

ثلاثة منظمات لتشجيع التسوية الودية للنزاعات الاستثمارية مع الحكومة خارج اختصاص المحكمة.

### 1- لجنة الشكاوى

تختص لجنة الشكاوى بالنظر في الطعون في القرارات الإدارية الصادرة عن الهيئة العامة للاستثمار والمناطق الحرة فيما يتعلق بتنفيذ قانون الاستثمار ولائحته التنفيذية.

يكون رئيس اللجنة أحد نواب رئيس المجلس. يجب أن يضم الأعضاء قاضيين من المجلس الاستشاري . واثنين من الاستشاريين الخارجيين ذوي الخبرة المناسبة ليتم اختيارهم من قبل وزير الاستثمار .

ويجب على المستثمر أن يقدم إعتراضه إلى اللجنة في غضون 15 يوم عمل من تاريخ علمه بالقرار المطعون فيه. ويحق للجنة أن تأمر بسماع الأطراف والشهود والإلزام بتقديم المستندات. ومع هذا، فإن قابلية تنفيذ هذه الأوامر مسألة مشكوك فيها.

تصدر اللجنة قرارها خلال 60 يوماً من تاريخ تقديم الإعتراض. ويعتبر انقضاء الستين يوماً دون الرد رفضاً لهذا الإعتراض. ويكون قرار اللجنة نهائياً وملزماً للهيئة العامة للاستثمار.

ويكون اللجوء إلى اللجنة طوعاً وقراراتها ليست ملزمة للمستثمر. وفي نفس الوقت : لا يُطلب من اللجنة الكشف عن الأسباب التي دعته لإتخاذ قراراتها ؛ وقد تتخذ موقفاً سلبياً بعدم الرد على التحدي لمدة 60 يوماً والذي سيعتبر رفضاً تلقائياً. وهذا يعني أنه لن يكون هناك مراجعة لاحقة لقرارات اللجنة. وكل هذا من شأنه أن يجعل فعالية هذه اللجنة موضع تساؤل.

## 2. The Committee for Resolution of Investment Disputes

A ministerial committee will be created at the Cabinet of Ministers to consider requests, complaints or disputes that may arise between an investor and a governmental body in connection with the implementation of the Investment Law. The familiar short name of this committee is the Dispute Resolution Committee (DRC).

The committee shall issue its decision with the reasons thereof within 30 days from finalizing the hearings. If approved by the Cabinet of Ministers, the decision shall be binding on the governmental party only. Investor, conversely, retains the right to resort to state courts or arbitral tribunals to initiate the claim anew.

The executive regulations to be issued in the near future are expected to provide details on the administration of the committee, the procedures and fees for submitting the request, and the appealability of its decisions.

It is worth mentioning that a similar committee was created at GAFI in 2012 by virtue of the Prime Minister Decree no. 1115/2012. The jurisdictional and functional boundaries between the two committees are not clear yet.

## 3. The Committee for Settlement of Investment Contract Disputes

This ministerial committee will be established and charged with settling disputes between investors and governmental bodies arising out of investment contracts. This committee is known as the Dispute Settlement Committee (DSC)

If a settlement is reached between the parties, it will be effective and binding only when approved by the Cabinet of Ministers. If no settlement is reached, each party can commence litigation or arbitration as the case may be. Submission to the committee is not a

## 2- لجنة تسوية نزاعات الاستثمار

سيتم إنشاء لجنة وزارية في مجلس الوزراء للنظر في الطلبات أو الشكاوى أو النزاعات التي قد تنشأ بين مستثمر وجهاز حكومي فيما يتعلق بتنفيذ قانون الاستثمار. الاسم المختصر المألوف لهذه اللجنة هو لجنة فض النزاعات (لجنة الفرض).

تصدر اللجنة قرارها بأسبابه خلال 30 يوماً من الانتهاء من جلسات الاستماع. وفي حالة موافقة مجلس الوزراء، يكون القرار ملزماً للطرف الحكومي فقط. وعلى العكس من ذلك، يحتفظ المستثمر بالحق في اللجوء إلى محاكم الدولة أو هيئات التحكيم لبدء المطالبة من جديد.

ومن المتوقع أن تتضمن اللوائح التنفيذية التي تصدر في المستقبل القريب تفاصيل عن إدارة اللجنة، والإجراءات والرسوم الخاصة بتقديم الطلب، واستئناف قراراتها.

جدير بالذكر أنه تم إنشاء لجنة مماثلة في الهيئة العامة للاستثمار والمناطق الحرة في عام 2012 بموجب قرار رئيس الوزراء رقم 1115/2012، إلا أن الحدود القانونية والوظيفية بين اللجنتين غير واضحة بعد.

## 3- لجنة تسوية منازعات عقود الاستثمار

سيتم إنشاء هذه اللجنة الوزارية وتكليفها بتسوية النزاعات بين المستثمرين والهيئات الحكومية الناشئة عن عقود الاستثمار. تعرف هذه اللجنة بلجنة تسوية المنازعات (لجنة التسوية).

