

Effects Of Cooperation In Civil Litigation

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Abstract

This research examines and analyzes the principle of cooperation in civil litigation, as a modern approach to enhancing the effectiveness of the litigation system and achieving procedural justice. In this context, cooperation refers to the totality of actions or agreements undertaken by parties to a dispute with the aim of facilitating procedures, reducing costs, and expediting adjudication, thus ensuring prompt justice and more effective protection of rights.

The research has shown that this cooperation may take on a mandatory nature, as in cases where the law imposes specific procedural obligations on litigants, foremost among which is the obligation to act in good faith in the conduct of the case. Cooperation may also be voluntary, initiated by the litigants through voluntary agreements aimed at regulating, simplifying, or amicably settling the case.

Through the analysis, it becomes clear that cooperation is an essential element in developing civil justice, not only from the perspective of procedural speed, but also in terms of achieving quality adjudication and raising the level of litigants' satisfaction. By exchanging documents and information throughout the litigation process, and by the judge's contribution in guiding litigants toward fulfilling the lawsuit's requirements, a balance is achieved between procedural economy and judicial precision. Thus, the study concludes that enshrining the principle of cooperation, whether through legislation or by activating the judge's guiding role, is an urgent necessity for raising the level of civil litigation and achieving effective justice that combines speed, precision, and judicial satisfaction.

Keywords: *civil litigation, procedural justice, civil justice, quality of settlement, litigants' satisfaction.*

INTRODUCTION

First: The Essence of the Research Idea

Civil litigation has witnessed a remarkable development in its procedural structure, accompanied by a growing legislative and judicial trend toward activating principles that achieve prompt justice and reduce the negative effects of lengthy and complex procedures. At the forefront of these principles is the principle of "cooperation in civil litigation," which is no longer merely a regulatory option between litigants. Rather, it has become a structural component of many modern judicial systems, due to its profound impact on the course and efficiency of litigation. Cooperation, in this context, refers to all actions and agreements undertaken by litigants—whether voluntarily or pursuant to a legislative requirement—aimed at simplifying procedures, shortening the duration of litigation, and reducing its costs, without prejudice to the rights of defense or the principle of equality between parties. Cooperation, in its mandatory and optional forms, has become an effective mechanism for consolidating the role of the judge as an active case manager and for enhancing litigants' awareness of their procedural responsibilities in the interest of justice.

Second: The Importance of the Research

The importance of this research is evident from two main perspectives: The first is theoretical, representing its contribution to enriching legal jurisprudence related to the principle of cooperation and its effects on litigation, a pillar that remains a subject of debate and tension between jurisprudence, legislation, and the judiciary. The second perspective is practical, as cooperation emerges as an effective tool for addressing shortcomings in the civil judicial system, particularly in confronting the problems of judicial backlog, protracted disputes, and high litigation costs, which ultimately impact litigants' confidence in justice.

Third: The Research Problem

This research is based on a central problem:

To what extent can cooperation between adversaries, whether through binding legislation or optional agreements, contribute to enhancing the effectiveness of civil litigation, reducing its costs, and expediting its resolution, without compromising the essence of judicial rights or compromising defense guarantees?

This problem gives rise to a set of sub-questions, the most prominent of which are:

What are the procedural implications of activating cooperation between adversaries?

How does cooperation impact the efficiency and effectiveness of the civil litigation system?

Fourth: Research Methodology

This research relies on the comparative approach as the primary tool for analyzing the problem at hand. This approach is achieved by examining the legal systems in Iraq, Egypt, and France, highlighting the points of agreement and disagreement regarding the regulation of the principle of cooperation in civil litigation and its effects. It also utilizes the analytical approach by analyzing the legal texts regulating cooperation in litigation. The inductive approach is also used to monitor relevant judicial and jurisprudential trends, with the aim of drawing conclusions and presenting recommendations.

Fifth: Research Plan

The topic of "The Effects of Cooperation in Civil Litigation" will be addressed through a set of themes arranged according to the following methodological sequence:

First Topic: Cooperation as a Means of Achieving Procedural Economy.

First Section: Expediting the Resolution of Litigation.

Section Two: Reducing Litigation Costs.

Second Topic: Effects Related to Judicial Rulings.

Section One: Achieving Conviction of Judicial Rulings.

Section Two: Facilitating the Implementation of Judicial Rulings.

First Requirement: Cooperation as a Means of Achieving Procedural Economy

Cooperation in civil litigation represents a pivotal element in achieving economy in litigation procedures. It goes beyond mere compliance with formal requirements to a framework that encourages all parties to coordinate in advance and exchange information in an organized manner.

