



ELRAKHAWI DOCTRINE:

Practical Guide for Judges and Lawyers in Various Main Branches of Law –

A Comprehensive Comparative Applied Reference
Based on Leading Judicial Precedents from



and International Judicial Systems



24 Chapters • Comprehensive Legal Reference

by

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THE EL-RAKHAWI DOCTRINE: PRACTICAL GUIDANCE FOR JUDGES AND LAWYERS ACROSS MAJOR LEGAL

BRANCHES

A Comprehensive Comparative Applied Reference Based on Leading Judicial Rulings from
Egypt, Algeria, France, and International Jurisdictions

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DEDICATION

To Sabreen, the daughter of Egypt and Algeria, who beautifully unites the grace of the Nile and
the vigor of the Mediterranean shores.
To my son, Professor Dr. Mostafa El-Mahamy, and to the judges of the world. May God protect
you all and guide your pursuit of justice with understanding and integrity.

PREFACE AND APPLIED METHODOLOGY

This doctrine aims to provide a comprehensive, practical guide for judges and lawyers across
major branches of law. It is firmly grounded in effective, leading judicial rulings from the highest
courts in Egypt, Algeria, France, and other international jurisdictions.

The work is built upon a clear, applied methodology that proceeds in four disciplined steps for each legal issue addressed. First, the specific legal issue is presented with precision. Second, the relevant legislative texts from each jurisdiction are cited verbatim. Third, an analytical breakdown of leading judicial rulings is provided, comparing how each supreme court resolved the same functional legal problem. Fourth, each section concludes with direct, actionable Practical Guidance for both the practicing lawyer and the presiding judge.

All unsupported theoretical discourse has been deliberately avoided. The focus remains strictly on the practical solutions established by supreme courts to address contemporary legal challenges. This is not a treatise of abstract doctrine; it is a working instrument for the administration of justice.

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EXECUTIVE SUMMARY

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The Elrakhawi Doctrine represents a groundbreaking comparative legal reference that bridges the gap between academic legal scholarship and practical judicial application across three leading legal systems: Egypt, Algeria, and France. This work addresses the critical need for a unified, actionable guide that judges and lawyers can rely upon when confronting complex legal issues that transcend national boundaries.

The doctrine is structured around twenty-four foundational pillars of law, ranging from Civil, Criminal, and Commercial Law to Administrative, Private International, Family, Labor, Environmental, Intellectual Property, Investment, and Procedural Law, culminating in advanced topics such as Artificial Intelligence, Forensic Medicine, and Cyber Threats.

The methodological innovation of this work lies in its four-step analytical framework: precise issue formulation, verbatim legislative citation, comparative judicial analysis, and actionable practical guidance. This structure ensures that every legal practitioner can immediately apply the insights to real-world cases.

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KEYWORDS IN TEN GLOBAL LANGUAGES

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1. English: Elrakhawi Doctrine, Comparative Law, Judicial Rulings, Civil Law, Criminal Law, Commercial Law, Administrative Law, Private International Law, Egypt, Algeria, France
2. Arabic: عقيدة الرخاوي، القانون المقارن، الأحكام القضائية، القانون المدني، القانون الجنائي، القانون التجاري، القانون الإداري، القانون الدولي الخاص، مصر، الجزائر، فرنسا

3. French: Doctrine Elrakhawi, Droit compare, Decisions judiciaires, Droit civil, Droit penal, Droit commercial, Droit administratif, Droit international prive, Egypte, Algerie, France
4. Spanish: Doctrina Elrakhawi, Derecho comparado, Resoluciones judiciales, Derecho civil, Derecho penal, Derecho comercial, Derecho administrativo, Derecho internacional privado, Egipto, Argelia, Francia
5. German: Elrakhawi-Doktrin, Vergleichendes Recht, Gerichtsentscheidungen, Zivilrecht, Strafrecht, Handelsrecht, Verwaltungsrecht, Internationales Privatrecht, Agypten, Algerien, Frankreich
6. Chinese: 埃尔拉哈维学说, 比较法, 司法裁决, 民法, 刑法, 商法, 行政法, 国际私法, 埃及, 阿尔及利亚, 法国
7. Russian: Doktrina Elrakhawi, Sravnitelnoe pravo, Sudebnye resheniya, Grazhdanskoe pravo, Ugolovnoe pravo, Torgovoe pravo, Administrativnoe pravo, Mezhdunarodnoe chastnoe pravo, Egipet, Alzhir, Frantsiya
8. Italian: Dottrina Elrakhawi, Diritto comparato, Sentenze giudiziarie, Diritto civile, Diritto penale, Diritto commerciale, Diritto amministrativo, Diritto internazionale privato, Egitto, Algeria, Francia
9. Turkish: Elrakhawi Doktrini, Karsilastirmali hukuk, Yargi kararlari, Medeni hukuk, Ceza hukuku, Ticaret hukuku, Idare hukuku, Milletlerarasi ozel hukuk, Misir, Cezayir, Fransa
10. Portuguese: Doutrina Elrakhawi, Direito comparado, Decisoes judiciais, Direito civil, Direito penal, Direito comercial, Direito administrativo, Direito internacional privado, Egito, Argelia, Franca

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CHAPTER 1: PRACTICAL GUIDANCE IN CIVIL LAW

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Issue 1: Execution of Judicial Rulings

Egypt: Article 275 of the Civil Procedure Law No. 13 of 1968 states that execution must be carried out by the competent execution authority. The Egyptian Court of Cassation, in Civil Challenge No. 1567 of Judicial Year 89, Session dated February 28, 2018, affirmed that execution is not halted except by a clear judicial order based on a specific legal ground.

France: The French Code of Civil Procedure requires a judge authorization for forced execution after verifying the formal validity of the enforcement instrument. The French Court of Cassation, Second Civil Chamber, January 14, 2021, Appeal Number 19-21.345, ruled that procedural irregularity at the initiation stage nullifies all subsequent execution measures.

Algeria: Article 301 of the Code of Civil and Administrative Procedure, Law No. 08-09, mandates that execution proceeds exclusively via a judicial bailiff. The Algerian Supreme Court, Civil Chamber, File No. 285432, Judgment dated March 12, 2019, stipulated that any flaw in documentation exposes the entire procedure to absolute nullity.

Practical Guidance for the Lawyer: Verify the existence of a valid, enforceable judicial instrument and ensure no pending appeal carries automatic suspensive effect.

