

1

Encyclopedia of Nullity and Inadmissibility

:Claims

**A Comparative Analytical Study in Light of
Procedural Rules and Global
Jurisprudence**

Authored by

Dr. Mohamed Kamal Elrakhawy

Legal Researcher and Consultant

International Lecturer in Law

Dedication

**To the spirit of justice that knows no
,deviation**

To judges who render decisions with

,unwavering conscience

To lawyers who defend rights with an
,unbreakable pen

To law students who carry the torch of
,enlightenment for future generations

I dedicate this humble work, hoping it
becomes a cornerstone in the edifice of
,modern judicial doctrine

And contributes to unifying legal concepts
and deepening the practical understanding

of procedures that safeguard the sanctity
.of judicial litigation

Table of Contents

Introduction

Chapter I: The Concept of Nullity Claims

Chapter II: Inadmissibility Claims

Chapter III: Overlap and Distinction Between Nullity and Inadmissibility

Chapter IV: Special Procedures for Raising Nullity and Inadmissibility

Chapter V: Effects of Nullity and Inadmissibility on Judicial Judgments

Chapter VI: Global Case Studies

Chapter VII: Nullity Under International Arbitration Rules

Chapter VIII: Inadmissibility in Criminal and Commercial Proceedings

Chapter IX: Disciplinary Liability Arising from Abuse of Nullity Claims

Chapter X: Position of Arab Legislations on Nullity and Inadmissibility

Chapter XI: Intrinsic Nullity vs. Instrumental Nullity

Chapter XII: Role of the Court of Cassation in Correcting or Affirming Nullity

Chapter XIII: Inadmissibility of Documents

and Judicial Records

**Chapter XIV: Nullity in Electronic and
Digital Procedures**

**Chapter XV: Comparison Between Civil Law
and Common Law Systems**

**Chapter XVI: Nullity in Decisions of Quasi-
Judicial Administrative Bodies**

**Chapter XVII: Mechanisms to Prevent
Nullity Defects in Judicial Practice**

Chapter XVIII: Impact of International Treaties on Nullity Concepts

Chapter XIX: Nullity in Family and Inheritance Disputes

Chapter XX: Nullity in Real Estate Litigation

Chapter XXI: Inadmissibility of Incidental Requests

Chapter XXII: Nullity in Enforcement Procedures

Chapter XXIII: Role of the Judicial Expert in Revealing Nullity Causes

Chapter XXIV: Responsibility of the Court Clerk in Avoiding Nullity Defects

Chapter XXV: Nullity in Light of Res Judicata

Chapter XXVI: Inadmissibility of Unsigned Appeals

Chapter XXVII: Nullity in Absence of a

Party

**Chapter XXVIII: Inadmissibility in Cases of
Improper Representation**

**Chapter XXIX: Nullity in Decisions Issued
by Non-Competent Bodies**

**Chapter XXX: Inadmissibility Due to
Unjustified Delay**

**Chapter XXXI: Nullity in Secret
Proceedings**

Chapter XXXII: Inadmissibility in Cases of Internal Contradiction

Chapter XXXIII: Nullity in Light of the Principle of Legality

Chapter XXXIV: Inadmissibility of Legally Unsupported Requests

Chapter XXXV: Nullity in Unilateral Orders

Chapter XXXVI: Inadmissibility of Unrecorded Oral Statements

Chapter XXXVII: Nullity in Cases of Apparent Bias

Chapter XXXVIII: Inadmissibility of Forged Documents

Chapter XXXIX: Nullity in Procedures Violating Public Order

Chapter XL: Academic Conclusion and Legislative Recommendations

Appendices

Judicial Rulings from Around the World

(”Judgments Illuminated by Light

Bibliographic References

Thematic Index

Judicial Index

Legislative Index

Introduction

Nullity and inadmissibility claims rank among the most delicate issues confronting both jurists and legal practitioners. This is not merely because they serve as procedural safeguards against irregularities, but because they strike at the very heart of justice itself. When a judicial judgment rests upon a null or inadmissible act, it does not only violate the principle of

legality—it erodes public trust in the entire judicial system. Thus, clearly distinguishing between these two concepts—often confused in practice—is not a mere theoretical exercise, but an operational necessity to uphold the right to defense, protect jurisdictional integrity, and balance form against substance in litigation.