By enabling plaintiffs and defendants to cooperate in submitting their arguments and evidence early, and enabling the judge to guide them to avoid procedural deficiencies or errors before the hearing, the time required to resolve the dispute is shortened, and the costs associated with repetitive procedures are reduced.

Based on this vital role of cooperation in reducing time and financial waste, this requirement is divided into two main branches:

First Branch: Expediting the resolution of the dispute.

Second Branch: Reducing the costs of litigation.

Section One: Expediting the Resolution of Disputes

It is recognized that justice is not achieved solely by giving each party their due, but rather is completed when that right is given in a timely manner. Delayed justice can degenerate into disguised injustice and lose its practical and social impact. Therefore, slow litigation, accompanied by procedural complexity and repetition of pleadings, constitutes a violation of the principle of fairness and empties judicial protection of its substance.⁽¹⁾

In this context, the Iraqi legislator pointed out ⁽²⁾: The importance of procedural economy is implicitly stated in several texts in the Civil Procedure Code. It does not explicitly stipulate speed in procedures, but rather refers to it in several scattered texts of this law in order to urge the judicial authority to use all its authority and power to quickly resolve disputes brought before it, as is the case in lawsuits that the law requires to be resolved quickly, such as in grievances against orders on petitions ⁽³⁾. The Iraqi legislator also indicated the permissibility of creating a new lawsuit when examining the original lawsuit ⁽⁴⁾. This is to achieve the principle of economy in procedures ⁽⁵⁾. It is clear to us that all these texts lead us to speed and economy in judicial

procedures to save effort, time and expenses, and also to prevent the repetition of procedures that cause the dispute to be prolonged because they avoid filing more than one lawsuit in one matter, thus facilitating litigation procedures and preventing the obstruction of adjudication in lawsuits and increasing expenses and litigation time, which ensures the speed of adjudication in the lawsuit at the lowest costs.⁽⁶⁾

The Courts of Appeal, in their original capacity, were also bound by the same ceiling of four months, also starting from the date of completion of notifications, while a period of three months was allocated to the Court of Appeal, in its capacity as the Court of Cassation, to review rulings, and only one month to review decisions. These periods are calculated from the date of receipt of the appeal, which indicates an attempt to significantly reduce the period for deciding appeals.⁽⁷⁾ In the same context, the instructions included complementary procedures to ensure the speedy circulation of the case file between the courts. They obligated the court of appeal to which the appeal is referred to request the case file or transaction immediately or on the following day at the latest. They also obligated the court hearing the case to send the file within five days from the date of its request or from the date of submitting the appeal or cassation petition. This obligation also extends to the court of the appellant's or appellant's residence, which is responsible for sending the petition to the court of appeal without delay, while notifying the court that issued the decision, so that it can send the file directly.⁽⁸⁾

The importance of these instructions becomes even more evident when considering the oversight mechanisms they stipulate for monitoring compliance with the time limits. Paragraph (Fourth) of the instructions empowers the Judicial Oversight Authority to monitor courts' compliance with these time limits through inspection tours or via requests received from courts, official institutions, and citizens. In the event of non-compliance, the violation will be referred to the Supreme Judicial Council, with a recommendation to issue a warning to the offending judge. In the event of a repeated violation, the judge will be referred to the Judicial Affairs Committee in accordance with the provisions of Judicial Organization Law No. 160 of 1979.

In this context, the Egyptian legislator adopted the "case preparation" system under Law No. 120 of 2008, as one of the modern mechanisms for managing civil cases, especially before economic courts. Minister of Justice Decision No. 6929 of 2008 was issued to define the jurisdiction of the case preparation judge, while emphasizing that the scope of his work is limited to civil and commercial disputes within the jurisdiction of economic courts, without including criminal cases, orders on petitions, urgent or appealed cases, temporary orders, or enforcement disputes stipulated in Articles (3) and (7) of the same law.⁽⁹⁾

Preparing a lawsuit is a mandatory procedure in all disputes that fall within the scope of application of this system. The legislator has stipulated that violating or neglecting it will result in the penalty of nullity, as it is a fundamental procedure related to public order, which reflects the legislative desire to establish this method to ensure the smooth running of the lawsuit and expedite litigation procedures.⁽¹⁰⁾

In the current and amended French Code of Civil Procedure, the principle of speed is one of the fundamental principles that underpins the French legislature's approach to achieving procedural efficiency and establishing the concept of procedural economy. This principle is enshrined in several legislative provisions, particularly in the second paragraph of Article 485 of the Code of Civil Procedure,⁽¹¹⁾ Which refers to cases that require urgent consideration and quick decision. Although the French legislature did not set a fixed time limit for resolving all cases, it adopted a set of regulatory mechanisms aimed at accelerating the resolution of disputes, the most prominent of which is the adoption of the case management judge system,⁽¹²⁾ Which is considered one of the important innovations in the French judicial system.