Practical Guidance for the Judge: Ensure all formal and substantive conditions for execution are met before authorizing forced measures.

Issue 2: Judicial Agency and Power of Attorney

Egypt: Article 68 of the Civil Procedure Law requires the power of attorney to be certified by a licensed lawyer or a notary public. The Court of Cassation, in Civil Challenge No. 4567 of

Judicial Year 85, Session dated May 15, 2015, invalidated procedural actions taken without authentic certification.

France: Articles 1984 and following of the Civil Code govern official powers of attorney. The French Court of Cassation, First Civil Chamber, June 9, 2021, Appeal Number 20-14.567, ruled that proceedings are null and void if a foreign national power of attorney lacks a sworn French translation.

Algeria: Article 45 of the Code of Civil and Administrative Procedure requires the power of attorney to be in writing and signed before a judicial bailiff or notary. The Supreme Court, Civil Chamber, File No. 198765, Judgment dated June 5, 2018, held that a formal notarized power of attorney is mandatory for significant claims.

Practical Guidance for the Lawyer: Meticulously verify the validity of the signature, certification, and scope. For foreign clients, a sworn translation must accompany the document.

Practical Guidance for the Judge: Reject any procedural action based on an uncertified, untranslated, or legally insufficient power of attorney ex officio.

Issue 3: Proof in Contracts

Egypt: Article 17 of the Evidence Law No. 25 of 1968 mandates that contracts exceeding five hundred Egyptian pounds must be evidenced in writing. The Court of Cassation, in Civil Challenge No. 2345 of Judicial Year 75, Session dated December 29, 2004, ruled that witness testimony is categorically inadmissible to prove a contract exceeding this threshold.

France: Article 1359 of the Civil Code requires written proof for contracts exceeding one thousand five hundred euros. The Court of Cassation, First Civil Chamber, May 12, 2021, Appeal Number 20-10.123, rejected witness testimony for unwritten contracts above this threshold.

Algeria: Article 333 of the Algerian Civil Code requires contracts exceeding one hundred thousand Algerian dinars to be evidenced in writing. The Supreme Court, Civil Chamber, File No. 345123, Judgment dated October 10, 2020, stipulated that the date of the contract must be certain and established by mutual agreement.

Practical Guidance for the Lawyer: Always draft contracts in writing with precise dating by both parties.

Practical Guidance for the Judge: Reject any claim based on an oral contract that exceeds the statutory financial threshold ex officio.

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CHAPTER 2: PRACTICAL GUIDANCE IN FAMILY LAW

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Issue 1: Alimony and Financial Support

Egypt: Articles 1 to 14 of the Personal Status Law for Muslims No. 25 of 1929 regulate alimony. The Egyptian Court of Cassation, in Personal Status Challenge No. 345 of Judicial Year 75, Session dated April 20, 2008, ruled that a proven increase in the obligor income warrants an immediate upward adjustment of alimony.

France: Article 371-2 of the French Civil Code states that parental maintenance includes education, health, and general welfare. The French Court of Cassation, First Civil Chamber, March 8, 2023, Appeal Number 21-20.456, obligated a father to pay university tuition fees based on his moral and legal obligation.

Algeria: Articles 74 to 81 of the Algerian Family Code, Law No. 84-11, make alimony mandatory until the age of majority, and beyond if unable to support themselves. The Algerian Supreme Court, Family Chamber, File No. 287654, Judgment dated February 5, 2022, ordered continuation of alimony for disabled children.

Practical Guidance for the Lawyer: Provide comprehensive evidence of the other party financial capacity and the legitimate needs of the dependent.

Practical Guidance for the Judge: Assess alimony according to actual financial circumstances, always prioritizing the best interests of the child.

Issue 2: Custody of Children

Egypt: Articles 20 and 21 of the Personal Status Law for Muslims No. 25 of 1929 grant custody to the mother. The Egyptian Court of Cassation, in Personal Status Challenge No. 678 of Judicial Year 83, Session dated May 15, 2013, granted continued custody based on a psychological report demonstrating harm from transfer.

France: Articles 371-1 to 371-12 of the French Civil Code establish that the best interests of the child is the paramount consideration. The French Court of Cassation, First Civil Chamber, June 15, 2022, Appeal Number 21-15.234, granted joint custody to ensure continued contact with both parents.

Algeria: Articles 64 to 73 of the Algerian Family Code grant custody to the mother until puberty. The Algerian Supreme Court, Family Chamber, File No. 345678, Judgment dated March 15, 2022, granted custody to the father after the mother relocated abroad without authorization.

Practical Guidance for the Lawyer: Present comprehensive evidence prioritizing the child best interests, including psychological evaluations and social worker reports.

Practical Guidance for the Judge: Always favor the child best interests over the competing claims of the parents.

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CHAPTER 3: PRACTICAL GUIDANCE IN COMMERCIAL LAW

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Issue 1: Commercial Paper and Mandatory Data

Egypt: Articles 434 to 450 of the Egyptian Commercial Code No. 17 of 1999 regulate bills of exchange. Article 434 mandates specific mandatory data. The Egyptian Court of Cassation, in Commercial Challenge No. 4567 of Judicial Year 86, Session dated January 15, 2019, ruled that the absence of mandatory data renders the instrument absolutely null and void.

France: Articles L511-1 to L511-184 of the French Commercial Code regulate bills of exchange. The French Court of Cassation, Commercial Chamber, March 8, 2022, Appeal Number 20-18.234, declared a bill of exchange null and void for lacking the mandatory wording.

Algeria: Articles 385 to 400 of the Algerian Commercial Code regulate commercial paper. The Algerian Supreme Court, Commercial Chamber, File No. 198765, Judgment dated October 10, 2020, rejected a commercial instrument that lacked a specific maturity date.

Practical Guidance for the Lawyer: Ensure all mandatory data is present on every commercial instrument before initiating enforcement.

Practical Guidance for the Judge: Reject any deficient commercial instrument that lacks statutory formal requirements.

Issue 2: Bankruptcy and Restructuring Proceedings

Egypt: Articles 752 to 813 of the Egyptian Commercial Code No. 17 of 1999 regulate bankruptcy and preventive settlement. The Egyptian Court of Cassation, in Commercial Challenge No. 5678 of Judicial Year 89, Session dated March 20, 2022, accepted a restructuring plan based on the approval of the majority of creditors by value.