وإذا تم التوصل إلى تسوية بين الطرفين، فستكون هذه التسوية فعالة وملزمة فقط عندما يوافق عليها مجلس الوزراء. أما إذا لم يتم التوصل إلى تسوية، ففي هذه الحالة يمكن لكل طرف أن يبدأ في التقاضي أو التحكيم حسب مقتضى الحال. ولا يعد

pre-requisite for commencement of a litigation or arbitration case.

Again, the DSC is quite similar to a committee that was established in 2012 by virtue of the Prime Minister Decree no. 1067/2012 for settlement of investor-state disputes. Differences between the two committees are unclear.

#### No More Legislative Offers to Arbitrate

Egypt, like many developing countries transitioning to open market economy, used to adopt special laws regulating foreign investments. These laws usually address international dispute resolution mechanism between the state and the foreign investor, and normally refer to arbitration under ICSID.

The first investment law Egypt adopted after acceding to ICSID Convention was Law 43/1974 concerning the Investment of Arab and Foreign Funds and the Free Zones, Article 8 of this law listed the methods of dispute resolution with clear reference to ICSID. In the landmark ICSID case of *"Southern Pacific Properties v. Arab Republic of Egypt (SPP v. Egypt)"*, Article 8 raised particular problems. It was interpreted to constitute a unilateral legislative consent by the Egyptian government to the ICSID jurisdiction.

After the decision on jurisdiction in *SPP v. Egypt*, Egypt issued a new Investment Law 230/1989, referring again to ICSID, but this time in a more optional formulation. A quite similar language was imported to Article 7 of the current Investment Law no. 8/1997. The use of expressions such as 'may be settled' and the 'may agree' indicated that a further consent between parties is required before a dispute can be brought before the forum. Reference to ICSID was intended for

تقديم الطلب إلى اللجنة شرطاً أساسياً لبدء دعوى التقاضي أو التحكيم.

ومرة أخرى ، فإن لجنة التسوية تشبه إلى حد بعيد لجنة أخرى أنشئت في عام 2012 بموجب قرار رئيس الوزراء رقم 1067/2012 لتسوية المنازعات بين المستثمرين والدولة. ومن الملاحظ أن الفارق بين اللجنتين غير واضح.

#### عدم وجود مزيد من العروض التشريعية للتحكيم

مصر - مثل العديد من البلدان انامية التي تحولت إلى اقتصاد السوق المفتوح - اعتادت على تبني قوانين خاصة تنظم الاستثمار الأجنبي. وعادة ما تتعامل هذه القوانين مع الآلية الدولية لتسوية المنازعات بين الدولة والمستثمر الأجنبي ، وعادة ما تشير إلى التحكيم في إطار المركز الدولي لتسوية منازعات الاستثمار.

وقد كان أول قانون للاستثمار تم تبنيه في مصر بعد الانضمام إلى اتفاقية المركز الدولي لتسوية منازعات الاستثمار (المركز) هو القانون رقم 43 لسنة 1974 بشأن استثمار الصناديق العربية والأجنبية والمناطق الحرة. وحددت المادة 8 من هذا القانون طرق حل النزاعات مع الإشارة بوضوح إلى المركز. وفي قضية المركز التاريخية لشركة جنوب التاسيفيك العقارية ضد جمهورية مصر العربية (إس إس بي ضد مصر) ، فقد أثارت المادة 8 مشاكل معينة. وقد تم تفسيرها على أنها تشكل موافقة تشريعية من جانب واحد من قبل الحكومة المصرية بالنسبة إلى سلطة المركز.

بعد صدور قرار الاختصاص في قضية (إس إس بي ضد مصر) ، أصدرت مصر قانون استثمار جديد 1989/230 ، مشيرة مرة أخرى إلى المركز ، ولكن هذه المرة بصيغة أكثر إختيارية. حيث تم استيراد لغة مشابهة تمامًا للمادة 7 من قانون الاستثمار الحالي رقم 8/1997. و تشير استخدام تعبيرات مثل "قد يتم تسويته" و "قد يوافق" إلى أنه يلزم أن تكون هناك موافقة أخرى بين الأطراف قبل طرح أي نزاع أمام المحفل. وكانت الإشارة إلى المركز

'declaratory' purposes only. The Egyptian legislator simply wanted to assure potential investors that Egypt respects its commitments under investment agreements and the ICSID Convention.

Nevertheless, skepticism continued as to whether the language of Article 7 is sufficient to shield Egypt from potential unconsented ICSID arbitration.

In view of that, the new amendments to the Investment Law modified Article 7 to delete any reference to investment treaty arbitration or the ICSID. The Article now makes reference only to the methods of dispute resolution agreed between the parties as well as to the Egyptian Arbitration Law.

This amendment should not be construed as if Egypt is seeking to limit the protection offered to foreign investors. Egypt is rather willing to confirm that it does not offer a free-standing consent to international arbitration. Egypt is a signatory to more than 100 BITs, most of them provide for alternative dispute resolution mechanisms, usually through international arbitration, and in particular arbitration at ICSID or ad hoc proceedings under the rules of UNCITRAL or other international arbitration centers.

