

# Refusal to Enforce in Egypt of a Californian (U.S.) Judgment for Lack of Reciprocity: What Has Gotten into the Egyptian Supreme Court?



## I. Introduction

Sometimes, reading court decisions leaves a strange sense of confusion, especially when the decision rendered not only contradicts a well-established line of case law, but also when the court, in the very same decision, reveals internal contradictions. Several months ago, I critically discussed on this blog a rather unusual decision of the Egyptian Supreme Court (محكمة النقض/*maḥkamat an-naqd*), in which the enforcement of a Canadian judgment was denied on the ground that reciprocity had not been established with Canada. In my comments on that decision, I expressed “significant concerns” regarding the incoherent manner in which reciprocity was addressed by the Supreme Court.

Well, surprises never end, and reciprocity strikes back in a new case, with an

even more puzzling effect, as the shift signalled in the previous decision appears to be confirmed in the case commented on here. This new position of the Supreme Court is hardly reassuring. The manner in which the Court addressed such a controversial issue suggests a troubling move towards an increasingly stringent and confusing approach, which consists in affirming that the establishment of reciprocity does not depend on the existence of a treaty with the rendering State on the one hand, while nevertheless denying reciprocity on that very ground on the other.

## II. The Case

The case concerns an action brought by X (the judgment creditor) seeking the enforcement in Egypt of an American judgment rendered in its favor by a California court, ordering Y (the judgment debtor) to pay a certain sum of money, together with interest, costs, and attorneys' fees. The court of first instance granted the application and declared the Californian judgment enforceable in Egypt, with the exception of the portion awarding interest at a rate of 10%. That decision was subsequently upheld on appeal.

Dissatisfied with the outcome, Y lodged an appeal before the Egyptian Supreme Court arguing that the Californian judgment had been declared enforceable without establishing the existence of legislation in the rendering State allowing the enforcement of Egyptian judgments, as required by the principle of legislative reciprocity (مبدأ التبادل التشريعي/*mabda' at-tabādul at-tashrī'ī*) and actual reciprocal treatment (المعاملة الفعلية بالمثل/*al-mu'āmala al-mithliyya bil-mithl*) between the two States with respect to the enforcement of judgments, in accordance with to Article 296 of the Egyptian Code of Civil and Commercial Procedure (ECCCP)<sup>(\*)</sup>.

<sup>(\*)</sup> Article 296 reads as follows:

*Foreign judgments and decisions may be declared enforceable under the same conditions as those laid down by the law of the rendering State for the enforcement therein of Egyptian judgments and decisions.*

### III. The Ruling

In its *decision of 20 January 2026*, the Court admitted the appeal, ruling as follows (a detailed summary with modifications):

First, the Court recalled - as is usually the case - the general applicable framework.

It noted that, pursuant to Article 296 of the ECCCPC, the legislature has adopted the principle of reciprocity or mutual treatment (مبدأ المعاملة بالمثل أو التبادل / *mabda' al-mu'āmala bil-mithl aw at-tabādul*), meaning that foreign judgments shall be treated in Egypt in the same way as Egyptian judgments are treated in the rendering State. In this respect, *the legislature has only required legislative reciprocity* (التبادل التشريعي / *at-tabādul at-tashrī'i*), *as opposed to diplomatic reciprocity* (التبادل الدبلوماسي / *at-tabādul ad-diblūmāsī*), *which is established by a treaty or convention* (emphasis added).

The Court further recalled that it is required, courts are required to verify *ex officio* that the condition of legislative reciprocity is satisfied [...].

Notwithstanding this premise, the Court went on to censure the lower court's reasoning, considering that, in the present case, the court of the appealed decision had declared enforceable the Californian judgment after finding, - by reference to Articles 1713 and 1714 of the California Code of Civil Procedure, that mutual legislative treatment [legislative reciprocity (التبادل التشريعي / *at-tabādul at-tashrī'i*)] was sufficiently established to satisfy the reciprocity requirement (شرط المعاملة بالمثل / *sharṭ al-mu'āmala bil-mithl*) between Egypt and the State of California.