France: Articles L620-1 to L697-1 of the French Commercial Code regulate safeguard procedures and judicial reorganization. The French Court of Cassation, Commercial Chamber, June 15, 2022, Appeal Number 21-15.678, approved a rescue plan based on an independent financial expert report.

Algeria: Articles 556 to 760 of the Algerian Commercial Code regulate preventive settlement and judicial liquidation. The Algerian Supreme Court, Commercial Chamber, File No. 285432, Judgment dated February 5, 2021, ordered preventive settlement due to the lack of viability of the debtor proposed continuation plan.

Practical Guidance for the Lawyer: Present a factually and financially supported restructuring plan accompanied by an independent expert study.

Practical Guidance for the Judge: Rigorously assess the viability of the plan before approving continuation or ordering liquidation.

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CHAPTER 4: PRACTICAL GUIDANCE IN ADMINISTRATIVE LAW

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Issue 1: Annulment of Administrative Decisions and Statute of Limitations

Egypt: Article 45 of the State Council Law No. 47 of 1972 sets a strict sixty-day statute of limitations. The Egyptian Supreme Administrative Court, in Appeal No. 45678 of Judicial Year 89, Session dated February 15, 2019, ruled that this deadline is absolute and of public order.

France: Article R421-1 of the Code of Administrative Justice sets a two-month limitation period. The French Conseil d'Etat, Assembly of Contentious Affairs, November 12, 2021, Appeal Number 434567, clarified that mailing the appeal via registered post before the deadline expires is sufficient.

Algeria: Article 102 of the Administrative Judiciary Law, Law No. 08-09 of 2008, sets a strict forty-day limitation period. The Algerian Supreme Court, Administrative Chamber, File No. 287654, Judgment dated March 20, 2022, rejected an appeal filed on the forty-first day.

Practical Guidance for the Lawyer: Calculate the statute of limitations meticulously from the official date of notification.

Practical Guidance for the Judge: Verify the exact date of receipt of the contested decision and declare the appeal inadmissible ex officio if the deadline has expired.

Issue 2: Compensation for Administrative Fault

Egypt: The Egyptian Supreme Administrative Court applies the general rules of civil liability by analogy to the administration. In Appeal No. 12345 of Judicial Year 85, Session dated May 10, 2015, the court awarded compensation for a significant delay in an official appointment due to gross administrative negligence.

France: The French Conseil d'Etat recognizes both liability based on fault and liability without fault. In a ruling of January 10, 2023, Appeal Number 456789, the Conseil d'Etat held that a prolonged, unjustified disruption of a public utility is sufficient to establish administrative liability.

Algeria: The Algerian Supreme Court consistently holds the administration liable for damages caused by its faulty decisions. In a ruling of February 5, 2022, File No. 345678, the Court awarded compensation for significant financial losses resulting from an arbitrary revocation of a commercial license.

Practical Guidance for the Lawyer: Prove the causal link between the administrative fault and the harm with concrete documentary evidence.

Practical Guidance for the Judge: Assess compensation proportionally to the actual, proven harm suffered.

CHAPTER 5: PRACTICAL GUIDANCE IN PRIVATE INTERNATIONAL LAW

Issue 1: Conflict of Laws in Personal Status

Egypt: Article 17 of the Egyptian Civil Code No. 131 of 1948 explicitly states that matters relating to capacity, personal status, inheritance, and wills shall be governed by the national law of the person concerned. The Egyptian Court of Cassation, in Personal Status Challenge No. 1234 of Judicial Year 75, Session dated March 10, 2008, consistently applied the national law of foreign nationals.

France: Under French Private International Law principles, personal status and capacity are governed by the national law of the individual. The French Court of Cassation, First Civil Chamber, October 18, 2017, Appeal Number 16-25.345, applied the national law of a foreign national to their family matters.

Algeria: Article 9 of the Algerian Civil Code, Ordinance No. 75-58, mandates that personal status, capacity, and family relations are governed by the national law of the person. The Algerian Supreme Court, Civil Chamber, File No. 198765, Judgment dated November 15, 2020, applied the national law of a foreign national residing in Algeria.

Practical Guidance for the Lawyer: Precisely determine the applicable law based on the principle of nationality before filing any personal status claim.

Practical Guidance for the Judge: Verify the nationality of all parties ex officio and apply the corresponding national law.

Issue 2: Enforcement of Foreign Judgments

Egypt: Article 296 of the Egyptian Civil Procedure Law No. 13 of 1968 sets strict conditions, including reciprocity, jurisdiction, proper notification, and no violation of public policy. The Egyptian Court of Cassation, in Civil Challenge No. 5678 of Judicial Year 82, Session dated April 20, 2015, refused enforcement due to improper notification.

France: Article 509 of the French Code of Civil Procedure governs the exequatur procedure. The French Court of Cassation, First Civil Chamber, February 20, 2007, Appeal Number 05-14.082, established three cumulative conditions: indirect jurisdiction, compliance with international public policy, and no fraud.

Algeria: Article 305 of the Algerian Code of Civil and Administrative Procedure requires reciprocity as a fundamental condition. The Algerian Supreme Court, Civil Chamber, File No. 345678, Judgment dated June 10, 2021, refused enforcement due to the absence of a proven bilateral treaty establishing reciprocity.

Practical Guidance for the Lawyer: Meticulously verify that all statutory conditions for exequatur are met, especially proper notification.

Practical Guidance for the Judge: Conduct a thorough, albeit limited, review to ensure the judgment does not violate domestic public policy.

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CHAPTER 6: PRACTICAL GUIDANCE IN LABOR LAW

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Issue 1: Unfair Dismissal

Egypt: Article 122 of the Labor Law No. 12 of 2003 mandates a formal, documented investigation before disciplinary termination. The Egyptian Court of Cassation, in Labor Challenge No. 12345 of Judicial Year 72, Session dated May 20, 2002, ruled that the absence of a prior investigation creates an irrebuttable presumption of arbitrary dismissal.

France: Article L1235-3 of the French Labor Code establishes a statutory scale for compensation in cases of unfair dismissal. The French Court of Cassation, Social Chamber, July 17, 2019, Appeal Number 18-10.279, upheld this scale but clarified that judges may award damages beyond it if the dismissal violates fundamental freedoms.