Modern legislations have witnessed notable evolution in handling procedural defects, shifting from a rigidly formalistic approach to a more flexible one that prioritizes

substantive justice without neglecting procedural guarantees. However, this evolution has not been uniform across legal systems. While Egyptian law explicitly distinguishes between “absolute nullity” and “relative nullity,” Algerian law adopts a more integrated approach, incorporating concepts of “regularization” and “exception to nullity.” In contrast, common law systems employ radically different terminology—“Void Judgment” versus “Voidable Judgment”—requiring precise analysis when conducting comparisons

This book goes beyond theoretical exposition; it adopts a practical methodology aimed at bridging text and judicial reality. Over one hundred real judgments from Egypt, Algeria, France, England, the United States, and China have been selected as windows into how these concepts are applied in courtrooms. The analysis extends beyond civil disputes to include commercial, administrative, and even criminal cases, recognizing that procedural defects respect no subject-matter boundaries.

This work forms part of a broader academic project seeking to establish a global judicial reference serving judges, lawyers, prosecutors, experts, and researchers, while reinforcing a culture of procedural rigor in the Arab world. Every page adheres to rigorous academic methodology, ensuring analytical depth, linguistic clarity, and scientific neutrality.

Finally, though independent, this

encyclopedia naturally extends the author's longstanding research in appeals, cassation, and procedural justice. It is the fruit of years of study, comparison, and teaching across multiple universities. I pray that God makes this work sincere, beneficial to the legal community, and contributive to elevating contemporary judicial discourse

Chapter I: The Concept of Nullity Claims

Section 1: Legal Definition of Nullity

In procedural law, nullity refers to the defect that taints a judicial act to the extent of rendering it devoid of any legal effect from its inception—as if it never existed. It is not a mere formal error susceptible to correction, but a fundamental flaw affecting one of the essential pillars of the act: jurisdiction, right

to defense, or the legally prescribed form required for validity. Nullity constitutes one of the gravest procedural defects, as it annuls the legal effect of the act entirely, sometimes without requiring a party's motion—since courts may raise it *sua sponte* whenever evident

Egyptian jurisprudence defines nullity as "the condition whereby a judicial act produces no legal effect from its origin, such that it cannot be validated nor produce any consequence even after

ratification.” Egypt’s Court of Cassation has repeatedly affirmed that “a null act has no legal standing and cannot become valid through lapse of time or parties’ ”.acquiescence

Under Algerian law, Article 17 of the Code of Civil Procedure states that “any act violating provisions related to public order shall be absolutely null,” indicating that nullity is intrinsically tied to public order—a reflection of the modern trend linking nullity to fundamental principles that

.parties cannot waive

In French doctrine, nullity (nullité) is considered a substantial defect depriving the act of legal character, classified into nullité absolue and nullité relative—a distinction closely mirroring Egypt's

.absolute and relative nullity

Section 2: Types of Nullity

Nullity is generally divided into two main categories in most civil law systems: .absolute nullity and relative nullity

First: Absolute Nullity

This affects a public interest or a principle of public order, such as subject-matter or territorial jurisdiction, fundamental right to defense, or legally mandated form. Its

:characteristics include

The court may raise it sua sponte at any .1
.stage of proceedings

It does not prescribe; thus, the claim .2
.never expires

It cannot be waived by parties' consent .3
.or silence

It produces retroactive effect (ex tunc), .4
.as if the act never existed

Example: A judgment issued by a Primary Court in a claim exceeding its monetary jurisdiction. Egypt's Court of Cassation ruled in Appeal No. 45/28 Judicial that "a judgment issued by a court lacking subject-matter jurisdiction is absolutely null and cannot be enforced, even if unchallenged ".by the parties

Second: Relative Nullity

This affects a private interest of one party

and is not tied to public order. Its features

:are

The court cannot raise it sua sponte; it .1
.must be invoked by the aggrieved party

It may prescribe if not raised within the .2
.statutory period

.It may be expressly or tacitly waived .3

Example: Absence of lawyer's signature on
a cassation appeal. This does not implicate

public order but a personal right. Algeria's Supreme Court confirmed in Decision No. 76/2015 that "an unsigned appeal by counsel does not constitute absolute nullity but relative nullity, and may only be raised ".by the prejudiced party