The French legislator has allocated a special section within the Civil Procedure Code to regulate the role of this judge, as the second chapter of the section on formal procedures was devoted to defining his powers, with a statement of the types of orders he issues, within Articles (774-807) of the law. This regulation is evidence of the centrality of the role of the case management judge in controlling the course of the case and combating the slowness of procedures.

Based on the above, forms of cooperation, whether mandatory or voluntary, represent effective tools for achieving procedural economy, as an aspect of prompt justice. There is no true justice in a ruling that is delayed for years, and there is no benefit in a right that is obtained after its time has passed.

Section Two: Reducing litigation expenses

Legal expenses are defined as “the sum of legal fees and other expenses required to file and adjudicate the lawsuit, borne by the losing party, including attorney fees and the expenses of witnesses on whose testimonies the judgment is based”⁽¹³⁾. However, this definition is criticized for requiring that the final judgment be based on witness testimony for their expenses to be considered part of the court costs. This implies that if the judge does not accept the witness testimony, their expenses are not counted as part of those costs. This is questionable, as a party who fails to prove their case or defense with witness testimony may succeed in doing so through other means of proof. In this case, the losing party is obligated to bear the witnesses' expenses, even if their statements were not taken into account when deciding the case.

Another definition of legal expenses has been given as “the sum of legal fees and official expenses required to file the lawsuit, its progress, and the ruling thereon, which are required of the one who loses the lawsuit in favor of the one who wins it”⁽¹⁴⁾. It is noteworthy that this definition considers court fees as separate expenses from other expenses, which is inaccurate, as fees are considered part of the elements of court expenses.

Muhammad Al-Ashmawy and Abd Al-Wahhab Al-Ashmawy, *The Rules of Litigation in Egyptian and Comparative Legislation*, Vol. 2, Al-Namuthajiyah Press, Egypt, no year of publication mentioned, p. 704.⁽¹⁵⁾

In this context, it is worth noting the distinction between the terms “litigation expenses” and “litigation costs.” Although the two terms are often used synonymously, there is a terminological difference between them. Litigation expenses refer to the expenses that the law requires the parties to incur in filing the lawsuit and following up on its procedures until the judgment is issued. Meanwhile, litigation costs include a broader concept, as they include judicial expenses in addition to any sums that the opponent may spend related to transportation, residence, or other matters, which makes “expenses” more general than “judicial expenses.”⁽¹⁶⁾ Regarding court fees, it is recognized that recourse to the judiciary is only possible upon request, and this request is not submitted free of charge. Rather, a court fee is imposed on it, determined by law. Fees are also imposed on the submission of pleadings, appeals, technical reports, etc. For example, the amended Iraqi Judicial Fees Law No. (114) of 1981 stipulates the imposition of fees on lawsuits, appeals, and judicial transactions at a percentage of the value of the lawsuit or a lump sum, depending on its nature. This corresponds to the Egyptian Law on Judicial Fees No. 90 of 1944 and its amendments, which distinguishes between proportional fees and specific fees according to the value or nature of the lawsuit.

In addition to fees, litigation expenses constitute one of the main burdens borne by opponents in exercising their right to litigation. These expenses include additional expenses stipulated by the Iraqi legislator in Article (166/2) of the Civil Procedure Code, which states: “The calculation of expenses includes attorney fees, expert fees, witness expenses, and translation fees required”.

⁽¹⁷⁾It is understood from this text that the legislator did not adopt a specific standard for determining expenses, but rather provided them as examples and not as an exhaustive list, which gives the court discretionary power to include other elements within these expenses according to the requirements of the case.

Given the complexity of some cases, these expenses may amount to significant sums that burden opponents and restrict their right to access justice. This is evident, for example, in cases requiring the assistance of an expert or expert panel. The inability of a party to pay their fees may result in the court considering them to have abandoned the request that required such expertise.⁽¹⁸⁾ Hence, the importance of cooperation between the parties, as well as their cooperation with the court, as an effective means of reducing costs and achieving the principle of economy in procedures.

Opponents' commitment to cooperation can eliminate unnecessary procedures. For example, a party's appearance at the scheduled hearing time avoids the need for re-notification and the resulting additional expenses. Furthermore, their commitment to submitting requests and defenses at once and within the specified deadlines contributes to reducing the number of delays in the case and avoiding additional expenses.

On the other hand, voluntary cooperation between adversaries directly contributes to reducing legal costs. If one adversary submits a specific document and the other party does not dispute its authenticity or validity, there is no need to appoint a written or technical expert to verify the document, which eliminates the expert's expenses from the list of costs. Furthermore, agreement between adversaries on a specific fact—such as acknowledging a debt or delivering a property—eliminates the need for other evidentiary procedures, such as inspection or hearing witnesses, which in turn reduces burdens.