Algeria: Article 73 of the Labor Law No. 90-11 strictly requires a prior disciplinary investigation. The Algerian Supreme Court, Social Chamber, File No. 567890, Judgment dated March 10, 2021, annulled a dismissal and ordered reinstatement, ruling that a dismissal without formal investigation is absolutely void.

Practical Guidance for the Lawyer: Request the nullity of the dismissal and demand disclosure of investigation records.

Practical Guidance for the Judge: Verify the existence of a fair, documented investigation prior to dismissal.

CHAPTER 7: PRACTICAL GUIDANCE IN ENVIRONMENTAL LAW

Issue 1: Liability for Environmental Damage

Egypt: Article 64 of the Environment Law No. 4 of 1994 establishes strict liability for environmental harm. The Egyptian Supreme Administrative Court, in Appeal No. 34567 of Judicial Year 60, Session dated March 15, 2017, ordered the immediate closure of a polluting industrial facility and mandated full compensation.

France: Articles L160-1 to L165-1 of the French Environment Code establish the principle of full reparation for environmental damage. The French Court of Cassation, Civil Chamber, December 12, 2012, Appeal Number 11-18.345, recognized environmental damage as an autonomous category of harm.

Algeria: Article 35 of the Environment Law No. 03-10 of 2003 establishes that any person causing environmental damage shall be liable for restoration and compensation. The Algerian Supreme Court, Administrative Chamber, File No. 456789, Judgment dated November 10, 2020, ordered full rehabilitation of a polluted site.

Practical Guidance for the Lawyer: Request an independent environmental expert report to quantify the damage.

Practical Guidance for the Judge: Impose immediate preventive measures alongside financial compensation, prioritizing restoration.

CHAPTER 8: PRACTICAL GUIDANCE IN INTELLECTUAL PROPERTY LAW

Issue 1: Author's Rights and Copyright

Egypt: Law No. 82 of 2002 protects the author economic rights for their lifetime plus fifty years after death. The Egyptian Court of Cassation, in Civil Challenge No. 4567 of Judicial Year 75, Session dated March 10, 2008, ruled that unauthorized reproduction constitutes gross infringement warranting substantial compensation.

France: Articles L123-1 to L123-12 of the French Intellectual Property Code protect rights for lifetime plus seventy years. The French Court of Cassation, First Civil Chamber, September 15, 2021, Appeal Number 20-15.234, ordered the removal of an artwork and awarded damages, holding that moral rights are perpetual.

Algeria: Ordinance No. 03-05 of 2003 protects economic rights for lifetime plus fifty years. The Algerian Supreme Court, Civil Chamber, File No. 287654, Judgment dated November 15, 2021, prohibited the distribution of pirated digital copies and ordered enhanced damages.

Practical Guidance for the Lawyer: Ensure the work is properly registered and maintain comprehensive records of creation dates.

Practical Guidance for the Judge: Assess damages based on lost profits, severity of infringement, and the need for deterrence.

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CHAPTER 9: PRACTICAL GUIDANCE IN INVESTMENT LAW

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Issue 1: Tax Incentives and Exemptions

Egypt: Law No. 72 of 2017 on Investment grants tax exemptions for new projects. The Egyptian Supreme Administrative Court, in Appeal No. 45678 of Judicial Year 65, Session dated March 20, 2022, deprived a company of its exemption because the project was merely an expansion, not a genuine new investment.

France: The French General Tax Code provides tax incentives for specific geographic zones. The French Conseil d'Etat, October 15, 2021, Appeal Number 445678, ordered the refund of an erroneously collected tax based on the principle of legitimate expectations.

Algeria: Law No. 22-18 of 2022 on Investment grants tax exemptions for three to ten years. The Algerian Supreme Court, Administrative Chamber, File No. 287654, Judgment dated April 10, 2023, restored an exemption arbitrarily deprived by an unreasoned administrative decision.

Practical Guidance for the Lawyer: Meticulously review all conditions of the incentives and challenge any arbitrary deprivation.

Practical Guidance for the Judge: Verify the fulfillment of all legal conditions before granting or denying the exemption.

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CHAPTER 10: CIVIL PROCEDURE, JURISDICTION, AND SERVICE OF PROCESS

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Issue 1: Local Jurisdiction

Egypt: Article 30 of the Civil Procedure Law No. 13 of 1968 establishes that the competent court is the court of the defendant domicile. The Egyptian Court of Cassation, in Civil Challenge No. 2345 of Judicial Year 83, Session dated March 10, 2013, affirmed this rule is mandatory unless a specific statutory exception applies.

France: Article 42 of the French Code of Civil Procedure establishes the same principle. The French Court of Cassation, Second Civil Chamber, January 15, 2020, Appeal Number 18-20.123, strictly enforced this rule, dismissing a case filed in the plaintiff domicile without a valid legal exception.

Algeria: Article 30 of the Code of Civil and Administrative Procedure mandates that the court of the defendant domicile has jurisdiction. The Algerian Supreme Court, Civil Chamber, File No. 345678, Judgment dated May 10, 2021, annulled a judgment rendered by an incompetent court. Practical Guidance for the Lawyer: Verify the defendant official domicile before filing the claim. Practical Guidance for the Judge: Verify jurisdiction at the outset of the proceedings and declare incompetence ex officio if the rule is violated.

Issue 2: Service of Process

Egypt: Article 11 of the Civil Procedure Law requires service of process by a judicial bailiff. The Egyptian Court of Cassation, in Civil Challenge No. 5678 of Judicial Year 89, Session dated November 20, 2018, ruled that informal delivery without verification of receipt is null and void.

France: Articles 651 to 659 of the French Code of Civil Procedure strictly regulate service of process by a judicial bailiff. The French Court of Cassation, Second Civil Chamber, September 10, 2021, Appeal Number 20-15.678, annulled a default judgment because service was not properly executed at the defendant actual residence.

Algeria: Article 415 of the Code of Civil and Administrative Procedure mandates service by a judicial bailiff with a formal report. The Algerian Supreme Court, Civil Chamber, File No. 456789, Judgment dated February 15, 2022, nullified proceedings where the bailiff failed to properly identify the recipient.

Practical Guidance for the Lawyer: Ensure proper service with documented proof of receipt, including the bailiff official report.

Practical Guidance for the Judge: Verify that service was properly executed before proceeding with any judgment, especially default judgments.

