



The principle of reciprocity in Enforcement of foreign judgments Theoretical foundations and practical challenges

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Article Info:

DOI: 10.22399/ijcesn.3677

Received : 25 June 2025

Accepted : 21 August 2025

Keywords

Reciprocity
Foreign judgments
Recognition and enforcement
International agreements
Judicial sovereignty
Burden of proof

Abstract:

This study examines the condition of reciprocity as one of the basic conditions for the recognition and enforcement of foreign judgments in many legal systems, focusing on its theoretical aspects and practical applications. This condition is analyzed in terms of its basic principles and legal foundations in both jurisprudence and legislation, with an explanation of its types and limits, and a distinction between its various forms, whether legal, diplomatic, or factual. The study also analyzed the conditions for implementing and recognizing foreign judgments in accordance with Egyptian law, highlighting the role played by international agreements in regulating the implementation of these judgments, whether by facilitating recognition procedures or by establishing the principle of reciprocity under their provisions. The study also addresses the issues associated with proving reciprocity, the party bearing the burden of proof, and the possible means of providing evidence of this condition. It also addresses the jurisprudential debate over the body competent to assess it: is it the responsibility of the judiciary or the executive authority? It also reviews the legislative and judicial positions in some comparative systems, such as Egyptian, Saudi, and German law, with the aim of identifying the differences in opinions and practices. The study concludes that reciprocity, despite its importance in protecting the legal sovereignty of states, can often become an unjustified restriction on the enforcement of individual rights, especially in the absence of a precise legislative framework.

1. Introduction

The requirement of reciprocity is a well-established principle in international law and relations between states. This requirement aims to achieve balance in the obligations and rights of states in various areas, whether in international treaties or in commercial transactions or in the implementation of foreign judicial rulings or even in the rights of individuals at the international level and this principle is based on the exchange of privileges and rights between countries to ensure the achievement of justice and equality.

Private international law addresses the relationships that arise between individuals from different countries, which may entail obligations that states comply with regarding each other. Since every obligation is inherently accompanied by a corresponding right; states certainly seek to link their obligations to the rights they enjoy with other states.

Since the international community is based on the idea of respecting sovereignty and equality among different countries, all countries are keen to treat different countries in the same manner that they receive from those countries, which means applying the principle of reciprocity.

The importance of research:

Studying the principle of reciprocity in the enforcement of foreign judgments is of paramount importance, given its direct impact on the effectiveness of international judicial cooperation and ensuring the protection of rights acquired under judgments issued by foreign courts. The study helps in establishing the theoretical framework of the principle, clarify its legal nature and limitations, and uncover the practical challenges facing its implementation, particularly While it relates to its proof, the timing of its availability, and the authority responsible for assessing it. By comparing legal

systems, the study highlights the differences in legislative and judicial positions and proposes solutions that balance the protection of national sovereignty with respect for foreign rulings.

Research objectives:

1. Defining the theoretical framework of the principle of reciprocity, explaining its legal basis and its position within the conditions for implementing foreign judgments.
2. Analyze the legal nature of the principle and state whether it relates to judicial sovereignty or foreign policy.
3. Statement of the authority responsible for assessing reciprocity, and whether it falls under the jurisdiction of the judicial or executive authority.
4. Research on the timing of the fulfillment of the reciprocity condition and the implications of the difference of opinion on this point.
5. Statement of Practical problems facing the application of the principle reciprocity.
6. Identify the party required to prove the reciprocity condition and the means adopted for doing so.

Research problem:

The research problem revolves around the practical challenges associated with proving the condition of reciprocity and identifying the entity competent to assess the extent to which this condition is met between the two countries in question: the country from which the foreign judgment to be enforced was issued and the country from which the judgment is requested to be enforced. The research also examines and analyzes the various legal issues raised by the issue of reciprocity as a prerequisite for the enforcement of foreign judgments.

Research methodology:

This study is based on the comparative analytical approach, through which the legal and theoretical framework of the principle of reciprocity is analyzed as one of the conditions for implementing foreign judgments, with making Some comparisons between national legislation and an explanation of the points of agreement and disagreement in the application of this principle, thus enabling the exploration of the theoretical aspects and practical challenges associated with it and assessment of the adequacy of the solutions provided in different legal systems.

Research plan:

The first section: The nature of the condition of reciprocity.

The first requirement: defining reciprocity.

The second requirement: the legal basis for the condition of reciprocity.

The third requirement: Types of reciprocity.

The Second Section: Implementation and recognition of foreign judgments.

First requirement: Conditions for recognition of foreign judgments.

The second requirement: Conditions for implementing foreign judgments.

The third requirement: The role of international agreements in implementing foreign judgments.

The Third Section: Legal Problems and Challenges of applying the principle of reciprocity.

The first requirement: The Legal Problems related to proving the condition of reciprocity in Enforcement of foreign judgments.

The second requirement: Problems of principle of reciprocity assessment in the implementation of foreign judgments.

The third requirement: The time required to meet the condition of reciprocity.

The first section: What is the condition of reciprocity?

Many countries require a set of conditions to be met for the enforcement of foreign judicial rulings within their territory, to ensure their legal validity and enforceability before their courts. Among these conditions, the principle of reciprocity stands out as a pivotal element that states give particular importance to. It represents a legal and political tool for countering any infringement on their judicial sovereignty, and it is difficult to ignore it given the reciprocal considerations imposed by international reality.countries .

The principle of reciprocity reflects the spirit of private international law, which regulates relations between individuals of different nationalities and the legal obligations arising from them for states. In accordance with the principle of balance between rights and obligations, states seek to ensure that they do not incur obligations towards another state without corresponding similar rights.

Based on the principle of sovereignty and equality among states, adopting the principle of reciprocity is a practical embodiment of states' desire to achieve legal parity in their mutual relations, such that no

state grants advantages or rights to another state unless it receives the same treatment from it, especially in the area of enforcing foreign judgments.

The first requirement: Definition of reciprocity

The principle of reciprocity occupies a prominent position in the law, as it is based on achieving legal equality between various subjects of the international law. However; its application faces real challenges due to the disparity between legal systems in different countries, which can make its implementation difficult or even impossible in some cases. Nevertheless, this principle remains an essential tool for achieving balance in international legal relations, as it seeks to establish a balanced relationship between rights and obligations, ensuring fairness between parties to private international law. Reciprocity is defined as: "the situation in which one state guarantees to another state similar treatment for its citizens, representatives or business activities, so that it is equal to that which the other state grants or undertakes to provide."

The principle of reciprocity is a mechanism for guaranteeing rights, through which two or more countries agree to grant their citizens specific rights within the territory of the other country, in accordance with the principle of reciprocity .

The reciprocity system is one of the most common methods for regulating the treatment of foreigners. It allows a state to expand the rights of foreigners and improve their conditions. As a result, its citizens residing in another state receive the same treatment it grants to that state's citizens residing in its territory. Under this system, a foreigner enjoys the same rights and privileges granted to citizens of the state in which he or she resides.

The definitions of the principle of reciprocity vary and differ according to the field to which the definition relates. In the context of international civil procedures, States adopt the principle of reciprocity with regard to letters rogatory and enforcement of foreign judgments. In the field of implementing foreign judgments, the condition of reciprocity means "not accepting the implementation of judicial judgments issued by the courts of a foreign country unless it is proven that such country implemented the judicial judgments issued by the courts of the country requested to recognize and implement the foreign judgment."