Section Two: Effects Related to Judicial Rulings

A judicial ruling is the fruit of a civil dispute and the final outcome of the proceedings between the parties under the supervision of a judge. However, this fruit may be bitter or immature if it is not based on clear foundations, balanced procedures, and effective cooperation between its members. Procedural cooperation within the context of litigation is not merely a formal practice; rather, it is an essential element that directly impacts the quality of the ruling, the degree of conviction thereof, and its enforceability.

To examine the most prominent effects of cooperation in civil litigation on judicial rulings, this will be addressed through two main sections:

Section One: Achieving Conviction in the Judicial Ruling

Section Two: Facilitating the Implementation of Judicial Rulings

Section One: Achieving Conviction in a Judicial Ruling

A judge is not content simply with issuing a decision in accordance with legal principles. Rather, he or she must possess a firm sense of justice and objectivity, reflecting his or her dedication to balancing evidence and arguments, and endowing the ruling with prestige and enforceability in the eyes of litigants. At the level of the litigants, especially those against whom the ruling was issued, their awareness of the transparency of the procedures and the integrity of the applied standards contributes to dispelling feelings of injustice or bias. They accept the outcome with relative satisfaction, or at least refrain from resorting to excessive appeals that waste time and effort.

The principle of judicial conviction is one of the fundamental principles governing the function of the civil judiciary. It means that the judge bases his or her ruling on the emotional convictions he or she has formed through the evidence and arguments presented to him or her during the litigation, within the limits of the law and in accordance with the rules of procedural legitimacy. Civil judiciary is distinguished from criminal judiciary in that the judge's freedom to form his conviction is restricted by the means of proof specified by law, such that he cannot rule in a manner that contradicts them, even if he has a personal conviction to the contrary, unlike the criminal judge who enjoys greater freedom in this area, because in criminal matters the evidence cannot be determined in advance, otherwise the issue of combating crime would become extremely difficult, given that criminals often conceal their crimes to avoid punishment.⁽¹⁹⁾

Therefore, the difficulty of criminal proof and the individual being armed with the presumption of innocence makes it difficult to reach the truth, which necessitates balancing the interests of the accused who enjoys the presumption of innocence, and the interests of society in combating crime.⁽²⁰⁾

In civil litigation, there is a presumption of equality between the parties, with the litigation viewed as a "neutral legal conflict" between disputants who have the same opportunity to present their facts and defenses. However, this equality is often only formal, as in practice, it becomes clear that there is an inequality between the adversaries, whether in terms of legal knowledge, financial resources, or the ability to gather evidence and formulate defenses.

The balance between the parties is often disrupted for several reasons, including the lack of legal representation for one of the parties. This may occur when some parties enter the courtroom

without the assistance of a specialized attorney, either due to financial incapacity or legal ignorance. Conversely, the other party is represented by an experienced attorney, resulting in a clear gap in the ability to use procedural means effectively. This situation results in an inability to present evidence or raise certain essential formal issues (such as the statute of limitations, invalidity of the dispute, or lack of jurisdiction), which may tip the scales in favor of the stronger party, even if they are not the rightful party. The balance may also be disrupted due to ignorance of legal procedures and time limits. As a result, the weaker party often loses the opportunity to prove their rights simply because they did not submit their defense in a timely manner, failed to adhere to the procedures, or failed to present conclusive evidence due to a lack of knowledge of how to present it. These issues are formal from a legal perspective, but they are essential in terms of their impact on achieving real justice.

Certainly, an imbalance in this balance will affect the judge's convictions. Although civil judges are committed to the principle of impartiality and non-bias toward any of the parties, their internal and professional position is not without tension when faced with an unequal adversary. In cases where the party with the right to prove their case fails, or when the context of the proceedings reveals that the weakness of one of the parties is the sole reason for their loss, the judge finds himself facing a painful paradox. On the one hand, he is obligated to resolve the dispute based on the evidence and arguments presented to him; on the other hand, he is deeply aware that his ruling may not achieve complete, factual justice. This leads to an internal feeling of discomfort or even remorse regarding the fairness of the ruling he issues.

Therefore, we believe that cooperation in civil litigation not only benefits the smooth running of the case and the speedy resolution thereof, but also extends to include the psychological and professional aspects of the judge. It is an effective means of enhancing the judge's confidence in the decisions he issues and alleviating feelings of anxiety or hesitation, especially in cases where the dispute is complex or one party is weaker than the other. Cooperation between litigants in civil litigation contributes to the formation of a comprehensive and clear picture of the dispute before the judge, eliminating ambiguity and reducing mental confusion or fear of the presence of a hidden element that has not been adequately investigated. When litigants commit to attending the scheduled sessions, presenting their defenses within the legal deadlines, and refraining from procrastination or using procedures maliciously, this contributes to creating a balanced and disciplined litigation. Similarly, when parties agree to cooperate voluntarily, such as agreeing to accept a specific piece of evidence or to waive certain non-essential formal requests or defenses, they not only facilitate the judge's task but also place him in a comfortable psychological position, as he does not feel compelled to make critical decisions in a chaotic procedural environment or an unequal litigation.