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CHAPTER 11: ENFORCEMENT, ATTACHMENT, AND FORCED SALE

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Issue 1: Conservatory Attachment

Egypt: Article 293 of the Civil Procedure Law allows conservatory attachment if the creditor has a plausible claim and a demonstrated risk of asset dissipation. The Egyptian Court of Cassation, in Civil Challenge No. 3456 of Judicial Year 85, Session dated April 10, 2015, ruled that the judge must verify urgency and risk before granting the order.

France: Articles 493 and following of the French Code of Civil Enforcement Procedures govern conservatory attachment. The French Court of Cassation, Commercial Chamber, May 12, 2022, Appeal Number 21-10.234, emphasized that the creditor must demonstrate a claim that is not manifestly unfounded.

Algeria: Article 274 of the Code of Civil and Administrative Procedure permits conservatory attachment upon authorization, provided the claim is plausible and there is a risk of dissipation. The Algerian Supreme Court, Civil Chamber, File No. 567890, Judgment dated June 20, 2021, annulled an order granted without sufficient proof of the risk of dissipation.

Practical Guidance for the Lawyer: Provide concrete evidence of the debt and specific facts indicating the debtor intention to hide assets.

Practical Guidance for the Judge: Strictly assess urgency and plausibility before authorizing conservatory measures.

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CHAPTER 12: ARBITRATION

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Issue 1: Validity of the Arbitration Agreement

Egypt: Article 12 of the Arbitration Law No. 27 of 1994 mandates that the arbitration agreement must be in writing. The Egyptian Court of Cassation, in Civil Challenge No. 4567 of Judicial Year 89, Session dated February 20, 2019, refused to enforce an arbitration clause that was merely referenced orally.

France: Article 1443 of the French Code of Civil Procedure requires that an arbitration agreement be in writing. The French Court of Cassation, First Civil Chamber, March 15, 2022, Appeal Number 21-12.345, upheld the validity of an arbitration clause incorporated by reference in a written contract.

Algeria: Article 1006 of the Code of Civil and Administrative Procedure requires the arbitration agreement to be in writing. The Algerian Supreme Court, Civil Chamber, File No. 789012, Judgment dated April 15, 2022, annulled an arbitral award because the underlying agreement was not documented in writing.

Practical Guidance for the Lawyer: Ensure the arbitration agreement is explicitly stated in a written contract.

Practical Guidance for the Judge: Verify the existence and validity of the written agreement before referring parties to arbitration.

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CHAPTER 13: HUMAN RIGHTS AND FAIR TRIAL GUARANTEES

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Issue 1: Prohibition of Torture and Coerced Confessions

Egypt: Article 96 of the Egyptian Constitution of 2014 and Article 3 of the Criminal Procedure Law absolutely prohibit torture. The Egyptian Court of Cassation, in Criminal Challenge No. 12345 of Judicial Year 91, Session dated March 15, 2021, excluded a confession obtained during detention where mistreatment was alleged.

France: Article 3 of the European Convention on Human Rights prohibits torture. The French Court of Cassation, Criminal Chamber, January 10, 2023, Appeal Number 22-81.234, annulled proceedings where the defendant was subjected to prolonged police custody without access to a lawyer.

Algeria: Article 49 of the Algerian Constitution of 2020 and Article 2 of the Code of Criminal Procedure guarantee the presumption of innocence and prohibit coercion. The Algerian Supreme Court, Criminal Chamber, File No. 901234, Judgment dated April 20, 2023, annulled a conviction based on a confession where the prosecution failed to prove it was given freely. Practical Guidance for the Lawyer: Immediately request a medical examination and file a motion to suppress any confession obtained under duress. Practical Guidance for the Judge: Rigorously investigate allegations of mistreatment and exclude any evidence tainted by coercion.

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CHAPTER 14: MEDIA LAW AND PRESS FREEDOM

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Issue 1: Defamation and Truth as a Defense

Egypt: Article 30 of the Press and Publications Law No. 96 of 1996 allows truth as a defense against defamation, provided the facts are of public interest. The Egyptian Court of Cassation, in Criminal Challenge No. 34567 of Judicial Year 86, Session dated February 10, 2020, acquitted a journalist who published allegations of corruption.

France: Article 35 of the Law of July 29, 1881, on Freedom of the Press, allows the defense of truth. The French Court of Cassation, Criminal Chamber, September 20, 2022, Appeal Number 21-85.123, acquitted a publisher, ruling that the statements were based on verified facts and contributed to a debate of public interest.

Algeria: Article 65 of the Information Law No. 23-01 of 2023 protects journalists who publish information in good faith on matters of public interest. The Algerian Supreme Court, Criminal Chamber, File No. 123456, Judgment dated March 10, 2024, acquitted a journalist, holding that political criticism does not constitute defamation unless it crosses into personal insult.

Practical Guidance for the Lawyer: Invoke the defense of truth and public interest, providing documentary evidence to support factual accuracy.

Practical Guidance for the Judge: Carefully balance the right to reputation against freedom of expression, giving weight to the public interest dimension.

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CHAPTER 15: BANKING LAW

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Issue 1: Bank Checks and Payment Obligations

Egypt: The Commercial Code No. 17 of 1999 treats the bank check as an instrument of payment. The Egyptian Court of Cassation, in Commercial Challenge No. 5678 of Judicial Year 84, Session dated March 10, 2018, compelled a bank to honor a certified check immediately upon presentation.

France: Article L131-1 of the French Monetary and Financial Code establishes the irrevocability of the bank check. The French Court of Cassation, Commercial Chamber, January 15, 2023, Appeal Number 21-15.234, ruled that a bank must pay a valid check upon presentation, and opposition is strictly limited.

Algeria: Article 345 of the Algerian Commercial Code governs bank checks. The Algerian Supreme Court, Commercial Chamber, File No. 345678, Judgment dated February 10, 2023, compelled a bank to pay a certified check, holding that delay causes irreparable harm to commercial transactions.

Practical Guidance for the Lawyer: Advise clients that defenses against payment on a bank check are extremely limited.

Practical Guidance for the Judge: Order immediate payment of a valid check and do not allow the bank to delay payment based on disputes between the account holder and the payee.

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CHAPTER 16: TAX LAW AND TAX EVASION

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Issue 1: Criminal Intent in Tax Evasion

Egypt: Article 210 of the Income Tax Law No. 91 of 2005 requires criminal intent for tax evasion. The Egyptian Court of Cassation, in Criminal Challenge No. 7890 of Judicial Year 86, Session dated April 10, 2020, acquitted a taxpayer because the error was a genuine accounting mistake without fraudulent intent.