A foreign judgment ruling means: "Every judgment issued by a court outside the country, whether related to procedures for obtaining rights, paying a sum of money, a judgment regarding a movable property, or settling an account, and includes every judgment issued by a foreign court in civil, commercial, and

personal status matters, and the prescribed civil compensation that is enforceable by a decision of the national courts."

It follows that the foreign judgment will have the same value in the implementing country as the national judgment in the country whose courts issued the judgment to be implemented. To verify the availability of the reciprocity condition between the implementing state and the state that issued the foreign judgment, two cases can be assumed:

First case: If the State in which the judgment was issued does not recognize any effect of foreign judgments within its territory, the State of enforcement will treat the judgments issued by it similarly, by not giving them any legal effect within its jurisdiction.

The second case: If the State in which the judgment was issued allows the enforcement of foreign judgments and gives them their legal effects, the State of enforcement will follow the same approach, so that judgments issued by that State will be given the same legal effect according to the conditions and procedures applied therein. .

And in this context, it is emphasized that the principle of reciprocity in the enforcement of foreign judgments must be applied in its narrow sense, ensuring that the state issuing the judgment is committed to granting the same treatment to judgments issued by the state from which enforcement is requested. If the foreign state does not recognize the enforcement of judgments issued by the courts of the state from which enforcement is requested, the latter's courts must adopt a similar position by refusing to enforce judgments issued by that state.

The assessment of the enforceability of a foreign judgment is also subject to considerations related to the circumstances and subject matter of the case, as each case is examined separately according to its specific circumstances. Thus, the principle of reciprocity in the enforcement of foreign judgments embodies the principles of justice and equality in international relations, as it aims to achieve a balance between the parties to the legal relationship through the correspondence of rights and obligations, thus preserving the desired balance between the subjects of private international law.

Basic principles for the principle of reciprocity in private international law:

1. Equal treatment: The principle is based on the application of reciprocal rights and duties between states on the basis of equality and mutual respect. A state may only claim special treatment if it has granted similar treatment to another state.

2. **Mutual respect:** Each party respects the interests of the other in international transactions, which helps to promote friendly relations between countries.

3. **Conditional application:** The principle of reciprocity may be conditional on not violating international treaties or fundamental principles of international law.

Examples of applying the principle of reciprocity:

Enforcement of foreign judicial rulings: What it means giving a judgment issued by a court in one country legal force and enforcement within another country, so that it can be applied as if it had been issued by the courts of the latter country.

Consular relations: For example, a particular country may grant special privileges to citizens of another country, such as exemption from certain consular fees or simplified procedures. In this case, if reciprocity exists, the same privileges may be extended to citizens of the first country in the second country.

International trade: Trade agreements between countries may provide that the transaction while Regarding customs duties or trade barriers, they must be equal between the two parties. If one country reduces customs duties on another country's products, the latter will apply the same treatment.

Diplomatic protection: Countries may grant the same protection and rights to citizens of another country in the event of human rights violations or legal problems.

It is worthy It to be noted that reciprocity does not necessarily mean applying the same treatment literally. Rather, the treatment may be similar, as long as it achieves the same purpose and contributes to enhancing understanding between countries.

The second requirement: The legal basis for the reciprocity clause

The principle of reciprocity in the enforcement of foreign judgments is one of the established principles of private international law. Its implementation has been stipulated in several international agreements and treaties, including the Agreement on the Enforcement of Judgments of the Gulf Cooperation Council States, which stipulates in Article 3 that: "A. A judgment issued by the courts of one of the member states shall be enforceable in any of those states if it is enforceable in the state to which the court that issued it belongs." This text requires that the foreign court enforce judgments issued by the courts of the country from which

enforcement is requested under the same conditions and to the same extent, which constitutes a standard for ensuring the enforcement of foreign judgments in accordance with the principle of reciprocity.

Many comparative laws also stipulate the principle of reciprocity. Article 11 of the Saudi Enforcement System stipulates the following: "Subject to the provisions of treaties and agreements, the enforcement judge may not enforce a foreign judgment or order except on the basis of reciprocity." Executive Regulation No. 11/5 mandates the enforcement judge to verify that: "The country in which the foreign judgment or order was issued treats the Kingdom in reciprocal terms, with an official affidavit from the Ministry of Justice."

This text does not prevent the judge from approval, in order to verify the condition of reciprocity, on what is established by a ratified agreement or treaty that is still in force, or on what the applicant for enforcement presents in terms of evidence proving the realization of this principle in the state in which the foreign judgment requested to be enforced was issued, whether by proving that state's implementation of judgments issued by courts of Kingdom of Saudi Arabia, within its territory, or pursuant to an official certificate or legal text stating so. This is what was previously done by the authority responsible for implementing foreign judgments in the Kingdom of Saudi Arabia, represented by the Board of Grievances.

And also the Text of Article 222 of the Federal Civil Procedure Code for the United Arab Emirates Provided that: "1. Judgments and orders issued in a foreign country may be ordered to be executed in the State under the same conditions stipulated in the law of that country for the execution of judgments and orders issued in the State. This article corresponds to what is stipulated in Article 296 of the Egyptian Code of Civil Procedure No. 13 of 1968, as amended according to the latest amendment issued on January 6, 2024 on the condition that: Judgments and orders issued in foreign country It may be ordered to be implemented under the same conditions in the law of that country to implement Egyptian judgments and orders therein"

Some of Egyptian jurists said that: There is a distinction between the terms exchange and reciprocity. And such jurists believes that the initial condition stipulated by the Egyptian legislator in Article 296 of the Egyptian Civil Procedure Code No. 13 of 1968 is a condition of reciprocity, not a condition of exchange, as it is stipulated pursuant to domestic legislation against all foreign judgments that are required to be enforced in Egypt. The exchange system represents the international technical means on the basis of which a state concludes international agreements or treaties with

other states regarding the enforcement of judgments between contracting states on a reciprocal basis. Diplomatic exchange is the permanent and sole basis for treaties concluded by a state regarding the issue of the enforcement of foreign judgments.

And in all cases, the Egyptian judge is obligated to observe the principle of reciprocity. The actual implementation of foreign judgments is not permissible for the court to order the implementation of a foreign judgment unless it is proven that the state in which the judgment to be implemented was issued actually permits the implementation of judgments issued by Egyptian courts within its territory. In this regard, it is not sufficient to verify the existence of legislative exchange, i.e., that the matter is limited to the existence of a legal text in the legislation of that state that allows the implementation of Egyptian judgments, without this text being applied in practice.

And it is noted that with regard to the condition of reciprocity, the standard adopted is the treatment of the state in which the judgment was issued, and not the treatment of the state to which the opponents belong by their nationalities, even in the event of their multiplicity. Accordingly, if foreign law does not recognize the enforcement of Egyptian judgments except through the filing of a new lawsuit, then the Egyptian judge, by virtue of reciprocity, is obligated not to grant judgments issued by the courts of that country any legal effect within the scope of the writ of execution system. Rather, they must be subject to the new lawsuit system, in order to achieve the principle of balance and reciprocity towards the position of the foreign legislator. A foreign judgment may not enjoy privileges that exceed those granted to Egyptian judgments, and foreign law may not be considered more superior than Egyptian law. This requires the Egyptian legislator not to adopt a lenient approach towards legal systems that do not recognize the judicial authority of judgments issued by courts. Egyptian.