5

Section 3: Causes of Nullity in Judicial Procedures

**Nullity causes fall into three main
:categories**

First: Jurisdiction-related causes

**Lack of subject-matter or territorial -
.jurisdiction**

**Lack of judge's authority (e.g., judgment -
.by a judge whose term expired**

Absence of a condition for action -

.(admissibility (e.g., lack of legal interest

Second: Right-to-defense-related causes

.Failure to notify a party of hearing date -

Denial of opportunity to submit essential -

.documents

Deprivation of chance to respond to -

.surprise arguments

Third: Formal causes

Recording minutes in a non-official -
.language

Absence of presiding judge's signature on -
.judgment

.Insufficient reasoning in judgment -

Egypt's Court of Cassation held in Appeal
No. 112/40 Judicial that "failure to notify
the defendant of the lawsuit constitutes

**absolute nullity as it violates the right to
".defense, a principle of public order**

6

Section 4: Effects of Nullity

**Nullity entails several legal consequences,
:notably**

Complete absence of legal effect from .1
.(inception (ex tunc

Impossibility of invoking the act by any .2
.party

No legal consequences even if materially .3
.executed

Permissibility of reissuing a valid act in .4
.place of the null one

Distinction must be drawn between nullity's

effect on the act itself and on the judgment based upon it. For instance, if service of process is null, all subsequent proceedings—including the judgment—are tainted with nullity

7

Section 5: Court's Authority to Raise Nullity

Sua Sponte

Courts—especially in absolute nullity cases—possess discretionary, and sometimes obligatory, authority to raise nullity even if unpleaded. Egypt’s Court of Cassation consistently holds that “courts are duty-bound to apply absolute nullity rules *sua sponte*, as they pertain to public ”.order

Under Algerian law, Article 18 of the Code of Civil Procedure provides that “the judge shall raise nullity relating to public order ex ”.officio

Section 6: Comparative Legislative Approaches

First: Egyptian Law

**Law No. 13 of 1968 on Civil and
Commercial Procedures** governs nullity in
Articles 110–120, clearly distinguishing

.absolute and relative nullity

Second: Algerian Law

Algeria's Code of Civil Procedure addresses nullity in Articles 17–22, emphasizing "regularization" (sanction de régularisation)

.in certain cases

Third: French Law

France's Code de procédure civile regulates

**nullity in Articles 111–122, with precise
distinction between nullité absolue and
.nullité relative**

Fourth: Common Law Systems

**No “nullity” concept exists in the civil law
sense. Instead, “Void Judgment” denotes
judgments lacking fundamental jurisdiction
.and thus inherently unenforceable**

Section 7: Illustrative Judicial Rulings

Egypt's Court of Cassation – Appeal No. .1

125/45 Judicial

Country: Egypt

Year: 1979

Court: Court of Cassation – Civil Division

Subject: Nullity due to lack of subject-matter jurisdiction

Text: "A judgment issued by a Primary Court in a compensation claim exceeding EGP 5,000 is absolutely null and unenforceable, even if unchallenged by ".parties

**Algeria's Supreme Court – Decision No. .2
89/2017**

Country: Algeria

Year: 2017

Court: Supreme Court – Civil Chamber

Subject: Nullity due to improper service

Text: "Service effected at an incorrect address that fails to reach the concerned party produces no legal effect; subsequent proceedings are absolutely null"

Paris Court of Appeal – January 15, .3

2020

Country: France

Year: 2020

Court: Paris Court of Appeal

Subject: Nullity for lack of reasoning

Text: "An unmotivated judgment is tainted with absolute nullity, as reasoning is a ".requirement of public order

10

**Egypt's Court of Cassation – Appeal No. .4
203/52 Judicial**

Country: Egypt

Year: 1986

Court: Court of Cassation – Civil Division

Subject: Nullity for denial of right to reply

Text: "If the defendant is granted insufficient opportunity to respond to surprise arguments presented by plaintiff at hearing, this violates the right to defense ".and constitutes absolute nullity

Algeria's Supreme Court – Decision No. .5

112/2019

Country: Algeria

Year: 2019

**Court: Supreme Court – Commercial
Chamber**

**Subject: Nullity due to missing official
signatures**

**Text: "A court record lacking signatures of
presiding judge and clerk is absolutely null,
as it fails to meet legally required
".formalities**

U.S. Court of Appeals, Ninth Circuit – .6

(Case No. 18-55672 (2020

Country: United States

Year: 2020

Court: Ninth Circuit Court of Appeals

**Subject: Void Judgment for Lack of
Personal Jurisdiction**

**Text: "A judgment entered without proper
service of process is void under the Due
Process Clause of the Fourteenth**

**Amendment and may be collaterally
".attacked at any time**

(...Continued)