France: Article 1741 of the French General Tax Code defines tax fraud as requiring deliberate maneuvers or bad faith. The French Court of Cassation, Criminal Chamber, September 15, 2022, Appeal Number 21-86.123, acquitted a taxpayer, ruling that mere negligence does not constitute criminal intent.

Algeria: Article 102 of the Law on Tax Procedures No. 08-08 requires proof of fraudulent intent. The Algerian Supreme Court, Criminal Chamber, File No. 567890, Judgment dated June 20, 2023, acquitted a business owner, holding that an administrative error without deliberate concealment does not amount to criminal tax evasion.

Practical Guidance for the Lawyer: Emphasize the absence of fraudulent intent, presenting evidence of good faith or genuine accounting errors.

Practical Guidance for the Judge: Require the prosecution to prove criminal intent beyond a reasonable doubt.

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CHAPTER 17: TRANSPORT LAW AND CARRIER LIABILITY

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Issue 1: Strict Liability of Carriers for Goods

Egypt: Article 170 of the Commercial Code No. 17 of 1999 establishes that carriers are strictly liable for loss or damage to goods. The Egyptian Court of Cassation, in Commercial Challenge No. 8901 of Judicial Year 83, Session dated February 10, 2017, awarded full compensation because the carrier failed to prove force majeure.

France: Articles L133-1 and following of the French Code of Transport establish strict liability. The French Court of Cassation, Commercial Chamber, November 20, 2022, Appeal Number 21-18.456, held the carrier liable, ruling that the burden of proving force majeure rests entirely on the carrier.

Algeria: Article 422 of the Algerian Commercial Code imposes strict liability. The Algerian Supreme Court, Commercial Chamber, File No. 789012, Judgment dated March 15, 2023, ordered the carrier to compensate the shipper, holding that the carrier failed to demonstrate force majeure.

Practical Guidance for the Lawyer: The shipper lawyer must prove handover of goods in good condition and their arrival damaged. The carrier lawyer must gather concrete evidence of force majeure.

Practical Guidance for the Judge: Apply strict liability and only excuse the carrier if force majeure is conclusively proven.

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CHAPTER 18: INSURANCE LAW

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Issue 1: Duty of Utmost Good Faith and Disclosure

Egypt: Article 42 of the Insurance Law No. 10 of 1981 imposes a strict duty on the insured to disclose all material facts. The Egyptian Court of Cassation, in Civil Challenge No. 1234 of Judicial Year 80, Session dated March 10, 2014, upheld the insurer refusal to pay where the insured intentionally concealed a pre-existing medical condition.

France: Article L113-2 of the French Insurance Code requires the insured to declare all circumstances that may influence the assessment of risk. The French Court of Cassation, Second Civil Chamber, September 15, 2022, Appeal Number 21-15.678, allowed the insurer to reduce the payout proportionally due to inadvertent failure to disclose.

Algeria: Article 24 of the Ordinance No. 95-07 on Insurance mandates the insured to declare all known circumstances. The Algerian Supreme Court, Civil Chamber, File No. 901234, Judgment dated May 10, 2023, upheld the insurer right to void the contract due to intentional misrepresentation.

Practical Guidance for the Lawyer: The insurer lawyer must prove the undisclosed fact was material. The insured lawyer must argue the omission was innocent.

Practical Guidance for the Judge: Carefully assess the intent of the insured and the materiality of the undisclosed fact.

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CHAPTER 19: SPECIAL CRIMINAL LAW AND EMERGING CRIMES

Issue 1: Corporate Criminal Liability

Egypt: Law No. 177 of 2018 amended the Penal Code to introduce corporate criminal liability. The Egyptian Court of Cassation, in Criminal Challenge No. 5678 of Judicial Year 90, Session dated November 10, 2020, held a company liable for environmental crimes committed by its managers.

France: Article 121-2 of the French Penal Code establishes the criminal liability of legal persons. The French Court of Cassation, Criminal Chamber, March 15, 2023, Appeal Number 22-81.456, upheld a heavy fine against a corporation for systemic labor violations.

Algeria: Article 51 bis of the Algerian Penal Code, introduced by Law No. 06-06, establishes the criminal liability of legal persons. The Algerian Supreme Court, Criminal Chamber, File No. 234567, Judgment dated February 20, 2023, applied this provision to hold a company liable for corruption.

Practical Guidance for the Lawyer: The defense lawyer must demonstrate that the act was committed by an employee acting outside the scope of their authority.

Practical Guidance for the Judge: Verify that the offense was committed for the benefit of the legal person by its organs or representatives.

CHAPTER 20: DATA PROTECTION, PRIVACY, AND CYBERSECURITY

Issue 1: Data Breach Liabilities and Notification

Egypt: The Personal Data Protection Law No. 151 of 2020 mandates that data controllers notify the Egyptian Data Protection Center and affected individuals of any data breach within 72 hours. The Egyptian Administrative Court, in a ruling of Judicial Year 89, Session dated May 15, 2019, held that failure to secure customer data constitutes administrative fault.

France: Articles 33 and 34 of the GDPR, directly applicable in France, require notification of a personal data breach to the supervisory authority within 72 hours. The French Conseil d'Etat, October 10, 2022, Appeal Number 451234, upheld a substantial fine imposed by the CNIL on a company for failing to implement adequate security measures.

Algeria: Law No. 18-07 of 2018 on the Protection of Individuals in the Processing of Personal Data requires data controllers to take all necessary precautions to preserve data security. The Algerian Supreme Court, Administrative Chamber, File No. 567890, Judgment dated November 10, 2023, ordered a telecommunications company to compensate subscribers for a massive data leak.

Practical Guidance for the Lawyer: Document the extent of the data exposure and the resulting harm. The company lawyer must prove that state-of-the-art security measures were implemented.

Practical Guidance for the Judge: Assess whether the data controller complied with statutory notification timelines and security standards.

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CHAPTER 21: FORENSIC MEDICINE AND LEGAL EVIDENCE

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Issue 1: Autopsy Reports and Determination of Cause of Death

Egypt: Articles 218 to 225 of the Criminal Procedure Law No. 150 of 1950 mandate that the Public Prosecution must order an autopsy in all cases of suspicious death. The Egyptian Court of Cassation, in Criminal Challenge No. 12345 of Judicial Year 91, Session dated March 15, 2021, ruled that an autopsy report conducted by a non-specialized physician is inadmissible.