The third requirement: Types of reciprocity

According to established jurisprudence and judiciary, the principle of reciprocity in the field of implementing foreign judgments is classified into three types as follows:

First: Diplomatic reciprocity in the implementation of foreign judgments:

Reciprocity, in its diplomatic form, occurs when there is an agreement concluded between two or more states that specifies the conditions and procedures for the recognition and enforcement of foreign judgments. This approach is known in diplomatic practice as the principle of reciprocity,

which is a technical tool of an international nature that a state relies on as a political basis in the matter of enforcing foreign judgments issued by one or more other states. Diplomatic exchange constitutes the basic foundation of treaties and agreements concluded by states regarding the recognition and enforcement of foreign judicial judgments.

And in the field of enforcement of the foreign judgments, the principle is that if there is a judicial agreement between two countries, whether regarding judicial cooperation in general or the enforcement of foreign judgments in particular, the principle of reciprocity does not raise any problematic. This is because the application of the agreement is itself conditional upon the achievement of reciprocity between the contracting parties. Therefore, compliance with the provisions of the agreement constitutes implicit evidence of the achievement of the principle of reciprocity in the enforcement of foreign judgments between the two concerned countries.

In short: The requirement of reciprocity in the diplomatic enforcement of foreign judgments is established by a condition included in an international treaty to which the contracting states are bound, and the judgment to be enforced receives the same treatment in all states.

Second: Legislative reciprocity in the enforcement of foreign judgments:

Reciprocity can be established through legislation, whereby the state in which the judgment is to be enforced requires that the legislation of the state in which the judgment was issued include a provision permitting the enforcement of foreign judgments. This formula is known as legislative or formal reciprocity, and is the simplest form of requiring reciprocity in the area of enforcing foreign judgments. It is sufficient for the state to establish in its legislation the principle of recognizing and enforcing foreign judicial judgments within its territory for the reciprocity requirement to be considered valid and verified.

Accordingly, the standard for verifying the availability of the reciprocity condition is based on the legal texts of the state in which the judgment sought to be recognized and enforced was issued. Consequently, when examining the reciprocity condition, the national judge is limited to examining foreign legislation and the extent to which it contains provisions that guarantee the enforcement of foreign judgments, regardless of the actual practice of that state in this field.

The adoption of the principle of legislative reciprocity contributes to overcoming the practical obstacles associated with proving the realization of reciprocity in the implementation of foreign judgments, as the existence of a legal text that

permits the implementation of foreign judgments in the country in which the judgment was issued is sufficient evidence of its commitment to this principle, which leads to considering the condition of reciprocity. Completed.

Third: Realistic reciprocity in the enforcement of foreign judgments:

This condition can be met or realistically Through practical practice in the country in which the judgment to be executed was issued, that country has been accustomed to executing foreign judgments, even in the absence of any diplomatic commitment or explicit legislative text that recognizes so.

And De facto reciprocity is achieved when national judicial oversight is focused on the actual practice of the foreign state that issued the judgment, with the aim of verifying the extent of its commitment to implementing judgments issued by the state from which enforcement is requested. Consequently, the mere existence of a legislative provision permitting the recognition and enforcement of foreign judgments is not sufficient; rather, it must be proven that the state issuing the judgment actually applies this practice by recognizing and enforcing judgments issued by the state from which enforcement is requested and its legal effect.

Where De facto reciprocity manifests itself in several forms, depending on the method adopted by a foreign state in enforcing judgments issued by other states. On the one hand, if a foreign state does not enforce the national judgments of the state from which enforcement is requested, the national judge may not recognize or enforce that state's judgments. On the other hand, if the system of the foreign state issuing the judgment requires the filing of a new lawsuit to recognize foreign judgments, then, in application of the principle of de facto reciprocity, reciprocity is applied when requesting enforcement of a judgment issued by the courts of that state. This principle also requires adopting the same approach adopted by the foreign state in enforcing foreign judgments. If it is limited to monitoring the fulfillment of certain formal and procedural requirements without addressing the subject matter of the judgment, then the same formal and procedural monitoring must be adopted when considering a request to enforce a foreign judgment issued by it.

If a foreign state adopts a system of unlimited control, which gives the judge the authority to examine the foreign judgment objectively, then reciprocity applies, such that the judgments issued by that state are subject to the same objective review before authorizing their enforcement. However, if the foreign state applies a review system, which

allows its judiciary to reconsider the foreign judgment requested to be enforced and make amendments to it, then, in application of the principle of reciprocity, the national judiciary may review the judgments issued by that state and make the necessary amendments to them when need.

And Countries of the world can be classified according to their position on the recognition and enforcement of foreign judicial rulings into four main categories, as follows:

1. **Countries that do not recognize foreign judicial rulings at all**, unless there is a binding international treaty that requires it to implement the same

2. **Countries adopting the review system**: It requires reviewing the content of the foreign judgment and ensuring its compatibility with its legal system before allowing its implementation.

3. **Countries that adopt a monitoring or auditing system**: so that it examines the foreign judgment to verify that it meets the formal and procedural conditions required by its law, without addressing its content.

4. **Countries requiring a new lawsuit**: Before its courts to claim the right contained in the foreign judgment, with the possibility of presenting the judgment required to be executed as evidence in that lawsuit.

The second section: Enforcement and recognition of foreign judgments

In light of the provisions contained in the Egyptian Civil and Commercial Procedure Code, the principle of reciprocity requires that the role of the Egyptian judge – when considering a lawsuit to enforce a foreign judgment – is not limited to merely verifying the availability of the formal and substantive conditions stipulated by law for its enforcement, and then issuing an order to automatically impose the enforcement formula on it. Rather, the judge must also ensure that the foreign judge who issued the judgment in question accepts the enforcement of Egyptian judicial judgments in his country in the same manner and within the same limits. This is because a foreign judgment is not granted enforceability in Egypt unless it is treated in the country of origin in the same manner as a national judgment issued by Egyptian courts.

In this context, the reciprocity condition is the legal instrument adopted by countries as one of the essential conditions for accepting the enforcement of foreign judgments on their territory.

The first requirement: Conditions for recognition of foreign judgments

Given the existing disparity between comparative legal systems regarding the implementation of foreign judgments, where some legislations tend to recognize and implement these judgments according to certain controls, while other countries adopt a more conservative approach, refusing to recognize their validity and subjecting them to the new lawsuit system, the Egyptian legislator has taken a balanced position that protects national judicial sovereignty and guarantees reciprocity.

In addition to other formal and substantive requirements, Egyptian law requires the "reciprocity" clause as a basic guarantee for the enforcement of foreign judgments. This means that a judgment issued by a foreign judicial authority may not be enforced if the law of the country in which the judgment was issued does not permit the enforcement of Egyptian judicial judgments on its territory. This condition embodies the principle of equality and fair judicial exchange between countries. The Egyptian legislator has enshrined this trend in Article 296 of the Civil and Commercial Procedures Code, which stipulates that: "Judgments and orders issued in a foreign country may be ordered to be implemented under the same conditions stipulated in the law of that country for the implementation of Egyptian judgments and orders therein."

The requirement of reciprocity in the enforcement of foreign judgments means that foreign judgments are treated in Egypt in the same manner as Egyptian judgments are treated abroad. In other words, foreign judgments must have the same effects in Egypt as Egyptian judgments in other countries.