### ADR Development in Egypt

As the largest Arab country in the Middle East-North Africa (MENA) region, Egypt will play a significant role in the future as an advocate of Alternative Dispute Resolution (ADR). Egyptian officials want to promote commercial ADR to entice Western corporations to invest in the region. Egypt specifically is interested in increasing the competitiveness of the private sector by targeting the insurance, information technology, banking and construction industries. The goal is to utilize private

مخصصة لأغراض الإعلان فقط، وقد أورد المشرع المصري ببساطة أن يطمئن المستثمرين المحتملين بأن مصر تحترم التزاماتها بموجب اتفاقيات الاستثمار واتفاقية المركز.

ومع ذلك، استمر التشكك فيما إذا كانت المادة صياغة المادة 7 كافية لحماية مصر من تحكيم المركز المحتمل غير المتوافق عليه.

وفي ضوء ذلك، عدلت التعديلات الجديدة لقانون الاستثمار المادة 7 لتحذف أي إشارة إلى التحكيم المتعلق بمعاهدات الاستثمار أو المركز. وتثير المادة الآن فقط إلى طرق حل النزاع المتفق عليها بين الطرفين وكذلك إلى قانون التحكيم المصري.

ولا ينبغي تفسير هذا التعديل كما لو أن مصر تسعى لحد من الحماية المقدمة للمستثمرين الأجانب. إن مصر هي إحدى الدول الموقعة على أكثر من 100 معاهدة استثمار ثنائية، معظمها يوفر آليات بديلة لتسوية المنازعات، عادة من خلال التحكيم الدولي، ولا سيما التحكيم في المركز أو إجراءات مخصصة بموجب قواعد الأونسيترال أو مراكز التحكيم الدولية الأخرى.

### تطور الحل البديل للمنازعات في مصر

باعتبارها أكبر دولة عربية في منطقة الشرق الأوسط وشمال أفريقيا، ستلعب مصر دوراً هاماً في المستقبل كمدافعة عن حل النزاعات البديلة. وتهتم مصر بشكل خاص بزيادة القدرة التنافسية للقطاع الخاص من خلال استهداف شركات التأمين وتكنولوجيا المعلومات والبنوك والبناء. والهدف من ذلك هو الاستفادة من شركات الوساطة الخاصة مثل مركز تسوية المنازعات الفعالة من المسلكة المتحدة لتقديم التدريب الأساسي

mediation companies such as the Centre for Effective Dispute Resolution (CEDR) from the UK to offer basic and advanced training and credentialing, primarily to lawyers, and then promote a mediation culture throughout Egypt via conferences, workshops, the media, and public awareness campaigns.

To achieve that goal, the Cairo Regional Centre for International Commercial Arbitration (CRCICA) and the International Finance Corporation (IFC—the private sector arm of the World Bank partner) to hold a conference in May 2010 to gather judges, lawyers, academics and business leaders in Cairo to promote the use of ADR in Egypt.

Egypt ranked 148 out of 183 countries globally in the efficiency of enforcing business contracts. This is why CRCICA and IFC, the Egyptian Ministry of Justice and Ministry of Investment, and the Egyptian Bar Association have a long-term interest in using Egypt's position in MENA to institutionalize the use of ADR in the region, so as to modernize the legal system as well as improve the investment climate.

Challenges faced by Egyptian courts include: a shortage of judges, a heavy case load, few judges and lawyers whom are knowledgeable or trained in ADR, a lack of transparency in the courts, an antiquated record system (few courts outside of Cairo have computerized record-keeping), and the lack of legal infrastructure to make ADR viable. Thus, Egypt first needs to build institutional capacity for ADR services.

Another important consideration to take into account that , the lawyers, litigants and judges all have to be trained in ADR techniques, case law needs to be developed for mediation and

والمتمم والاعتمادات، في المقام الأول إلى المحامين ، ومن ثم تعزيز ثقافة الوساطة في جميع أنحاء مصر من خلال المؤتمرات وورش العمل ووسائل الإعلام، وحملات التوعية العامة.

لتحقيق هذا الهدف ، شارك مركز القاهرة الإقليمي للتحكيم التجاري ومؤسسة التمويل الدولية (إي إف سي - ذراع القطاع الخاص للبنك الدولي) في عقد مؤتمر في مايو 2010 لجمع القضاة والمحامين والأكاديميين وقادة الأعمال في القاهرة لتعزيز استخدام حل النزاعات البديلة في مصر.

وقد احتلت مصر المرتبة 148 من بين 183 دولة على مستوى العالم في كفاءة تطبيق العقود التجارية في مصر. هذا هو السبب في أن مركز القاهرة الإقليمي للتحكيم التجاري ومؤسسة التمويل الدولية ووزارة العدل المصرية ووزارة الاستثمار ونقابة المحامين المصريين لديهم اهتمام طويل الأمد باستخدام موقع مصر في منطقة الشرق الأوسط وشمال أفريقيا لإضفاء الطابع المؤسسي على استخدام الحل البديل للمنازعات في المنطقة ، وذلك لتحديث القانون النظام وكذلك تحسين مناخ الاستثمار.