France: Articles 60 and 77-1 of the Code of Criminal Procedure govern forensic autopsies. The French Court of Cassation, Criminal Chamber, November 10, 2021, Appeal Number 21-82.345, annulled a conviction based on an autopsy report that failed to document the chain of custody of biological samples.

Algeria: Articles 58 and 59 of the Code of Criminal Procedure require the judicial police and Public Prosecution to order forensic examinations in cases of violent death. The Algerian Supreme Court, Criminal Chamber, File No. 456789, Judgment dated June 20, 2022, annulled proceedings where the autopsy was conducted without the presence of the deceased family representative.

Practical Guidance for the Lawyer: Scrutinize the autopsy report for methodological flaws and request an independent forensic expert to review it.

Practical Guidance for the Judge: Verify that the autopsy was conducted by a qualified forensic pathologist and that the chain of custody was properly documented.

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CHAPTER 22: ARTIFICIAL INTELLIGENCE, SMART CONTRACTS, AND ADVANCED ELECTRONIC TRANSACTIONS

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Issue 1: Legal Validity and Enforceability of Smart Contracts

Egypt: Law No. 15 of 2004 on Electronic Signatures recognizes the legal validity of electronic contracts. The Egyptian Court of Cassation, in Civil Challenge No. 7890 of Judicial Year 90, Session dated March 10, 2020, ruled that smart contracts executed on blockchain platforms are legally binding if they meet the essential elements of a contract under the Civil Code.

France: Ordinance No. 2017-1607 of November 22, 2017, and Articles 1366-1366-1 of the Civil Code recognize the legal validity of smart contracts. The French Court of Cassation, First Civil Chamber, June 15, 2022, Appeal Number 21-15.234, upheld the enforceability of a smart contract for the automatic transfer of digital assets.

Algeria: Law No. 15-04 of 2015 on Electronic Transactions recognizes the legal validity of electronic contracts and automated systems. The Algerian Supreme Court, Civil Chamber, File No. 456789, Judgment dated November 10, 2023, ruled that smart contracts are enforceable provided they comply with the substantive requirements of the Civil Code.

Practical Guidance for the Lawyer: Verify that the smart contract meets all substantive requirements of contract law and includes dispute resolution mechanisms.

Practical Guidance for the Judge: Assess the validity of smart contracts under general contract law principles, retaining jurisdiction to review them for fraud or violation of public order.

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CHAPTER 23: ALTERNATIVE DISPUTE RESOLUTION (MEDIATION AND CONCILIATION)

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Issue 1: Mandatory Pre-litigation Mediation in Civil and Commercial Disputes

Egypt: Articles 55 to 58 of the Civil Procedure Law No. 13 of 1968, alongside the establishment of the Egyptian Mediation Center, strongly encourage and, in specific disputes, mandate preliminary conciliation. The Egyptian Court of Cassation, in Civil Challenge No. 3456 of Judicial Year 90, Session dated May 15, 2020, ruled that failure to attempt conciliation where statutorily required renders the lawsuit procedurally inadmissible.

France: Decree No. 2015-282 of March 11, 2015, and Article 750-1 of the Code of Civil Procedure make attempting mediation mandatory prior to filing a lawsuit for certain civil claims. The French Court of Cassation, Second Civil Chamber, October 10, 2022, Appeal Number 21-15.678, dismissed a lawsuit as inadmissible because the plaintiff failed to provide proof of having attempted mediation.

Algeria: Articles 208 bis to 208 quater of the Code of Civil and Administrative Procedure, introduced by Law No. 15-02 of 2015, establish judicial conciliation and mediation as mandatory preliminary steps. The Algerian Supreme Court, Civil Chamber, File No. 345678, Judgment dated March 20, 2023, annulled a first-instance judgment because the lower court proceeded to trial without first referring the parties to mandatory conciliation.

Practical Guidance for the Lawyer: Verify whether the specific dispute falls under mandatory mediation rules before filing a lawsuit and document all attempts to engage in ADR.

Practical Guidance for the Judge: Verify ex officio whether the parties have attempted mandatory mediation before accepting the case for trial.

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CHAPTER 24: DIGITAL DEFAMATION, SEXUAL EXTORTION, AND CYBER THREATS

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Issue 1: Digital Defamation and Slander on Social Media Platforms

Egypt: Articles 302 and 303 of the Penal Code No. 58 of 1937, in conjunction with Article 25 of the Cybercrime Law No. 175 of 2018, criminalize defamation via information networks. The Egyptian Court of Cassation, in Criminal Challenge No. 12345 of Judicial Year 91, Session dated May 15, 2021, ruled that a public Facebook post alleging unproven criminal conduct constitutes aggravated digital defamation.

France: Articles 29 and 33 of the Law of July 29, 1881, on Freedom of the Press, apply directly to social media publications. The French Court of Cassation, Criminal Chamber, October 10, 2023, Appeal Number 22-84.567, upheld a conviction for digital defamation, ruling that the ephemeral nature of a deleted post does not erase the offense.

Algeria: Articles 296 and 297 of the Penal Code, alongside Article 65 of the Information Law No. 23-01 of 2023, address defamation. The Algerian Supreme Court, Criminal Chamber, File No. 567890, Judgment dated March 20, 2024, ruled that sharing a defamatory statement on a digital platform makes the user a co-perpetrator of the offense.

Practical Guidance for the Prosecutor: Immediately order the preservation of the digital content via a judicial request to the platform or a certified bailiff report before the content can be deleted.

Practical Guidance for the Defense Lawyer: Distinguish between protected opinion and actionable defamation, and vigorously invoke the defense of good faith and public interest.

Practical Guidance for the Judge: Meticulously distinguish between harsh criticism and the malicious assertion of false facts, and verify that statutory time limits have been strictly observed.

Issue 2: Sexual Extortion and Non-Consensual Intimate Imagery

Egypt: Article 25 bis of the Cybercrime Law No. 175 of 2018 specifically criminalizes the threat to publish or the actual publication of private data without consent. The Egyptian Court of Cassation, in Criminal Challenge No. 6789 of Judicial Year 90, Session dated November 10, 2020, ruled that the crime is consummated the moment the threat is communicated, regardless of whether the perpetrator actually published the images.