The requirement of reciprocity imposes an obligation on the Egyptian judiciary to investigate how judicial rulings issued by Egyptian courts are treated in the country where the foreign ruling to be enforced was issued, with the aim of verifying the extent of equal legal treatment. This requirement implies that, when considering a claim for enforcement, the Egyptian judge must investigate the nature of the legal system applied by the foreign legislator with regard to the recognition and enforcement of judicial rulings.

The condition of reciprocity is considered fulfilled when it is shown that the foreign country adopts the system of writ of execution, which allows the recognition and enforcement of foreign judgments, without re-consider the matter. However, if the foreign system is moving towards applying the new lawsuit system or opens the door to an objective review of the foreign judgment, this constitutes a strict position that is inconsistent with the position of the Egyptian legislator, who refuses to treat its judicial rulings with lesser treatment. Accordingly, the Egyptian judge—in light of this standard—will

not implement the foreign judgment if it becomes clear to him that the foreign law takes a conservative position regarding Egyptian rulings, thus making the condition of reciprocity an obstacle to the implementation of that judgment in the Egyptian territory.

This trend has been confirmed by the Egyptian judiciary, as the Court of Cassation ruled that it is settled in its jurisprudence: "The text of Article 296 of the Code of Civil Procedure stipulates that: "Judgments and orders issued in a foreign country may be ordered to be implemented under the same conditions stipulated in the law of that country for the implementation of Egyptian judgments and orders therein." It indicates that the legislator adopted the principle of reciprocity or exchange, and accordingly foreign judgments must be treated in Egypt in the same way that Egyptian judgments are treated in the foreign country that issued the judgment to be implemented in Egypt. In this regard, the legislator was satisfied with legislative exchange and did not stipulate diplomatic exchange, which is determined by the text of a treaty or agreement. The court must verify the availability of the condition of legislative exchange on its own initiative.

The principle of reciprocity has been widely criticized by some parts of jurisprudence. International. Which called for the necessity of abandoning it, considering it an impediment to the smooth running of international relations and a barrier to achieving judicial justice in the field of private international law. This principle, according to critics, is based on considerations related to political convenience between states, rather than legal foundations, which weakens its value as a standard for regulating the implementation of foreign judgments. Since the purpose of foreign judicial judgments is to provide legal protection for rights and legal positions of an international nature, linking their implementation to the foreign state's position on the implementation of national judgments, and the political considerations that accompany this, empties private international law of one of its fundamental objectives, which is to achieve legal stability for private relations of an international nature.

And The Saudi judiciary, through a number of rulings issued by the Board of Grievances, has settled on applying the principle of reciprocity in the implementation of foreign rulings. One of these rulings included the following: "It is the custom and practice of countries that a foreign judgment shall not be enforced in a country unless there is a bilateral agreement between the country issuing the judgment and the country in which the judgment is to be enforced, or there is reciprocity, meaning that the country issuing the judgment that is to be enforced

has previously enforced a judgment issued by the country in which the judgment is to be enforced, or the systems of the two countries stipulate the permissibility of reciprocity.”.

And The UAE legislator has followed the same approach, as Article 10 states:/222 of the Federal Civil Procedure Code states that: “1. Judgments and orders issued in a foreign country may be ordered to be executed in the State under the same conditions stipulated in the law of that country for the execution of judgments and orders issued in the State.”.

The second requirement: Conditions for the enforcement of foreign judgments

In addition to the condition of reciprocity stipulated in Article 296 of the Egyptian Code of Procedure, the legislator specified the conditions for the implementation of foreign judgments and orders in Article 298 of the same law, which stipulates that: “An order for implementation may not be issued except after verifying the following: 1. That the courts of the Republic do not have jurisdiction over the dispute in which the judgment or order was issued and that the foreign courts that issued it have jurisdiction in accordance with the rules of international jurisdiction stipulated in their law. 2. That the parties to the case in which the judgment was issued were summoned to appear and were properly represented. 3. That the judgment or order has acquired the force of *res judicata* in accordance with the law of the court that issued it. 4. That the judgment or order does not conflict with a judgment or order previously issued by the courts of the Republic and does not include anything that violates public order or morals therein.” We will explain each element as follows:

1. That the courts of the Republic do not have jurisdiction over the dispute in which the judgment or order was issued, and that the foreign courts that issued it have jurisdiction over it in accordance with the rules of international jurisdiction stipulated in its law:

This means that the foreign court that issued the judgment must have jurisdiction to hear the dispute in accordance with the rules of international jurisdiction stipulated in its national law. Accordingly, if it appears that the dispute falls within the jurisdiction of the courts of the Arab Republic of Egypt, the Egyptian judge is prohibited from issuing an order to enforce the foreign judgment related to that dispute.

Jurisdiction is assigned to a foreign court based on the rules established in the law of that country, not in accordance with Egyptian law as the law of the

enforcing country. Accordingly, the extent of the foreign court's jurisdiction is determined based on the national legislation of the country that issued the judgment, not Egyptian law.

It should also be noted that the time of filing a lawsuit is a fundamental element in assessing the jurisdiction of a foreign court. The availability of jurisdiction at this time is sufficient, and its subsequent lapse is irrelevant. For example, if the vessel in dispute was located in the foreign country at the time the lawsuit was filed and was subsequently transferred to another country, this does not affect the court's foreign jurisdiction.

2. The opponents in the case in which the judgment was issued were summoned to appear and were properly represented:

Egyptian legislator requires that, in order for a foreign judgment to be enforceable, the parties be summoned to appear and their representation in the lawsuit be valid. This formulation is, in fact, complex, and requires two conditions: 1. The parties are summoned to appear. 2. Their representation in the lawsuit is valid. The purpose of these two conditions is to guarantee the principle of confrontation and to verify the validity of the dispute, out of respect for fundamental rights in litigation, and to enable each party to defend its rights.

The availability of the two conditions referred to shall be assessed in accordance with the law applicable to the lawsuit procedures, in accordance with the text of Article/22 From the Egyptian Civil Code, which states that: The rules of jurisdiction and all procedural matters shall be governed by the law of the country in which the action is brought or the proceedings are conducted.

Based on this principle, it is not permissible to stop at the apparent text of the second paragraph of the article/298 of the Code of Civil Procedure, and it is sufficient to merely summon the opponents to attend and the validity of their representation in the lawsuit. Rather, this condition must be interpreted in light of the validity of the establishment of the dispute and the integrity of the litigation procedures as a whole. This is because the opponents may be summoned to appear and be properly represented before the court by a lawyer, yet serious procedural violations may subsequently be committed that affect justice or violate the rights of the defense. Hence, the wording of Article 298/2 appears to fall short of achieving the full legislative intent, as the real intent of the text is to verify the integrity of the procedures followed in the case in which the foreign judgment was issued, and to ensure respect for the right to defense, and not merely a formal fulfillment of attendance or representation. Therefore, any fundamental violation in the litigation procedures that would affect the

validity of the judgment must prevent the issuance of an order for its implementation within Egypt.

3. That the judgment or order has acquired the force of res judicata in accordance with the law of the court that issued it:

A judgment that has acquired the force of res judicata is a final judgment that is no longer subject to appeal by ordinary means of appeal, whether because these means have been exhausted or because the legal deadlines have not been used. Consequently, judgments issued by courts of first instance that are not appealed within the legally specified period are considered final and acquire the force of res judicata, which allows for their implementation.