تشمل التحديات التي تواجهها المحاكم المصرية ما يلي: عدم كفاية عدد القضاة ، وتكدس القضايا ، ونقص عدد القضاة والمحامين المطلعين أو المدربين على حل النزاع البديل ، والافتقار إلى الشفافية في المحاكم ، والاستمرار بالعمل بالسجل القديم (عدد قليل من المحاكم خارج القاهرة لديها سجلات حاسوبية آلية)، ونقص البنية التحتية القانونية لجعل الحل البديل للمنازعات قابلة للحياة. وبالتالي، تحتاج مصر أولاً إلى بناء القدرات المؤسسية لخدمات الحل البديل للمنازعات.

وهناك ضرورة أخرى يتعين أخذها بعين الاعتبار ألا وهي تدريب المحامين والمتقاضين والقضاة على تقنيات الحل البديل للمنازعات ، ويلزم تطوير قانون السوابق من أجل

arbitration in Egypt, and a comprehensive set of dispute management institutions need to be nurtured. Given Egypt's standing in the Arab world, these changes to the legal system could have widespread influence on the whole region.

الوساطة والتحكيم في مصر، وهناك حاجة إلى رعاية مجموعة شاملة من مؤسسات إدارة المنازعات. ونظراً لمكانة مصر في العالم العربي ، فإن هذه التغييرات في النظام القانوني يمكن أن يكون لها تأثير واسع على المنطقة بأسرها.

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**ANNEX 8: MINISTRY OF JUSTICE E-FILING PLAN**



The development dossier is divided into two sections. The first section concerns the structure of the economic courts and integrating them with the office of the Assistant to the Minister for Specialized Courts, through one network with the latest legal information technology that allows for integration and intercommunication, thus transforming all the transactions that take place within the economic courts into an electronic system with many advantages as follows.

First: The ease and speed of obtaining files and information, thus saving time.

Second: Limiting paper wastage.

Third: Avoiding the pileup of action files and the resulting difficulties in tracking their procedures, and easily distributing them over the competent panels.

Fourth: Facilitating for the economic court judges the ability to promptly obtain the latest legislative materials, periodicals, and legal notes issued by the Technical Office without waiting for paper correspondences.

Fifth: Expediting procedures and eliminating the need for repetition.

Sixth: Providing means of electronic monitoring, control, and supervision to reduce potential administrative corruption and to increase accountability.

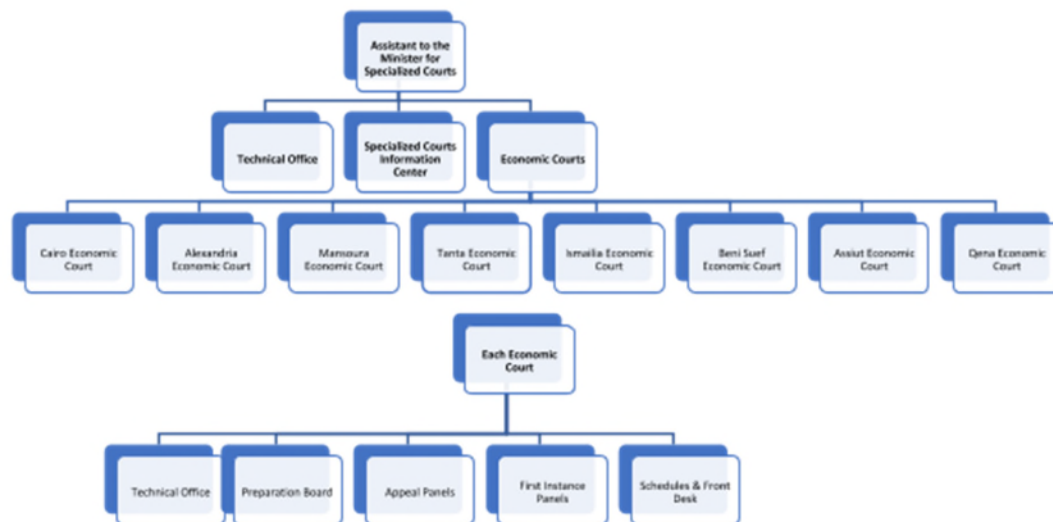
Seven: Ensure data accuracy and quality and increase efficiency and effectiveness.

The second section concerns the development of the currently automated departments at the economic courts, with the purpose of increasing their efficiency and their ability to handle the judiciary workload requirements, as well as advancing their current technological and technical levels, which includes enhancing the efficiency of the staff using the system to achieve accuracy and speed.