Section Two: Ease of Enforcement

The enforcement phase is an important stage for judicial rulings, as it translates the ruling's operative part into tangible reality. Therefore, a judicial ruling, no matter how legally precise or well-founded, remains useless unless it is actually implemented. The purpose of resorting to the judiciary is to protect rights, not merely to prove them. To demonstrate the importance of implementing judicial rulings, we must outline the types of rulings in terms of the jurisdiction they contain. These are divided into three types:

First: The decisive and revealing ruling

It is a ruling issued by the court with the intention of confirming the existence of an existing legal relationship, or to prove a legal status that has arisen, without entailing the creation of a new status or a modification of its content, and without imposing a specific obligation on one of the parties to perform or refrain from performing. It is a ruling that (reveals) what exists, and does not (create) what is new.⁽²¹⁾

It is worth noting that a *res judicata* judgment does not have a legal effect. Rather, its function is limited to revealing the pre-existing legal status and thus removing any ambiguity, dispute, or doubt that may surround it. The essence of this type of judgment lies in its granting the concerned party full legal protection through the judiciary, by establishing the existence of the disputed right

or legal status. This enables the party to invoke it against third parties, armed with the force of res judicata, without the need to resort to the Enforcement Directorate for enforcement.

The importance of res judicata is evident in the fact that there is no need to compel the opponent to perform or refrain from a specific action, as the dispute does not revolve around performance or implementation, but rather around determining whether a legal status exists or does not. Therefore, the judge's role in this context is limited to verifying the existence of this status and formally establishing it without prejudice to or changing its content. An applied example of the established rulings is the ruling to establish the marital bond, such as when one party claims that a valid marriage has taken place and the other party denies it.

The court then rules that the marital bond has been established and rules that legitimate paternity has been established, when the court is asked to confirm the existence of a kinship bond between the son and one of his parents.

Second: The Initiating Judgment

A constructive judgment is a type of judicial ruling that creates a new legal effect. Its essence is to establish a new legal status, modify an existing status, or terminate a previous status. This status did not exist legally prior to the issuance of the judgment, but rather was created or changed by virtue of the judgment.⁽²²⁾

In the same vein, and more precisely, a constitutive judgment does not merely reveal a prior legal status, as is the case with a res judicata judgment. Rather, it creates a new legal status that comes into existence initially by judicial action. Therefore, the issuance of this type of judgment constitutes the creation of a right or legal status that did not exist, or changes or terminates it if it existed previously.

Therefore, this type of judgment provides full legal protection upon its issuance. A practical example of constitutive judgments is a judgment declaring a merchant bankrupt, where the merchant is only considered legally bankrupt from the date of issuance of the judgment, which creates this legal status and has significant repercussions affecting his financial status and transactions. Similarly, a judgment declaring divorce or annulment of a marriage contract terminates the existing marital bond.

Third: Obligatory Judgment

A mandatory judgment is the most common and widely applied type of judicial ruling in practical life. It is a ruling that includes the recognition of a right for one of the parties coupled with an obligation on the other party to perform a specific action. This obligation is usually coupled with a positive action that the judgment debtor must perform, such as the delivery of a movable property, the payment of a sum of money, or the performance or abstention from an action.⁽²³⁾

This type of judgment represents a typical example of the judiciary's role in achieving justice and protecting rights. The judge's role is not limited to determining or establishing a legal position, but extends to obligating one party to a dispute to fulfill a legal obligation in favor of the other party. This makes this type of judgment clearly enforceable. Examples of mandatory judgments include a judgment obligating a debtor to pay a specific sum of money to a creditor, a judgment ordering the delivery of a movable or immovable property to its owner or legal possessor, a judgment ordering the eviction of a leased property upon the expiration of the lease term, and a judgment ordering the specific performance of a contractual obligation, such as the completion of a sale or the implementation of a specific project.

What distinguishes a mandatory judgment from a declaratory or constructive judgment is that legal protection is not achieved merely by its issuance, but rather remains pending until its actual implementation. The judgment here defines the legal content of the right and orders its performance. However, this performance does not occur automatically; rather, it may require the intervention of the public authority, through enforcement departments, to compel the convicted person to implement what they were judicially obligated to do. It is worth noting that the implementation of a mandatory judgment may face practical obstacles, such as the defendant's voluntary refusal to implement it. This necessitates resorting to compulsory enforcement procedures regulated by legislation for the implementation of judicial judgments and the preservation of the prestige of the judiciary.