It is important to distinguish between a final judgment and a conclusive judgment. A final judgment is one in which all regular appeals, such as an appeal, have been exhausted, but it may still be subject to appeal through extraordinary means, such as a cassation or a petition for reconsideration. A conclusive judgment, on the other hand, is one in which all appeals, whether ordinary or extraordinary, have been exhausted.

With regard to the implementation of foreign judgments, the legislator has been satisfied with the judgment being final only, meaning that it has passed the stage of appeal by ordinary means, without requiring it to be final. Accordingly, the fact that the judgment is still subject to appeal by an extraordinary means, such as cassation or a petition for reconsideration, does not detract from its enjoyment of the force of res judicata, nor is it considered a legal obstacle preventing its implementation. This is because extraordinary means of appeal, by their nature, do not hinder the implementation of the judgment or prevent its validity.

And it is an established principle in the jurisprudence of procedural private international law that the standard for determining whether a judgment has the force of res judicata is determined in accordance with the law of the state in which the judgment was issued. This rule is consistent with the provisions of Article/22 from the Egyptian Civil Code, which stipulates that: "The rules of jurisdiction and all procedural matters shall be governed by the law of the country in which the suit is brought or the proceedings are conducted." Accordingly, the foreign law under which the judgment was issued is the reference for determining the methods of appeal, their types, and what is considered ordinary or extraordinary.

It is noted in this context that the Egyptian legislator explicitly stated in the third paragraph of Article/298

from the Code of Civil Procedure on the application of this condition on both the foreign judgment or order. Since orders, in principle, do not acquire the force of res judicata, this text must be interpreted to mean that these orders are final as a result of the expiry of the legally prescribed appeal deadlines, such that they are no longer subject to appeal in accordance with Specialist foreign law.

4. That the judgment or order does not conflict with a judgment or order previously issued by the courts of the Republic and does not include anything that violates public order or morals therein:

Paragraph 4 of Article:/298 from the Code of Egyptian Procedure states that: An order for execution may not be issued unless the following is verified: 4. That the ruling or order does not conflict with a ruling or order previously issued by the courts of the Republic and does not include anything that violates public order or morals therein. "This condition includes two main parts:

The first one: It is necessary not to conflict a judgment or order previously issued by the courts of the Republic, The second one: The judgment or order shall not include anything that violates public order or morals in the Arab Republic of Egypt. Each of these two parts will be explained separately.

Firstly: That the judgment or order does not conflict with a judgment or order previously issued by the courts of the Republic:

The legislator requires that, in order for a foreign judgment to be enforced in the state's courts, it must not conflict with a judgment previously issued by the state's courts. This means that whenever a foreign judgment conflicts with a previous judgment issued by the state's courts, this constitutes a conflict with public order and, therefore, it is impossible to enforce it in the state of Egypt.

And the state judge must refrain from implementing any foreign judgment that conflicts with the provisions of the national judiciary, in order to preserve the consistency of the internal judicial system and to consolidate the state's sovereignty over its territory.

It is the nature of things that requires that the national legal and judicial system be given priority over other foreign systems, given that the national judiciary is one of the basic public authorities and constitutes an aspect of sovereignty. Consequently, the judicial acts issued by it are superior to those issued by any parallel foreign judicial authority.

This is explained by the fact that allowing the enforcement of a foreign judgment that conflicts with a previous national judgment constitutes a violation of the authority of res judicata, which the

law guarantees to national judicial rulings. It is logically or legally inconceivable that this authority would be squandered in favor of a foreign judgment, which was not issued by a national judicial authority. Hence, a general rule can be drawn that: "The supremacy of national judicial rulings over their foreign counterparts" Whenever there is a conflict between them.

It is worth noting in this regard that the text contained in the fourth paragraph of Article/298 from the Code of Civil Procedure, it is understood that the reason for not enforcing a foreign judgment or order is its conflict with a previous judgment issued by Egyptian courts. This presumes that the domestic judgment was issued first in chronological order, followed by the foreign judgment that conflicts with it.

However, this interpretation raises a reverse question: What if the foreign ruling was issued first, and then was followed by a national ruling issued later? This situation - in most cases - assumes that the person in whose favor the judgment was issued will be lax in implementing the judgment. Foreigner, until an Egyptian ruling was issued in the same dispute. Although the foreign judgment is the first to be issued, it is most likely, in jurisprudence and jurisprudence, that priority remains with the national judgment, as long as the foreign judgment has not been implemented. Actually. This is an embodiment of a well-established legal principle that::Providing national judicial rulings and elevating their authority and prestige over foreign rulings, in order to preserve judicial sovereignty and the status of the legal Internal system .

The rule differs if the case before the Egyptian judiciary is merely a pending lawsuit, which has not yet been decided on the same subject as the foreign judgment being enforced. The mere filing of a lawsuit does not, in and of itself, constitute an impediment to the enforcement of the foreign judgment. This trend is reinforced by text of The Article 298/4 from the Code of Procedure, which limited the impediment to implementation to the case of the existence of a judgment or order issued by the courts of the Republic, without including the mere existence of a pending lawsuit. It follows that saying otherwise than this principle leads to unacceptable results, as it gives the bad-faith opponent a means to obstruct the implementation of foreign judgments, by quickly filing a lawsuit before the Egyptian courts, as soon as he learns of the commencement of the implementation of a foreign judgment against him, not with the aim of obtaining a new judgment, but with the intention of procrastination and delay. Such behaviour not only constitutes a breach of the principle of good faith, but also constitutes a violation of the rules of

international justice, and deprives judicial cooperation between states of its purpose of achieving a balanced and fair international legal system.

Secondly: The judgment or order shall not include anything that violates public order or morals in the Arab Republic of Egypt:

There is no clear and specific concept of public order in either domestic law or private international law. However, it can be said that that public order is the supreme values of society in all areas (political, economic, social and religious). In private international law, if a judge finds that the applicable foreign law contradicts the values of society in any of the aforementioned areas, he must refrain from applying the foreign law. This is confirmed by the text of Article 28 of the Egyptian Civil Code, which states: "The provisions of a foreign law specified in the previous texts may not be applied if these provisions are contrary to public order or morals in Egypt."

This rule is generally agreed upon in various legal systems, as it is not permissible to sacrifice the principles and essential values of society in order to implement a foreign judgment, the content or form of which may conflict with the public order or public morals of the state in which the judgment is to be implemented. This conflict may be evident either in the substantive aspect of the ruling or in the procedures followed during its issuance. The foreign ruling may include provisions that affect the fundamental foundations upon which the system is based on social, or Economist, or politician, or religious in the state, such as if it includes, for example, a waste of individual intellectual property rights and requires its implementation in a state based on capitalist principles, or that the ruling is issued in light of a clear violation of the rights of defense, such as not enabling one of the opponents to present his evidence or defend himself in a fair and just manner. In such cases, the implementation of the foreign judgment is considered to be contrary to the requirements of public order, which necessitates refusing to grant it enforcement status, in order to protect the basic values on which the legal system is based. National the role of the courts is limited to the fact that it is not permissible to order the implementation of a foreign judgment in the event of a violation of public order, without extending to examining the subject of the rights established by the judgment or ruling on its invalidity.