### **I. Developing the Electronic Structure of the Economic Courts with Relevance to Judges**

This includes the establishment of an internal data center affiliated with the Assistant to the Minister for Specialized Courts, to manage the development of an advanced and comprehensive e-litigation system for the economic courts and their actual requirements, rather than being restricted to a program that includes courts of all types that do not take into consideration the work requirements of the economic courts and their workload. This should be realized in a short period of time, and it should be implemented and activated through either one of the government entities that will develop such programs at no cost to the MoJ, an entity that can sponsor such project, or by addressing the Judicial Information Center to modify the programs to benefit the work of the economic courts.

The program must cover the following organigram:



The program should be supported by deliverables that include:

- A main link from the office of the Assistant to the Minister for Specialized Courts to all the panels of the economic courts.
- Allowing the upload of the judgments rendered by all the first instance and appeal panels in the economic courts to the system, allowing all economic court members to share and review these judgments, and finally upload them to the office of the Assistant to the Minister for Specialized Courts.
- Allowing all economic court members to share the public and private correspondences between the Assistant to the Minister for Specialized Courts and the economic courts.
- Allowing the preparation of reports for each court to include all panels, cases, judgment disposition rates, and nature of judgments.

### **Deliverables of the Program for the Assistant to the Minister for Specialized Courts**

The Assistant to the Minister must enjoy a wide range of authorities in the system, to include the following:

1. The ability to display and review all the files available to members of the Technical Office, follow up on the procedures that are carried out on each file, and track its workflow from within the system.
2. The ability to search within the automated system according to a specific case type, case number, competent panel, or the name of the judge appointed to the case, and track the relevant procedures and the flow of the litigation process.
3. The ability to address the Technical Office and members of the economic courts from within the system, without the need for paper or telephone communications.
4. The ability to print the necessary reports pertinent to each economic court panel, reflecting the numbers of received/disposed/postponed cases, and the disposition rates for each court panel and each panel member.
5. The ability to review the judgments rendered by each panel upon loading them to the automated system and send them to the affiliated technical office for inspection, remarks, and legal advice.

6. The ability to review the work of the technical office and the preparation board in each court, track their workflow, and print the necessary reports for each separately.
7. The ability to print the reports necessary for monitoring the performance of the employees operating the system in each court.

#### **Deliverables of the Program for the Head of the Technical Office affiliated with the Assistant to the Minister**

The Head of the Technical Office must enjoy a wide range of authorities in the system to include the following:

1. The ability to review all the files available to members of the Technical Office, follow up on the procedures that are carried out on each file, and track its workflow from within the system.
2. The ability to search within the automated system according to a specific case type, case number, competent panel, or the name of the judge appointed to the case, and track the relevant procedures and the flow of the litigation process.
3. The ability to address the Technical Office and members of the economic courts from within the system, without the need for paper or telephone communications.
4. The ability to print the necessary reports pertinent to each economic court panel, reflecting the numbers of received/disposed/postponed cases, and the disposition rates for each court panel and each panel member.
5. The ability to review the judgments rendered by each panel upon loading them to the automated system and send them to the affiliated technical office for inspection, remarks, and legal advice.
6. The ability to review the work of the technical office and the preparation board in each court, track their workflow, and print the necessary reports for each separately.
7. The ability to print the reports necessary for monitoring the performance of the employees operating the system in each court.

#### **Deliverables of the Program for the members of the Technical Office affiliated with the Assistant to the Minister**

Members of the Technical Office include those seconded to the office of the Assistant to the Minister for Specialized Courts.

Each technical office member must enjoy the following authorities:

1. The ability to use the automated system within the limits of the file sent to the member by the Assistant to the Minister for Specialized Courts as previously mentioned, and document the procedures taken on the system to allow both the Assistant to the Minister and the Head of the Technical Office to track these procedures, their proper flow and their completion.
2. The ability to search within the automated system according to a specific case type, case number, competent panel, or the name of the judge appointed to the case, and track the relevant procedures and the flow of the litigation process according to each member's specific assignment.
3. The ability to address the Technical Office and members of the economic courts from within the system, without the need for paper or telephone communications.
4. The ability to print the necessary reports pertinent to each economic court panel, reflecting the numbers of received/disposed/postponed cases, and the disposition rates for each court panel and each panel member.
5. The ability to review the judgments rendered by each panel upon loading them for providing their opinion according to each member's specific assignment.

6. The ability to review the work of the technical office and the preparation board in each court, track their workflow, and print the necessary reports for each separately, according to each member's specific assignment.

### **Deliverables of the Program for the President of the Economic Court**

The President of the Economic Court must enjoy the following authorities:

1. The ability to correspond with the Assistant to the Minister for Specialized Courts as well as the Head of the Technical Office affiliated with the Assistant to the Minister from within the system, track the issued assignments, and send the requested data with speed and accuracy.
2. The ability to review all the files available to members of the technical office at the court, follow up on the procedures that are carried out on each file, and track its workflow from within the system.
3. The ability to search within the automated system according to a specific case type, case number, competent panel, or the name of the judge appointed to the case, and track the relevant procedures and the flow of the litigation process.
4. The ability to address members of the technical office at the court, members of the preparation board, and panel members from within the system, without the need for paper or telephone communications.
5. The ability to print the necessary reports pertinent to each economic court panel, reflecting the numbers of received/disposed/postponed cases, and the disposition rates for each court panel and each panel member.
6. The ability to review the judgments rendered by each panel upon loading them to the automated system and send them to the affiliated technical office for inspection, remarks, and legal advice.
7. The ability to review the work of the technical office and the preparation board in the court, track their workflow, and print the necessary reports for each separately.
8. The ability to print the reports necessary for monitoring the performance of the employees operating the system in the court.