However, according to the Supreme Court, by deciding as it did without determining *whether any convention exists between Egypt and the United States of America concerning the enforcement of judgments providing for reciprocity or mutual treatment*, the lower court failed to provide a legal basis for its decision under Article 296 of the ECCCPC (emphasis added).

### IV. Comments

To my knowledge, this is the second decision in which a foreign judgment was

refused enforcement in Egypt solely on the basis of a lack of reciprocity (on the earlier case, see my comments here). In both cases, the Supreme Court ruled almost exactly in the same manner and quashed the lower courts' decisions admitting reciprocity with the rendering State on the ground that the judges failed to show whether there exists a convention between Egypt and the rendering State dealing with the enforcement of judgments that embodies the principle of reciprocity. This position is hardly consistent with the principle affirmed by the Court according to which what matters is legislative reciprocity, not diplomatic reciprocity established by treaty or convention. The comments made on the previous case regarding this aspect are therefore fully applicable here.

What is particularly remarkable, however, is the position taken by the lower courts, which appears to be fully in line with the traditional approach of the Egyptian Supreme Court. Adhering to the principle of legislative reciprocity as traditionally developed (on this practice, see my comments here), the lower courts seem to have concluded that reciprocity existed with the State of California after comparing the enforcement requirements applicable there with those applicable in Egypt. This point is important, as it also shows that, in the view of the lower courts, where judgments emanate from federal States such as the United States, reciprocity should be assessed by reference to the particular State in which the judgment was rendered. The Supreme Court, by contrast, appears to have rejected this approach, placing decisive weight on the existence of a convention between Egypt and the United States.

In any event, the recent developments concerning reciprocity in two successive cases rendered by different panels of the Supreme Court in Egypt are indicative of a shift away from a principle of reciprocity that requires a comparative analysis of the enforcement requirements under the law of the State of origin and under Egyptian law (legislative reciprocity), towards an approach that makes the existence of an international convention a prerequisite for its establishment. This new approach raises the threshold against the enforcement of foreign judgments to a considerable degree, as it would be sufficient for the judgment debtor to argue that reciprocity is not established whenever there is no treaty with the rendering State, bearing in mind that Egypt has concluded a little over 20 conventions, mostly with Arab countries with which it has already concluded regional conventions, and only around 10 with non-Arab countries, including

some EU Member States (Germany, Romania, Italy, France, Cyprus, Hungary, Poland) as well as Turkey, Russia, and China. Should such a development be confirmed in future cases, this would mean that judgments rendered in roughly 88% of countries worldwide would be denied enforcement in Egypt.

This backward development stands in striking contrast to recent trends in comparative law, notably in China, where a considered shift has taken place from a traditionally restrictive approach (on this traditional approach, see my comments here), towards a more moderate approach that places emphasis on *de jure* reciprocity, presumptive reciprocity, and other forms that do not necessarily depend on the existence of a formally concluded treaty between China and the rendering State (see the illustrative cases discussed on this blog here and here). A comparatively more liberal approach has also been followed in Tunisia, where Tunisian courts now consider that, in the absence of an international convention, reciprocity must be presumed and that it is for the party contesting this presumption to provide evidence of its non-existence. (for details, see Béligh Elbalti, “La réciprocité en matière d’exequatur: Quoi de nouveau? Observations sous l’arrêt de la Cour de cassation n° 6608 du 13 mars 2014” *Arab Law Quarterly* (2025) online-first publication).

The Egyptian Supreme Court would do well to draw lessons from such comparative developments and reconsider both its position and the negative signal this sends; otherwise, the consequences may prove drastic for holders of Egyptian judgments, which may be denied recognition and enforcement in States requiring reciprocity.

(□) Related posts on this blog on the recognition and enforcement of foreign judgments in Egypt:

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