The concept of public order in the context of conflict of laws is supposed to have two complementary effects: one negative, which is the exclusion of the

application of foreign law that is contrary to public order, and the other positive, which is the substitution of the judge's national law for the excluded law.

In the context of implementing foreign judgments, the effect of public order is limited to the negative side only, as it is sufficient to simply exclude the offending foreign judgment without the need to issue an alternative judgment from the national judiciary. Thus, public order has fully fulfilled its role by simply refusing to implement the foreign judgment that is in violation of its requirements.

It should be noted that the majority of private international law scholars agree that the concept of public order is not fixed, but rather varies according to time and place. Therefore, the standard adopted for assessing the extent to which a foreign judgment violates public order is the prevailing concept of public order at the time the enforcement request is decided, as this is the time when oversight of the judgment's content is supposed to take place. It is not permissible to rely on a previous concept that has been outdated by society, as oversight should be exercised in accordance with the current concepts and values recognized by the national legal system when examining the request for recognition of a foreign judgment and granting it the Writ of execution.

The effect of meeting the conditions of Article 298 of the Egyptian Code of Procedure:

According to text of Article/298 from the Code of Civil Procedure, which states: "The order may not be executed unless the following is verified: "It appears that the court's authority is limited to issuing an order to enforce or reject a foreign judgment, without this authority extending to amending its content or affecting its essence. A foreign judgment is considered a complete legal entity, which must be accepted or rejected as such, without any amendments. However, this does not prevent the court from dividing a foreign judgment, if it is by its nature divisible, so that one part of it may be enforced without the other part, if some of its parts are enforceable, while the other part cannot be enforced due to its violation of the conditions for enforcement. However, the possibility of division is conditional on the elements of the judgment being legally separable.

However, if the judgment constitutes a unitone it is indivisible, and it was not possible to separate its parts without prejudice. According to the content of the ruling in this case, the judge has only two options: either to issue an order to implement it in full, or to reject it entirely.

The third requirement: The role of international agreements in the enforcement of foreign judgments

International agreements play a pivotal role in regulating legal relations at the international level, particularly within the scope of procedural private international law. It is noteworthy that bilateral and multilateral treaties have occupied a large space within this branch, and their impact has been clearly evident in the area of enforcing foreign judgments. This contrasts with the weakness of international cooperation in matters of conflict of laws or conflict of international jurisdiction.

It has become recognized that the judicial system in Egypt - as is the case in most other judicial systems - is based on a duality in the sources of the rules governing the implementation of foreign judgments, as they are distributed between the Legal National rules on the one hand, and international agreements on the other.

In light of this, it is not correct to say that national rules for the enforcement of foreign judgments apply in all cases, as their application depends on the existence of an international agreement between Egypt and the country from which the judgment was issued. If an agreement exists in force between the two countries, it must be applied with priority over national texts, in accordance with the principle of the supremacy of international agreements in the field of foreign relations. However, in the absence of such an agreement, the rules stipulated in national legislation are applied as a reserve measure. This trend was confirmed by Article 301 of the Egyptian Code of Civil Procedure, which states: "Adherence to the rules set forth in the preceding articles shall not prejudice the provisions of treaties concluded or to be concluded between the Republic and other states in this regard." This means that international agreements are the primary reference for regulating procedures for enforcing foreign judgments, whenever they exist. In other words, the international treaty, after its entry into force, shall be the applicable law to the facts of the case.

And it is legally recognized that international agreements hold the primary rank in the enforcement of foreign judgments, while national laws are considered of a reserve nature, referred to only in the absence of a valid international agreement. This gradual application reflects the principle of the supremacy of treaty law over domestic legislation, whereby the role of the treaty legislator is prioritized over that of the national legislator, based on the primacy of agreed-upon international rules, not for the sake of theory or philosophical considerations, but rather for practical considerations imposed by the necessities of international judicial cooperation.

International agreements, particularly in the field of judicial cooperation, have been enacted to achieve a fundamental goal: overcoming the obstacles that may be imposed by domestic judicial oversight of the implementation of foreign judgments, and ensuring due respect for judicial rulings issued by contracting states. This is demonstrated by granting these rulings the force of *res judicata* as genuine judicial acts that resolve a specific dispute, provide legal protection to their recipients, and enable them to acquire executive force outside the borders of the state in which they were issued, provided they meet the conditions stipulated in the relevant international agreement.

The third Section: Legal Problems and Challenges of applying the principle of reciprocity

The principle of reciprocity one of the basic pillars that regulate the implementation of foreign judgments in different legal systems, as it aims to ensure equal treatment between countries in the field of recognition. With the provisions and judicial decisions issued by it and their implementation. However, the application of this principle faces many legal problems and practical challenges. Related to proving it on the one hand, and estimating it on the other hand, and the time taken to meet this condition.

The first requirement: The Legal problems related to proving the condition of reciprocity in Enforcement of foreign judgments

Reciprocity, as one of the basic conditions for the recognition and enforcement of foreign judgments in a number of legal systems, is a condition that requires verification and proof. In this context, the question arises as to who bears the burden of proving this condition, and what are the legally approved means for proving the existence of reciprocity between the state in which the judgment is sought to be enforced and the state in which the judgment was issued.

Burden of proof of reciprocity requirement:

The question arises as to which party bears the burden of proving the existence of the principle of reciprocity between the state requesting enforcement and the state requested to enforce the foreign judgment. While this question may seem of little importance when it concerns proving a procedural element or submitting a case document, its importance increases given the specific nature of the issue of reciprocity, which is not limited to legal

aspects alone, but also intertwines political and diplomatic aspects between states. Proving reciprocity requires confirming the existence of an actual and established practice between the two states regarding the recognition and enforcement of judgments, which gives the issue a complex character that goes beyond mere usual technical proof.

And Reciprocity is an essential condition. To implement foreign judicial rulings in Egypt, where The Egyptian legislator stipulated in Article 296 of the Law: Civil and Commercial Procedure Code on the condition that: "Judgments and orders issued in a foreign country may only be enforced on the condition of reciprocity. In this context, the question arises as to which party bears the burden of proving the availability of this condition when requesting the enforcement of a foreign judgment in Egypt.

In principle, the burden of proving reciprocity falls on the applicant for enforcement of a foreign judgment, based on the general rules of proof that the burden of proof lies with the claimant, and in accordance with established Egyptian jurisprudence. The applicant for enforcement is the one who benefits from the enforcement of a foreign judgment, and is therefore required to prove that the conditions for such enforcement have been met, foremost among them the condition of reciprocity.

The Egyptian Code of Procedure does not include an explicit text specifying the means adopted to prove the fulfillment of this condition, except that precedents of the Egyptian Judiciary permitted relying on multiple methods of proof, including: 1. Judicial precedents issued by the courts of a foreign country, indicating that Egyptian rulings were previously implemented in that country. 2. Official memoranda issued by the Ministry of Foreign Affairs or the Ministry of Justice, stating the existence of reciprocity. 3. International agreements concluded between Egypt and the other country, if any, that regulate judicial cooperation, and are in themselves evidence of reciprocity (according to Article 301 of the Egyptian Code of Procedure). 4. Legislative Text, this is because the state in whose territory the foreign judgment is to be executed must stipulate that the legislation of the foreign state in which the judgment was issued must include an explicit text permitting the execution of judgments issued by it in that other state. This means that it can be understood from foreign legislation that there is mutual legal recognition of the execution of judicial judgments, thus achieving the principle of reciprocity in its textual or legislative form.