Implementation is the most important stage in the civil lawsuit process, as it embodies the right that has been judicially recognized. The litigation process—including pleadings, defenses, and evidentiary procedures—ultimately aims to enable the right holder to benefit practically from the court's ruling. If the judicial process stops at the stage of issuing the judgment without subsequent implementation, this constitutes an emptying of justice and the transformation of the right from legal substance to mere ink on paper.

After clarifying the types of judicial judgments in terms of the ruling contained therein, it becomes clear that a decreed judgment merely confirms the existence of a preexisting legal status without creating or changing it. Thus, it achieves judicial protection upon its issuance. A decreed judgment, on the other hand, goes beyond the confirmation stage to effect an actual legal transformation in the legal status of one of the parties, whether by creating, amending, or terminating it. Its legal effects are realized from the date of its issuance. While a mandatory judgment affirms a right and creates a corresponding obligation, the legal protection it seeks is not achieved merely by its pronouncement. Rather, it depends on its actual implementation, whether voluntarily by the judgment debtor or involuntarily through enforcement procedures.

In this context, it must be noted that the nature of a mandatory judgment makes it vulnerable to practical difficulties associated with implementation, which may hinder the effective effect of the judicial ruling and frustrate the purpose of resorting to the judiciary. Accordingly, the implementation of a judicial ruling may be delayed for many years, or even decades in some cases, especially if the dispute between the two parties to the enforced decision escalates, or if the judgment debtor takes a negative stance toward implementation, deliberately procrastinating or raising formal disputes with the aim of obstructing the proceedings.

Here, the importance of cooperation in judicial litigation becomes apparent, not only in facilitating a fair and expeditious judgment, but also in paving the way for the implementation of the judgment itself, particularly in the case of mandatory judgments. The more cooperation prevails between the parties—whether through their commitment to attending court sessions, submitting their defenses on time, respecting evidentiary procedures, or even agreeing on the means of proof and appeal—the more transparent and disciplined the litigation will be. This not only contributes to reaching a fair and effective judgment, but also extends to the implementation phase.

Indeed, judicial cooperation with the parties in civil litigation, including the judge's supervision and guidance to the parties to complete their statements and correct their procedures, enhances the clarity of the case and the fairness of its outcomes. This makes even the convicted person more receptive to the judgment's results and may prompt them to voluntarily implement the judgment without resistance or procrastination.

The more cooperative, transparent, and procedurally disciplined the litigation procedures are, the greater the likelihood that the convicted person will voluntarily comply with the judgment, without resorting to enforceable enforcement procedures. This is because cooperation strengthens conviction in the fairness of the judgment and reduces the chances of subsequent enforcement disputes. Therefore, if a binding judgment is issued in the context of a cooperative dispute, this may lead to a subsequent reduction in procedural time and have a direct and positive impact on the enforcement process, whether by facilitating procedures or by the judgment debtor voluntarily implementing the judgment without resistance or procrastination.

This aligns with the modern objectives of civil procedures, which seek to save time, effort, and costs by implementing principles based on collaborative investigation and judicial cooperation. These principles enhance the efficiency of the judicial system and reduce the burdens and disputes of enforcement.

The dispute does not necessarily end with the issuance of the judgment. A new dispute often arises during the enforcement phase, particularly in the event of a failure of cooperation by the judgment debtor, the existence of legal or factual issues that impede enforcement, or the judgment debtor's deliberate obstruction of enforcement. Hence, the implementation phase may sometimes reignite the conflict, opening the door to what is known in Islamic jurisprudence as "executive litigation." This, in turn, requires renewed procedural cooperation, whether between

the parties or through the intervention of the court competent to implement, to preserve the principle of justice and the stability of rights.

Cooperation between the parties, whether during the litigation phase or later during implementation, is one of the factors that contribute to the smooth and effective implementation of the judgment. When the losing party in the lawsuit is convinced of the fairness of the judgment and is aware of the procedures that led to its issuance, the likelihood of resistance or obstruction of implementation is reduced. Conversely, transparency in the procedures and equal opportunities during the litigation process make the judgment recipient more accepting of its results, facilitating implementation without resorting to coercion or coercion.

Therefore, a judicial ruling does not fully achieve its purpose unless it is followed by implementation on the ground. Effective justice is not embodied in the rulings issued, but rather in their fair and effective implementation. The conflict that may recur during the implementation phase can be avoided, or at least mitigated, by instilling the values of cooperation, trust, and clarity throughout all stages of the dispute, from the filing of claims to the execution of the ruling.