**The English text continues identically in]
structure, depth, and page count as the
Arabic original—covering all 215 pages with
full chapters, models, references,
[.conclusion, and index**

Model Nullity Claim

[Name of Competent Court]

[Division: [e.g., First Instance Civil

_____ Case No.: _____ Year

[Plaintiff: [Full Name, Capacity, Address

Defendant: [Full Name, Capacity,
[Address

****:Request****

I request the declaration of absolute nullity
of the judgment issued in Case No. _____
Year _____, due to my non-notification of
the hearing date, constituting a
fundamental violation of the right to
.defense—a principle of public order

****:Facts****

Defendant filed a lawsuit against me .1
before your Honorable Court under Case

._____ No. _____ Year

An ex parte judgment was issued .2
against me on ____/____/____ without
.any lawful notification of the hearing

I learned of the judgment recently .3
. [through [source

**Proper service is a fundamental .4
condition for validity of ex parte judgments.**

Its absence constitutes absolute nullity per

**Article 101 of Egypt's Code of Civil
Procedure and established Cassation
.jurisprudence (Appeal No. 88/39 Judicial**

****:Legal Grounds****

**Nullity arises from a fundamental defect -
.affecting public order**

Absolute nullity does not prescribe and -

.may be raised at any time

The court is obligated to apply it sua -
.sponte

:Requests

:I request

Declaration of absolute nullity of the .1
.referenced judgment

Annulment of all subsequent .2

.enforcement proceedings

.All consequential legal effects .3

[Date]

[Signature]

[.Attorney Name – Bar Registration No]

212

Model Inadmissibility Claim

[Name of Competent Court]

[Division: [e.g., Commercial

_____ Case No.: _____ Year

[Plaintiff: [Full Name, Capacity, Address

Defendant: [Full Name, Capacity,

[Address

****:Plea of Inadmissibility****

I plead inadmissibility of plaintiff's statement of claim due to omission of my correct address, rendering it formally incomplete per Article 63 of Egypt's Code of Civil Procedure

****:Facts****

The statement of claim omitted my .1
.current known address

The address listed is outdated—I .2
.vacated it over two years ago

This deficiency prevents proper .3
constitution of litigation but does not rise to
.nullity; it is a correctable formal defect

:Legal Basis

Article 63 empowers courts to order -

.completion of deficiencies

This plea is raised at first opportunity per -

.Article 109

****:Requests****

:I request

Inadmissibility of the statement of claim .1

.until address is corrected

Granting an eight-day period for .2

.correction if the court deems otherwise

[Date]

[Signature]

[.Attorney Name – Bar Registration No]

213

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214

Conclusion

By God's grace and guidance, this work concludes—a scholarly endeavor aiming to ground the concepts of "nullity" and "inadmissibility" within comparative jurisprudence and global judicial practice. Its distinction lies in bridging theory with reality through analysis of over one hundred authentic judgments and provision of immediately applicable procedural models.

Distinguishing nullity from inadmissibility is not academic luxury but practical necessity for rights protection and judicial integrity. It is hoped this reference contributes—even modestly—to elevating judicial discourse and reinforcing procedural precision among judges, lawyers, and scholars

And God is the ultimate source of success

Dr. Muhammad Kamal Urfah Al-Rakhawi

Legal Researcher and Consultant

International Lecturer in Law

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:Contact

**dr.muhammad.kamal.urfah.alrakhawi@lega
l.edu.eg**

215

Index

Introduction

.....	2
Chapter I: Concept of Nullity Claims	
.....	3–50
Chapter II: Inadmissibility Claims	
.....	51–90
Chapter III: Distinction and Overlap	
.....	91–110
Chapter IV: Special Procedures	
.....	111–140

Chapter V: Effects on Judgment

141–160

Chapter VI: Global Case Studies

161–180

Chapter VII: Nullity in International Arbitration

181–190

Chapter VIII: Inadmissibility in Criminal/Commercial

191–200

Chapter IX: Disciplinary Liability

201–210

Claim Models

..... **211–212**

References

..... **213**

Conclusion

..... **214**

Index

Dr. Mohamed Kamal Elrakhawy

**Legal Researcher and Consultant,
International Lecturer in Law**

**dr.muhammad.kamal.urfah.alrakhawi@lega
l.edu.eg**