### **Deliverables of the Program for the Head of the Technical Office at the Economic Court**

The Head of the Technical Office at the Economic Court must enjoy the following authorities:

1. The ability to correspond with the President of the Court, as well as the Assistant to the Minister for Specialized Courts and the Head of the Technical Office affiliated with the Assistant to the Minister from within the system, track the issued assignments, and send the requested data with speed and accuracy.
2. The ability to review all the files available to members of the technical office at the court, follow up on the procedures that are carried out on each file, and track its workflow from within the system.
3. The ability to search within the automated system according to a specific case type, case number, competent panel, or the name of the judge appointed to the case, and track the relevant procedures and the flow of the litigation process.
4. The ability to address members of the technical office at the court and panel members from within the system, without the need for paper or telephone communications.
5. The ability to print the necessary reports pertinent to each economic court panel, reflecting the numbers of received/disposed/postponed cases, and the disposition rates for each court panel and each panel member.
6. The ability to review the judgments rendered by each panel upon loading them to the automated system for inspection, remarks, and legal advice.

7. The ability to print the reports necessary for monitoring the performance of the employees operating the system in the court.

#### **Deliverables of the Program for the President of the Preparation Board at the Economic Court**

The President of the Preparation Court at the Economic Court must enjoy the following authorities:

1. The ability to correspond with the President of the Court, as well as the Assistant to the Minister for Specialized Courts and the Head of the Technical Office affiliated with the Assistant to the Minister from within the system, track the issued assignments, and send the requested data with speed and accuracy.
2. The ability to review all the files available to members of the preparation board at the court, follow up on the procedures that are carried out on each file, and track its workflow from within the system.
3. The ability to search within the automated system according to a specific case type, case number, competent panel, or the name of the judge appointed to the case, and track the relevant procedures and the flow of the litigation process.
4. The ability to address members of the technical office at the court and panel members from within the system, without the need for paper or telephone communications.
5. The ability to print the necessary reports pertinent to each economic court panel, reflecting the numbers of received/disposed/postponed cases, and the disposition rates for each court panel and each panel member.
6. The ability to print the reports necessary for monitoring the performance of the employees operating the system in the court.
7. The ability to distribute the cases to members of the preparation board from within the system, each according to their digital jurisdiction.

#### **Deliverables of the Program for the members of the Preparation Board at the Economic Court**

The members of the Preparation Court at the Economic Court must enjoy the following authorities:

1. The ability to address the President of the Court, members of the technical office in the court, and panel members from within the system, and send and receive all correspondences from/to them.
2. The ability to track the cases incoming to the preparation session roll and their documents, as well as the nature of these cases from within the system, to be scanned and uploaded to the system.
3. The ability to load the decisions issued by the preparation board to the system and send them to the competent panel after finalizing the preparation sessions.
4. Tracking the confirmation and registration made by the preparation secretary for the decisions issued in the preparation session for the cases presented before the member.

#### **Deliverables of the Program for the Head of the Bankruptcy Department at the Economic Court**

The Head of the Bankruptcy Department at the Economic Court must enjoy the following authorities:

1. The ability to correspond with the President of the Court, as well as the Assistant to the Minister for Specialized Courts and the Head of the Technical Office affiliated with the Assistant to the Minister from within the system, track the issued assignments, and send the requested data with speed and accuracy.
2. The ability to review all the files available to members of the Bankruptcy Department at the court, follow up on the procedures that are carried out on each file, and track its workflow from within the system.

3. The ability to search within the automated system according to a specific case type, case number, competent panel, or the name of the judge appointed to the case, and track the relevant procedures and the flow of the litigation process.
4. The ability to address members of the technical office at the court and Bankruptcy Department members from within the system, without the need for paper or telephone communications.
5. The ability to print the necessary reports pertinent to the Bankruptcy Department at the Economic Court, reflecting the numbers of received/disposed/postponed cases, and the disposition rates for each court panel and each panel member.
6. The ability to print the reports necessary for monitoring the performance of the employees operating the system in the court.
7. The ability to distribute the cases to members of the Bankruptcy Department from within the system, each according to their digital jurisdiction.