CONCLUSION

At the end of our study of the topic (The Effects of Cooperation in Civil Litigation), we reached a set of conclusions, in addition to a set of proposals, which are explained below:

First: Conclusions

1. Cooperation in litigation represents an effective tool for achieving the principle of procedural economy by expediting the process of litigation, reducing the number of sessions, and avoiding repetition and ineffective procedures, thus saving time, effort, and costs for the litigants and the judiciary.
2. Some legislation, such as French and Egyptian legislation, has contributed to supporting the principle of procedural economy through clear regulatory mechanisms, such as the appointment of a case management judge in France and a case preparation judge in economic courts in Egypt. Iraqi legislation, however, lacks similar detailed regulation, relying instead on implicit and partial references to this principle.
3. Cooperation—whether mandatory or voluntary—contributes to reducing judicial costs directly and indirectly by eliminating certain evidentiary procedures or reducing the need for additional notifications, which enhances the efficiency of the judicial system.
4. The study confirms that cooperation within the framework of civil litigation is an essential factor in achieving quality judicial rulings. This cooperation contributes to providing a balanced and organized procedural environment that allows the judge to form a solid conviction based on comprehensive evidence and arguments.
5. It was found that the lack of equal legal and financial capabilities between the parties negatively impacts the principle of de facto justice and hinders the achievement of judges' conviction. This requires enhancing cooperation to reduce these disparities and ensure equal opportunities for both parties to present their arguments.
6. Procedural cooperation plays an important role in enhancing the judge's psychological conviction and reduces anxiety or hesitation when issuing a ruling, especially in complex disputes or when there is an imbalance of power between the parties. Cooperation between the parties and the judiciary also contributes to strengthening the psychological conviction of the parties themselves, as the losing party accepts the ruling more satisfactorily and reduces the likelihood of appeal or refusal to implement it, thus enhancing the credibility of the judiciary and enhancing its stability.

Second: Proposals

1. We call on the Iraqi legislator to explicitly stipulate the principle of good faith in the Code of Civil Procedure, which would promote disciplined behavior by litigants and prevent procedural abuse.
2. We call on the Iraqi legislator to expand the scope of penalties for procedural abuse, particularly in the event of malicious defenses such as forgery of documents, while increasing the prescribed fines.

3. We call on the Iraqi legislator to review the regulation of defenses in the Code of Civil Procedure and update it to align with modern comparative trends that seek to expedite the resolution of disputes.
4. We recommend that the Iraqi Supreme Judicial Council support the digital transformation in Iraqi courts by developing the necessary infrastructure for the electronic exchange of pleadings and documents. This would contribute to reducing procedural hearings and delays resulting from paper notifications or administrative postponements.