Accordingly, the endorsement of a foreign judgment with the executive formula before the Egyptian judiciary requires the availability of a set of formal

and substantive procedures and conditions, as follows:

1. Submit an application to the competent court of first instance (Article 297 of the Egyptian Code of Procedure): The request for an order of execution must be submitted by means of a statement of claim filed with the court of first instance in whose jurisdiction the execution is to be effected, in accordance with the provisions of the Civil and Commercial Procedures Law.

2. Attach the required documents with the claim form, which include in particular:

- An official copy of the foreign judgment to be executed, certified by the competent judicial authority, and accompanied by an official certified translation into Arabic;

- A certificate stating that the judgment is final and binding, i.e. not subject to appeal by ordinary means of appeal in accordance with the law of the country in which it was issued;

- What indicates the validity of the notification of the opponents in the foreign lawsuit, in accordance with the procedural rules of foreign law;

- A certificate issued by the Egyptian Ministry of Justice or Ministry of Foreign Affairs of Arab Republic of Egypt stating that the principle of reciprocity exists between Egypt and the country in which the judgment was issued, or any judicially accepted means of proof that replaces this certificate.

And in comparison with other legal systems, it is noteworthy that the Saudi legislator did not explicitly specify, in the Basic Law, which party bears the burden of proving the reciprocity requirement when requesting enforcement of a foreign judgment within the Kingdom. The law merely stated the general conditions that must be met in the judgment sought to be enforced, including the reciprocity requirement, without specifying the entity responsible for proving it. However, the previous executive regulations of the system - before it was amended in 1439 AH, it was stated that: The judge verifies that the country in which the foreign judgment or order was issued deals reciprocally with the Kingdom, with an official statement from the Ministry of Justice. "It is understood from this text that the burden of proving reciprocity was not placed on the applicant for enforcement, but rather the court was responsible – on its own initiative – for verifying availability this condition is met by corresponding with the competent administrative authority (the Ministry of Justice), which may suggest that the applicant for implementation is exempted from the burden of proof in this regard.

However, the Board of Grievances (before the issuance of the Implementation System) rejected this approach, as it confirmed in one of its rulings issued by the Audit Authority in a case considered in 1411

AH the following: "It is established in Islamic jurisprudence and judiciary that the burden of proof in a lawsuit falls on the plaintiff. It is established that the plaintiff in this lawsuit did not provide evidence that there is reciprocal treatment between the Kingdom and France, which requires disregarding what the plaintiff raised in his objection, that the Court should have, by virtue of its legal jurisdiction to consider requests for the implementation of foreign judgments, written to the Ministry of Foreign Affairs in the Kingdom to determine whether there is an agreement between the Kingdom and France in this regard".

In light of this, an amendment to the executive regulations was issued in 1439 AH, to settle the controversy, as it explicitly stated that: The burden of proof that the reciprocity condition has been met shall be on the applicant for enforcement. "Accordingly, the applicant for enforcement of a foreign judgment in the Kingdom bears the burden of proving that the foreign country in which the judgment was issued applies the principle of reciprocity and enforces Saudi judicial rulings on its territory. This reflects a clear trend towards assigning the burden of proof to the applicant for enforcement, in order to reinforce the principle of initiative and positivity in exercising the right, and in line with the general rules of evidence.

The second requirement: Problems of principle reciprocity assessment in the enforcement of foreign judgments

Given the special nature of the condition of reciprocity among the conditions for enforcing foreign judgments, the question arises as to which body is competent to assess the extent to which this condition is met, and to determine whether the state from which the judgment was issued treats the state requesting enforcement in a reciprocal manner in the field of enforcing judicial judgments.

Jurisprudence has been divided into two directions in this regard: The first trend considers that assessing the availability of reciprocity falls within the scope of judicial authority, as it is a legal issue that the judge must decide upon when considering the request for enforcement.

While the second trend believes that this assessment is linked to the nature of international relations between countries, and thus it is the responsibility of the executive authority or the competent governmental body, such as the Ministry of Justice or the Ministry of Foreign Affairs, due to the diplomatic means and data it possesses that help it assess the existence of reciprocity or not.

Firstly: The jurisdiction of courts to assess the extent to which the principle of reciprocity is achieved:

Some jurisprudence holds that assessing the extent to which the condition of reciprocity is met falls within the jurisdiction of the judge competent to consider the request for an order of execution, as he is the judicial authority concerned with the suit to endorse the foreign judgment with the writ of execution. According to this view, the judge is the one who examines the extent to which the state in which the foreign judgment was issued adheres to the principle of reciprocity, based on the arguments, documents, and evidence presented by the parties, and the information available in the case file that allows him to reach a legal conviction regarding the fulfillment of this Condition.

Proponents of this approach rely on a set of arguments that support assigning the task of assessing the reciprocity condition to the competent judge. On the one hand, a lawsuit to enforce a foreign judgment is a lawsuit that affects the rights and legal status of individuals. It is therefore a dispute of a special nature that does not affect international relations or sovereignty, but rather concerns the acquired rights of the party in whose favor the judgment was issued. Consequently, examining the extent to which the reciprocity condition has been met falls within the jurisdiction of the judiciary, as the authority charged with enforcing the law and ensuring respect for rights and freedoms.

The judge is also the most appropriate body to assess this condition, given the discretionary power he possesses that enables him to examine the information provided by the parties, and based on the documents and evidence contained in the case file. This opinion holds that assigning the task of assessing reciprocity to a non-judicial body constitutes a diminution of the role of the judiciary and a deprivation of its jurisdiction to protect private rights, which is inconsistent with the essence of the principle of separation of authorities.

Accordingly, the proponents of this trend conclude that the judge is the one directly responsible for applying the principle of reciprocity, and that he has full discretionary power to decide whether or not it is achieved, based on what is presented to him within the framework of the case.

Secondly: jurisdiction of the Executive authority regarding assessing the extent to which the principle of reciprocity is achieved:

Another legal trend has adopted the view that the authority to assess the reciprocity requirement is vested in the competent authorities within the executive branch, particularly the Ministries of

Foreign Affairs and Justice. This trend is based on the fact that the issue of reciprocity—in the context of enforcing foreign judgments—falls within the scope of international relations conducted by the state through its competent agencies, and is not within the purview of the judiciary.

According to this view, whenever the condition of reciprocity is raised during the consideration of an enforcement action, the judge must refrain from ruling on the request until an official statement is received from the relevant government authorities stating whether or not this condition has been met. This procedure is considered an administrative "reconciliation matter." - Diplomatic, which the judge does not have the right to decide independently, but rather the course of the case depends on it, which requires temporarily suspending the ruling until the opinion is issued by the Executive authority having the jurisdiction.

Proponents of this approach have based their opinion on a number of arguments, the most prominent of which is that the principle of reciprocity is a purely diplomatic matter, one that is difficult for a judge to navigate given the precise knowledge it requires of the nature of international relations, a knowledge that judges often lack in terms of training or means. According to this view, reciprocity is not a purely legal issue presented to the judiciary, but rather a sovereign issue that falls within the framework of the state's foreign policy, which requires that it be addressed by the competent authorities in the executive branch, particularly the Ministries of Justice and Foreign Affairs.