### **Deliverables of the Program for the members of the First Instance and Appeal Panels at the Economic Court**

The members of the First Instance and Appeal Panels at the Economic Court must enjoy the following authorities:

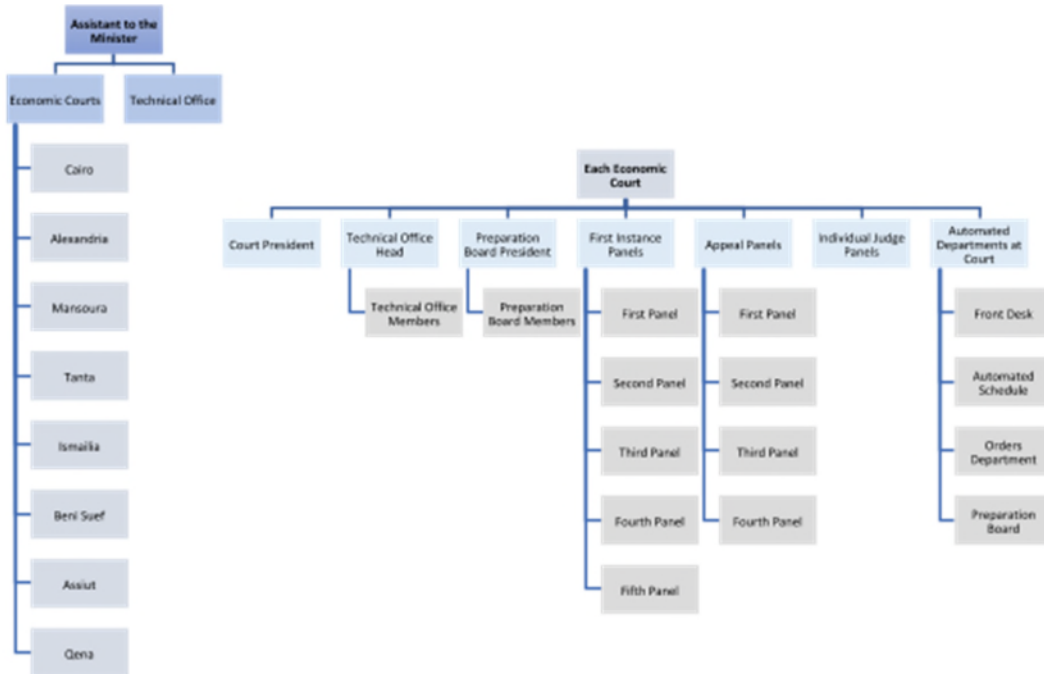
1. The ability to address the President of the Court, members of the technical office in the court, and members of the Preparation Board from within the system, and send and receive all correspondences from/to them.
2. The ability to track the cases incoming to the session roll and their documents, as well as the nature of these cases from within the system, to be scanned and uploaded to the system.
3. The ability to load the decisions issued by the panels to the system and prepare panel statistics from within the system.
4. Tracking the confirmation and registration made by the session clerk for the judgments rendered by the panel on the actions presented before it.

### **Deliverables of the Program for the individual Judges at the Economic Court**

Economic Court Judges must enjoy the following authorities:

1. The ability to address the President of the Court, members of the technical office in the court, members of the Preparation Board, and panel members from within the system, and send and receive all correspondences from/to them.
2. The ability to track the cases incoming to the session roll and their documents, as well as the nature of these cases from within the system, to be scanned and uploaded to the system.
3. The ability to load the rendered judgments to the system and prepare the relevant statistics from within the system.
4. Tracking the confirmation and registration made by the session clerk for the judgments rendered by the panel on the actions presented before the judge.

### **PROGRAM STRUCTURE**



## PROGRAM SETTING

First: Establishing an information center for the economic courts with a sufficient number of members.

Second: Developing an electronic program that includes all economic court members, starting from the office of the Assistant to the Minister for Specialized Courts and ending with members of the economic court panels. The program must include a mechanism that allows for the transfer of documents between all involved parties, guarantees security and privacy, and can scan all the documents on it to be reviewed and handled from within the system.

Third: Creating an account in the program using a specific username and private code for each user, to include each user's authorities and the range and time for using these authorities according to the previously mentioned deliverables.

Fourth: Allowing the specialized employees working with the judges to upload all the files and actions to the program after scanning, to allow court members to review them. However, the ability to edit the files on the system is limited to the court president or the head of the court's technical office.

Fifth: Linking all procedures that take place inside the program with the user handling them as to date and time of such procedures.

Sixth: Allowing the judges using the system to verify all their transactions according to legal data and templates that are previously fed into the system to allow the judges to choose from them as necessary.

Seventh: Allowing the judges to organize their work according to the status of the procedure taken and dispose the cases that require special procedures, in addition to allowing them to track the cases for which preliminary judgments or the like have been rendered, and organize their daily/weekly/monthly case schedules.

Eighth: Allowing the judges to add legal templates pertinent to the cases pending before the court.

## **II. Work Development and Performance Enhancement in the Department Currently Automated in the Economic Courts**

### **First: Receiving Litigants Phase**

1. Guide boards in the court hall must be made available in a clear spot, listing the necessary documents for filing each type of actions for which the economic courts have jurisdiction, as well as the required documents for all the requests and procedures performed by the court, e.g. official certificates, copies, and request of information.
2. The activation of the digital system in dealing with litigants as is the case in major companies and banks, to save time and eliminate congestion within the courts.
3. Making available a sufficient number of qualified employees able to deal with the automated system with accuracy and speed, and who are aware of the full document cycle without being restricted by its routine.

