

COUNCIL OF STATE OF EGYPT

How to Reduce the Judgment Period

According to the law of the State Council of Egypt No. (47) of the year 1972 and its amendments the State Council consists of three departments which are :

- 1) The Judicial Department
- 2) The Advisory Department
- 3) The Legislation Department.

The Judicial Department is formed from many courts i.e. the Administrative and Disciplinary Courts, the Administrative Judicature Court, the Supreme Administrative Court and the State Commissioners Body.

Each Court of the above mentioned ones has specified and limited competences according to the law of State Council, to the type of dispute and its value.

The law of the State Council specifies in the revocation lawsuits of the final administrative decisions certain time – limit for the challenge against these decisions.

This is according to article no. (24) of the law of the State Council no. (47) Of the year 1972 which states that:

“Concerning the revocation petition, the time –limit of lodging an action before the Court is sixty days starting from the publication date of the administrative decree in the official gazette or in the publications issued by the public organizations or the date of serving a notice to those who are concerned.

The sixty days as a dead -line will be no longer valid to submit a grievance to the administrative organization or the principal corporations that had issued the decision .The submitted grievance should be determined upon before sixty days since it was submitted .If the decision is refused, it has to be grounded and substantiated. After sixty days has passed after the grievance is presented without any response from the competent authorities, this means that the request is refused. To appeal against the decision issued concerning a grievance, another sixty days after the first sixty days are allowed to submit a complaint.”

The dispute parties are obliged to put into consideration these terms that are determined by the Court after presenting the request. The Court decides upon these time limits according to the evaluation of the dispute substantiality, and the existence of the element of expedition. The Court determines short terms in the hastened lawsuits and decides consequent hearings. On the other hand, the lawsuits that do not have the expedition element, the Court determines hearings on long terms rather than those which have the expedition condition.

The Court is competent to impose penalties upon the party that does not respect the time limits specified by it. If the mentioned party was the one that submitted the request and the lack of response and respect of the time limits specified by the Court was repeatedly committed by it, in this case the Court may suspend the lawsuit for a month or for three or six months. In case of the lack of response of this concerned party, the Court is competent to disregard this lawsuit. The Court could issue a judgment stating that the Case has never been examined or existed before it.

If the slackening party was the defendant, the Court is competent to impose a pecuniary fine upon him due to his lack of adherence to its judgments. In case of the continuity of his lack of adherence, in spite of this pecuniary fine, the Court will notify him of considering the documents presented by the plaintiff as valid since he, the defendant, did not refute or

comment upon them. Furthermore, it can notify him that the judgment shall be issued based upon those documents. Finally, the Court is also authorized to issue the judgment according to the documents presented to it by the plaintiff if the defendant was being notified more than once and he did not respond, and the Court decided that the documents presented to it are sufficient to constitute its ideology to issue a judgment.

The intervention of other parties in a lawsuit is regulated by the Egyptian law of procedure which authorizes other external parties to intervene in any of the phases of the lawsuit preparation or during the process of the examination. But it is not admissible for any party to intervene in any lawsuit after the Court determines the Judgment date and /or referring it to the session in which the judgment will be issued.

It has been mentioned that the judge is authorized to issue a judgment in a lawsuit if there was no memorandum of defense since the defendant may refrain or slacken from presenting memorandum of his defense. Basically the plaintiff has to present all the documents which prove his right in what he calls for while submitting his lawsuit to the Court.

Since the litigation in the State Council has two levels, so any party can challenge any judgment before the Supreme Court or the Court of Appeal.

The rules applied upon the procedural period do not submit to any changes whether the parties were presented by a lawyer or not.

The Court specifies, according to its absolute discretion, the rules of inspection putting into consideration the circumstances and nature of the variable lawsuits.

The law authorizes the concerned person, in case of necessity, to submit a request asking for decreasing the procedural limits of time specified according to the law or lessening them or reducing the time limit which the Court specified for holding the coming hearing, if he thought that this time limit was not short enough for him.

In this regard, the Court has full authority to evaluate the situation since the law authorizes it to do so, and it also granted it a discretionary power in its evolution of decreasing or lessening the time limit.

The law does not stipulated a specific period for the issuance of a judgment, since it does not obligate the judge to issue his judgment during a specific period of time, but it only obligated him to issue the judgment whenever it is appropriate for the lawsuit to come to an end or to be

settled. The Court solely has the competency to decide over the appropriateness of settling the lawsuit and this competency is not to be questioned or commented upon.

The Court's issuance of judgments and examination of lawsuits are to be practiced in open sessions in accordance with the general provisions of the Law of Procedures. It is admissible for, any of the parties to ask for or, the court itself to decide to hold some of the hearings or pleadings in open courts.

The Court discretion of holding non-public sessions is confined only on one or some of the hearing sessions. Nevertheless, all the parties as well as the administrative unit or the Public Persecution have to be represented in those sessions at all circumstances.

No judgment can be issued without the presence of the administration or the Public Persecution representatives to confirm their acknowledgement of the dispute, their presence and their legally and properly representation.

In essence, at all the cases, any judgment has to be issued in a public Court session that includes all the parties and a group of people.

The available ways of challenging the judicial decisions are unified and they do not vary according to the nature or the importance of the dispute. But the period specified for challenging the judgment issued by any of the Courts of the State Council differs from that which is specified to challenge the judgments issued by the other ordinary courts not those of the State Council.

In case of appealing a judgment issued in a dispute before the Court of Appeal of the State Council, the Court will deal with its merits if the challenge lodged before it was related to them, but if it was related to a procedural issue which the first instance court did not examine or even discuss at all, the Court of Appeal of the State Council may return the appeal to the Court of Appeal in order to examine it and issue a judgment concerning its substantive side.

In case that the Supreme Court of Appeal considered that the procedures were insufficient or inadequate to adjudicate in a lawsuit, it may take new procedures to carry out an investigation.

It can be concluded that the law obligates the Supreme Court or the Court of Appeal to examine the challenge lodged before them, Nevertheless, the

adjudication of an appeal from the substantively side, or abolishing a judgment issued by a Court of First Instance entirely or partially, or referring the lawsuit to a Court of First Instance to examine it, are measures that submit completely to the discretionary power entitled to the Court of Appeal by law.

The Court of Appeal has the authority of adjudicating a dispute or abolishing a judgment entirely or partially and returning the lawsuit to the court that issued it in order to deal with the aspects of deficiency.

The Egyptian Law of Civil Procedures has granted the Court and the district judge the competency to carry out some temporary or precautionary measures in order to protect the interests of any party of the dispute. Those measures are also applicable in the Court of Appeal and the Supreme Court.

The State Council Law No. 47 of the year 1972 entitles the Court, in the urgent cases, to adjudicate in the dispute during a short time whenever it is impossible, according to the dispute nature, to delay the adjudication, or if delaying the adjudication will result in an irreparable damage, but the court can not take any measure related to the merits of the lawsuit, since its decision will be concerned only with the urgent part. This decision is

considered as a temporary procedural one that has the conclusiveness of the temporary decisions. In other words, the conclusiveness of that temporary or procedural decision shall be ended after issuing a judgment concerning the dispute.

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