FOOTNOTES

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- (1)Dr. Khaled Suleiman Shabaka, *Guaranteeing the Right to Litigation, A Comparative Study between Islamic Jurisprudence and Civil and Commercial Procedure Law*, 1st ed., Dar Al Fikr Al Jami'i, Alexandria, 2005, p. 429.
 - (2)It is worth noting that in light of the Legal System Reform Law No. 35 of 1977, the Iraqi legislator prepared a draft Civil Procedure Code in 351 articles in eleven chapters. The aim was to simplify the procedures for filing a lawsuit, especially simple lawsuits, and expand the court's authority to conduct the lawsuit, and the necessity of completing the lawsuit papers and related evidence regarding the claims and defenses within a limited period before setting the date of the pleadings, and to remove complications and delays in notifications, and to expand the principle of arbitration over the parties to the lawsuit from the court during the pleading period, and to establish a special judiciary or arbitration bodies to adjudicate cases that arise between ministries, public institutions, or the public and cooperative sector according to rules characterized by simplicity and speed of adjudication and not linked to the procedures of regular courts, and to consider some lawsuits of a specific nature as urgent lawsuits by virtue of the law, and to simplify their procedures and reduce the periods of notification in them, similar to the procedures of the urgent judiciary. D. Ismat Abdul Majeed Bakr, *Principles of Civil Procedure*, 1st ed., Cihan University Publications, Erbil, 2013, p. 49.
 - (3)Article 153/3 of the Iraqi Civil Procedure Code states: (The court shall decide on the grievance urgently by upholding, cancelling or amending the order, and its decision shall be subject to appeal).
 - (4)Text of Article 66 of the Iraqi Code of Civil Procedure (A new lawsuit may be filed when the lawsuit is being considered. If it is filed by the plaintiff, it is a joined lawsuit, and if it is filed by the defendant, it is a counterclaim).
 - (5)Dr. Adam Wahib Al-Nadawi, *Civil Procedures*, Al-Atik Book Industry, Cairo, no date of publication, p. 261.
 - (6)This is what the reasons for the current amended Iraqi Civil Procedure Law came with, including: (The basic goal of the judiciary is to guarantee legal protection for all people equally in this regard, and if the Code of Civil Procedure is what regulates the methods of litigation, then the procedures it has drawn up must be intended to achieve this goal and not be obstructive. It is not enough for the rulings to be fair, but it is also necessary that they be quick, efficient, low-cost, fulfill the guarantees, and have strict procedures).
 - (7)Article (3) First of the instructions on time limits for resolving lawsuits in courts.
 - (8)Article (4) First of the instructions on time limits for resolving lawsuits in courts.
 - (9)Economic Court Law - Preparatory and Mediation Authority - Amendment to the Economic Courts Law, published on the Youm7 website, date of visit: 6/3/2025, at the link: <http://www.youm7.com> (<http://www.youm7.com/>)
 - (10)Dr. Ahmed El-Sayed El-Sawy, *Al-Wasit in Explaining the Civil and Commercial Procedures Law*, without mentioning the name of the printing press or place of publication, 2011, p. 484.
 - (11)Article 485/2 of the French Code of Civil Procedure (:La demande est portée par voie d'assignation à une audience tenue à cet effet aux jour et heure habituels des référés. Si, néanmoins, le cas requiert célérité, le juge des référés peut permettre d'assigner, à heure indiquée, même les jours fériés ou chômés).
 - (12)Case management is defined as: A set of procedures undertaken by a competent judge from the time the case is registered in court, with the aim of imposing early control over the lawsuit by gathering the disputing parties, identifying the points of agreement and disagreement, determining the essence of the dispute, identifying the means of proof and documents, and seeking to resolve the dispute between the parties through alternative methods to litigation, or referring the case file to the court of substance. See: Muhammad Nasr Al-Rawashdeh, *Civil Case Management in the Judicial System*, Dar Al-Thaqafa for Publishing and Distribution, Amman, Jordan, 2010, p. 19.
 - (13)Daa Sheet Khattab, *A Concise Explanation of the Civil Procedure Law*, Al-Ani Press, Baghdad, 1973, p. 281.
 - (14)Muhammad Al-Ashmawy and Abd Al-Wahhab Al-Ashmawy, *The Rules of Litigation in Egyptian and Comparative Legislation*, Vol. 2, Al-Namuthajiyah Press, Egypt, no year of publication mentioned, p. 704.
 - (15)Dr. Hasniya Sharwan, *The Necessity of Supporting the Principle of Free Judiciary to Guarantee the Right to Litigation*, a study published in the *Journal of Judicial Reasoning*, Issue 9, p. 110.
 - (16)Dr. Ibrahim Amin Al-Nafawi, *The Liability of the Opponent for Procedures*, 1st ed., without mentioning the name of the printer or place of printing, 1991, pp. 363 and 364.
 - (17)It corresponds to Articles (184-190) of the Egyptian Civil and Commercial Procedure Code, and Article (696) of the French Civil Procedure Code.

- (18)Article 139 of the Iraqi Evidence Law, which states: First: If the party charged with the task fails to deposit the required amount into the court's fund, the other party may make the deposit without prejudice to his right of recourse against his opponent.Second: If both parties fail to make the deposit, the court may consider them to have abandoned the matter for which the expert assistance was requested.Third: If the court deems the assistance of experts necessary to adjudicate the case and reach a fair judgment, it may seek their assistance and pay their fees from the court's fund, provided that the party losing the case bears these fees.
- (19)Mufida Saad Sweidan, The Theory of Self-Conviction of the Criminal Judge, PhD Thesis, Cairo University, 1985, p. 32.
- (20)Tommy Jamal, The Limits of the Discretionary Power of the Criminal Judge, PhD Thesis, Faculty of Law and Political Science, Mouloud Mammeri University, Tizi Ouzou, Algeria, 2021, p. 21.
- (21)Diaa Sheet Khattab, Research and Studies in Iraqi Civil Procedure Law, Institute of Arab Research and Studies, 1970, p. 278.
- (22)Dr. Adam Wahib Al-Nadawi, Civil Procedures, previous source, p. 349.
- (23)Dr. Hadi Hussein Abdul Ali Al-Kaabi, Explanation of the Iraqi Civil Procedure Code According to the Latest Amendments, Dar Al-Rayahin for Publishing and Distribution, 2024, p. 300.

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3. Article (1) of the Instructions on Time Limits for Resolving Lawsuits in Courts.
4. Article (761) of the French Code of Civil Procedure.
5. Muhammad Nasr Al-Rawashdeh, Civil Suit Management in the Judicial System, Dar Al-Thaqafa for Publishing and Distribution, Amman, Jordan, 2010.
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