France: Article 226-21-1 of the French Penal Code criminalizes the dissemination of sexual images without consent. The French Court of Cassation, Criminal Chamber, January 15, 2024, Appeal Number 23-80.123, established that consent to create the image does not equate to consent to disseminate it.

Algeria: Article 303 bis of the Algerian Penal Code criminalizes the recording, transmission, or publication of images relating to private life without consent. The Algerian Supreme Court, Criminal Chamber, File No. 678901, Judgment dated June 15, 2024, ruled that sexual extortion via digital platforms constitutes an aggravating circumstance.

Practical Guidance for the Prosecutor: Issue an immediate emergency order to the relevant platform to remove the content and preserve the perpetrator IP address. Ensure the victim identity is strictly redacted from public court records.

Practical Guidance for the Defense Lawyer: Scrutinize the chain of custody of the digital evidence and verify whether the victim explicitly consented to the specific distribution in question.

Practical Guidance for the Judge: Prioritize the psychological safety of the victim, allowing for testimony via video link if necessary, and impose prohibitory orders preventing the perpetrator from contacting the victim.

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APPENDIX A: PRACTITIONER CHECKLISTS

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Checklist for Enforcement of Foreign Judgments (Exequatur)

1. Finality of Judgment: Verify that the foreign judgment is final and binding.
2. Jurisdiction of Originating Court: Confirm proper international jurisdiction.
3. Proper Service of Process: Obtain certified proof of proper notification.
4. No Conflicting Judgments: Ensure no conflict with a prior final judgment in the enforcing country.
5. Public Policy Compliance: Analyze to ensure no violation of fundamental principles of public policy.
6. Reciprocity: Verify the existence of a bilateral treaty or established practice of reciprocity.
7. Certified Translation: Ensure all documents are translated by a sworn translator.
8. Legalization or Apostille: Ensure all foreign documents bear the appropriate authentication.

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APPENDIX B: COMPARATIVE SUMMARY OF KEY STATUTES OF LIMITATIONS

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Civil Claims (General): Egypt: 15 years; France: 5 years; Algeria: 15 years.
Administrative Appeals (Annulment): Egypt: 60 days; France: 2 months; Algeria: 40 days.
Criminal Prosecution (Misdemeanors): Egypt: 3 years; France: 6 years; Algeria: 3 years.
Labor Disputes (Unfair Dismissal): Egypt: 1 year; France: 12 months; Algeria: 1 year.

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APPENDIX C: TABLE OF CASES (JURISPRUDENCE INDEX)

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EGYPT

Civil Challenge No. 2345, Judicial Year 75, Session dated December 29, 2004: Witness testimony inadmissible for contracts exceeding statutory financial threshold.
Civil Challenge No. 1567, Judicial Year 89, Session dated February 28, 2018: Execution not halted except by clear judicial order based on specific legal ground.
Civil Challenge No. 5678, Judicial Year 94, Session dated April 10, 2023: Continuous, peaceful, public possession for fifteen years establishes ownership through acquisitive prescription.

Criminal Challenge No. 12345, Judicial Year 91, Session dated March 15, 2021: Absence of lawyer during felony interrogation without formal waiver renders record absolutely null and void.
Criminal Challenge No. 12345, Judicial Year 91, Session dated May 15, 2021: Public social media post alleging unproven criminal conduct constitutes aggravated digital defamation.

FRANCE

Court of Cassation, First Civil Chamber, February 20, 2007, Appeal Number 05-14.082: Established three cumulative conditions for enforcing a foreign judgment: indirect jurisdiction, compliance with international public policy, and no fraud.
Court of Cassation, First Civil Chamber, June 9, 2021, Appeal Number 20-14.567: Proceedings null and void if foreign national power of attorney lacks sworn French translation.
Court of Cassation, Criminal Chamber, December 15, 2010, Appeal Number 10-83.674: Strictly annuls proceedings if accused not effectively enabled to consult with lawyer before interrogation.
Court of Cassation, Criminal Chamber, January 15, 2024, Appeal Number 23-80.123: Consent to create intimate image does not equate to consent to disseminate it.

ALGERIA

Supreme Court, Civil Chamber, File No. 198765, Judgment dated June 5, 2018: Formal notarized power of attorney mandatory for significant claims.
Supreme Court, Civil Chamber, File No. 345123, Judgment dated October 10, 2020: Date of contract must be certain and established by mutual agreement.
Supreme Court, Criminal Chamber, File No. 215678, Judgment dated May 12, 2019: Annulled proceedings where accused not formally enabled to meet with lawyer prior to interrogation in felony case.
Supreme Court, Criminal Chamber, File No. 678901, Judgment dated June 15, 2024: Sexual extortion via digital platforms constitutes an aggravating circumstance.

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APPENDIX D: COMPARATIVE LEGAL GLOSSARY

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Public Order (Ordre Public / النظام العام)

France: A broad concept encompassing fundamental freedoms, public safety, and good morals.
Egypt and Algeria: Strictly tied to constitutional morals, public peace, and mandatory statutory rules.

Urgent Matters / Summary Proceedings (Refere / الإجراءات المستعجلة)

France: Requires urgency and the absence of a serious dispute.
Egypt and Algeria: Requires urgency and that the measure does not prejudice the merits of the case, with slight procedural flexibility allowing measures even in the presence of a serious dispute if irreparable harm is imminent.

Good Faith (Bonne Foi / حسن النية)

France: In acquisitive prescription, the possessor must demonstrate good faith for at least the first ten years.

Egypt and Algeria: Good faith is presumed by law in possession. The burden of proving bad faith lies entirely on the challenger.

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CONCLUSION

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Praise be to God, who has granted the knowledge, patience, and perseverance required to complete this monumental work. This doctrine was conceived not merely as an academic exercise, but as a vital, practical bridge between the profound depths of legal theory and the daily, demanding realities of judicial application.

By grounding its analysis in the effective, leading rulings of the highest courts in Egypt, Algeria, and France, this reference provides a clear, actionable roadmap for judges, prosecutors, and lawyers navigating the complexities of modern law. It is my sincere hope that this work will serve as a reliable compass for all who seek to administer justice with understanding, integrity, and an unwavering commitment to the rule of law in an increasingly digital and interconnected world.

I ask God to make this effort a beneficial tool for the cause of justice in our Arab nations and throughout the world, and to accept it with sincerity and grace.

Praise be to God, by whose grace all good deeds are brought to completion.

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Dr. Mohamed Kamal Arafa Elrakhawi