### **Second: The Front Desk**

1. Making available more than one window in the front desk to complete the litigants' procedures.
2. The employee working at the front desk must be able to handle all front desk tasks, including the determination of the nature of the submitted action; the value of the pertinent fees; preparation of the action file; completing all its documents; verifying the information of the person submitting the action; issuing an action registration receipt with information on the panel, the session, the estimated fees; all the way to serving all litigants in parallel in minimal time and details according to a digital program for each litigant.
3. A sufficient number of employees must be available in the front desk to register the incoming requests while the action is ongoing, such as rescheduling the action, acceleration after stay of proceedings, correction, placement, and similar requests that require to be checked off in the manual schedule to avoid the overlap of litigants when creating new actions, properly link the previously mentioned requests with the pending actions, and enhance the document cycle between the front desk, the schedule, and the concerned clerk.
4. Appoint a specialized employee in the front desk to review all portfolios, documents, and briefs submitted for the actions, scan them before start of sessions, and stamp them with the scan seal specific to the front desk to avoid congestion and delays at the front desk.
5. Appoint a second employee affiliated with the preparation board for reviewing all the portfolios, documents, and briefs submitted for the actions pending before the preparation board, scan them, stamp them with the scan seal specific to the preparation board, and submit them to the preparation board member or notify him of such documents.
6. Link the employee concerned with inquiring about actions, certificates, information, and copies with the front desk, the automated schedule, the archiving department, and the clerks after preparing and training said employee to be able to retrieve all data pertinent to the action and complete it should it be lacking to avoid prolonging the matter for the litigant and slowing the document cycle, and to make available a review option for the litigants from the front desk so that the litigants do not have to deal with the clerks and the schedule employees to avoid manipulations and to save time and relieve the clerks of some of the workload.
7. Appoint an employee for following up with the clerks on entering the judgment rendered in each action according to the session roll, to ensure that the automated system is fed with all the information pertinent to each case promptly.



### Proposed Document Cycle for the Front Desk when Entering a New Action

1. Receiving the initial pleading and verifying the capacity of the litigant, the submitted papers and documents supporting filing the action.
2. Creating a file for the action, to include the names of the plaintiff and the respondent; the topic, number, and panel of the action; as well as the timing of its session.
3. All submitted documents are to be scanned and attached to the previously mentioned action file.
4. The litigant is given the action receipt that is issued through the automated system.
5. The action is then passed to the automated schedule.

### Third: The Automated Schedule

1. Appointing an employee for receiving the cases incoming from the front desk, reviewing them before delivery, and ensuring that all case-pertinent documents have been scanned and delivered to be registered in the automated schedule, then complete the remaining data concerning the cases via the automated schedule.
2. After ensuring that the action has been registered in both manual and automated schedules, the previously mentioned employee passes it to the concerned clerk or to the preparation board schedule via a receiving log specifying the receipt date of each case.
3. The automated schedule is linked with the manual schedule through an employee who track the flow of the actions after receiving judgments to register the appeals, grievances, or objections and ensure that all this is registered in both the manual and automated schedules to facilitate work and verify the data issued by the automated system.
4. Preparing a number of employees to handle both manual and automated schedules in case of any unforeseen circumstances that might affect the performance of the current employee.

### Fourth: The Preparation Board

1. The preparation board is to be linked to the automated schedule to be able to distribute the preparation cases promptly on a daily basis, and determine the preparation session so as to inform the litigant at the same time of filing the action.
2. The preparation board secretary is assigned to enter the decisions made by the preparation board member to the designated system promptly, as well as scan all the incoming documents and requests, up to the brief prepared by the preparation board member.

### Fifth: Orders Department

1. The Head of the Orders Department is assigned to enter the order promptly as soon as received after its accrued fees have been paid into the automated system, determine its number and complete its data, then send it via the automated system to the judge concerned with handling orders.
2. The order file is to be promptly scanned with all the submitted portfolios and rendered decisions.
3. A program is to be activated for real estate agents so that they are selected according to their order on the automated system without the intervention of any of the system employees.

### Sixth: Creating a Department for the Cases Transferred to Court

1. An employee is to be appointed to receive the cases transferred from the entries department, review said cases and their documents, verify that all case documents have been fulfilled to be

received in court and registered or are otherwise lacking. In the first case, the cases will be registered in a receiving log according to the incoming date, and in the second case, they are returned to the sending party for data completion.

2. After registration in the logbook, the employee uploads the cases to the automated system of the Head of the Technical Office at the court to determine their types and distribute them.
3. After that, the employee passes the cases to the automated schedule to complete their data and determine their sessions according to a certified logbook, then he scans them to the automated system and completes the relevant document cycle.

#### Seventh: Creating a Reports System

This system is to include general reports, statistical reports, reports on tracking roles and tasks in a manner that eventually allows for easily obtaining all the necessary data for each court affiliated with the Assistant to the Minister for Specialized Courts without the need for telephone or paper communications.

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