This trend also holds that even if a judge were entrusted with assessing this condition, he would be unable to exercise it efficiently, given his lack of accurate information or the means to verify the practices of other states in the enforcement of foreign judgments. Reciprocity, in essence, is not directed at courts as a judicial authority, but rather represents a reciprocal discourse between states, exercised through diplomatic and official channels. Therefore, governments—not courts—are competent to assess the extent to which this condition is met.

This trend adds that reciprocity represents an important tool in international relations and should not be left to the discretion of a domestic judge, to avoid the possibility of invoking international responsibility in the event of an error in judgment, especially when it concerns matters related to international agreements or diplomatic obligations. International courts alone are competent to decide on the extent to which states respect their international obligations, not the National judiciary.

However, this trend has not been immune from criticism, as it is held that referring the assessment

of the condition of reciprocity to the executive authority may lead to restricting the judge's authority and undermining his independence. It may also lead to undermining the guarantees of fair litigation, as the rights of individuals become subject to the fluctuations of foreign policy and relations between states, which may undermine the principle of legal security and the centrality of the judiciary in protecting rights.

From our analytical point of view; reconciling the two views is the best course of action. It can be said that the judge is the one who is competent to adjudicate enforcement claims and Examination of the conditions for the enforcement of a foreign judgment, including Reciprocity condition, unless otherwise provided by law Internal Frankly speaking. However, coordination between the two authorities (Judicial and Executive) remains necessary to ensure that justice is achieved without prejudice to sovereignty or being drawn into political considerations.

The third requirement: The time required for the reciprocity condition to be met

The Egyptian legislator did not specify the time at which the reciprocity condition is to be met, so the matter remained a matter of question as to whether this condition must be met when the foreign judgment required to be implemented is issued. In Egypt or in case that the ruling is final, or on the date of submitting the enforcement request to the Egyptian judiciary. The absence of this specification has practical and legal implications that require judicial intervention to determine the appropriate timing, thus achieving a balance between the legal considerations related to the validity of the foreign judgment and the requirements of judicial sovereignty in the state from which enforcement is requested.

Unlike the situation in Egyptian law, German courts have settled the issue of the timing of the occurrence of the reciprocity condition, distinguishing between two cases: If the interested party files a request for enforcement of a foreign judgment in Germany, the reciprocity condition must be met on the date the request for enforcement is submitted. However, if the matter is limited to relying on the conclusiveness of the foreign judgment without requesting its enforcement, the standard adopted is the presence of reciprocity at the moment the foreign judgment acquires its status as a final judgment in the country. His chest.

And some of Jurisprudence sees that in order to achieve the purpose sought by the legislator in establishing the condition of reciprocity, this condition must be met whether when relying on the

validity of a foreign judgment in Egypt or when requesting that it be accompanied by the writ of execution, given that the validity of the *res judicata* and the executive force constitute two aspects of the concept of the enforceability of the judgment in the Egyptian legal system. From our point of view; we tend to support this jurisprudential trend, as it enhances the stability of judicial rulings and ensures the effectiveness of their implementation, thus establishing the principle of legal security and ensuring the protection of rights acquired under foreign rulings.

And another point is that the distinction adopted by the German judiciary leads to unacceptable results. According to this distinction, a foreign judgment may have the force of *res judicata* in Egypt if the condition of reciprocity is met upon its issuance or upon its becoming final. However, it is not enforceable because this condition is absent at the time of submitting the request for enforcement. This would lead to a denial of justice, as the judgment creditor is deprived of the possibility of enforcing the foreign judgment in Egypt, despite the judgment enjoying its force, without being able at the same time to refile the lawsuit subject to the judgment, because the force of *res judicata* acts as an obstacle to the consideration of the dispute again.

Conclusion

The principle of reciprocity occupies a prominent place in the customary and conventional rules of international law, given its fundamental role in preserving state sovereignty and ensuring the principle of equality and equivalence in rights and obligations between states. This principle also contributes to promoting positive cooperation between states and strengthening the bonds of solidarity and mutual support, which are the foundation for developing special international relations. This positively impacts the protection of the rights of individuals bound by these relationships.

However, the requirement of reciprocity as an essential condition for recognizing and enforcing foreign judgments has some problems and risks that must be taken into account when applying it. On the one hand, the realization of this principle often depends on the nature of political and diplomatic relations between states, which may not necessarily be in harmony with the interests of individuals, making their private rights rely on the level of those relations. On the other hand, adhering to this condition may harm the citizens of the same state, as enforcement of a judgment issued in their favor abroad may be refused due to a previous refusal to enforce a foreign judgment in their home state. This

makes the enjoyment of judicial rights dependent on the actions and mutual positions of states, and not only on the rights of individuals accruing under final judicial rulings.

Results

1. The condition of reciprocity is one of the important principles for achieving justice and equality in relations between states. Despite challenges it Face, it remains an effective tool for ensuring a balance of rights and duties between international parties.
2. The principle of reciprocity constitutes a tool for ensuring state sovereignty, and aims to achieve balance and mutual respect between the legal systems of states, but at the same time it has a dual character between what is legal and what is political.
3. Absence of the Unification in assessing the condition of reciprocity, as legal systems differ in determining the authority responsible for assessing this principle, between those who assign it to the judicial authority and those who grant it to the executive authority..
4. The burden of proving reciprocity falls on the applicant for enforcement, with no clear or uniform standards for acceptable means of proof, creating practical difficulties for stakeholders.
5. The lack of clarity about the timing of the availability of reciprocity (whether upon issuance of the foreign judgment, or upon requesting its implementation) leads to legal confusion for litigants.
6. Requiring reciprocity in the enforcement of foreign judgments may become an obstacle to protecting individual rights, especially when relations between countries are tense, which may lead to the denial of justice or the freezing of acquired rights.
7. Emphasizing that the principle of reciprocity in the enforcement of foreign judgments is limited to judgments issued in civil and commercial matters, and does not include judgments issued in criminal matters, because granting executive force to a foreign criminal judgment within the state violates the state's sovereignty.

Recommendations:

1. Simplifying procedures for enforcing foreign judgments by establishing specialized bodies to verify the availability of the reciprocity requirement.
2. Standardization of Legal standards related to reciprocity proof condition, through clear legislative texts that specify acceptable means of proof, and

reduce the burden on the person requesting enforcement.

3. Assigning the assessment of the reciprocity requirement to the judiciary without interference from the executive authority, in order to enhance the independence of the judiciary and guarantee the rights of litigants, free from political considerations.
4. Establish a clear timing for the reciprocity requirement (such as the moment the enforcement request is submitted), to ensure legal stability and reduce the chances of manipulation or ambiguity of Legal texts.
5. Encouraging countries to conclude bilateral and multilateral judicial agreements regulating the enforcement of foreign judgments and eliminating the requirement of reciprocity whenever possible.
6. Working on unifying Legislation for countries and adoption of clear standards in national laws to enforce foreign judgments.

Author Statements:

- **Ethical approval:** The conducted research is not related to either human or animal use.
- **Conflict of interest:** The authors declare that they have no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper
- **Acknowledgement:** The authors declare that they have nobody or no-company to acknowledge.
- **Author contributions:** The authors declare that they have equal right on this paper.
- **Funding information:** The authors declare that there is no funding to be acknowledged.
- **Data availability statement:** The data that support the findings of this study are available on request from the corresponding author. The data are not publicly available due to privacy or ethical restrictions.

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