

Multiplicity of Defendants and its Impact on the Jurisdiction of National Judicial Authorities

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Abstract---This article addresses the issue of multiplicity of defendants and its effect on the jurisdiction of national judicial authorities, particularly within the framework of private international law. It highlights the challenges that arise when a legal dispute involves more than one defendant, especially when the parties are located in different jurisdictions or countries. Such situations often lead to fragmented litigation and may result in conflicting judgments. Some comparative legal systems have adopted the principle of connection as a mechanism to expand the jurisdiction of national courts. This aims to ensure the unity of legal proceedings, prevent contradictions in judgments, and promote procedural efficiency. Under this principle, a national court may hear a case involving multiple defendants, provided that certain conditions are met. These include a shared legal basis for the claims, the existence of actual multiplicity, and a legal connection among the claims. The article sheds light on the position of the Algerian legislator, who has adopted this approach. Procedural principles have been extended from the domestic context to private international law. This reflects a balance between judicial sovereignty and the requirements of international justice. The study also discusses the essential criteria for establishing jurisdiction in cases involving multiple defendants, especially in disputes of an international character.

Keywords---Multiplicity of Defendants, Judicial Jurisdiction, Private International Law, Unity of Proceedings, Algerian Legislator.

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Introduction

The issue of the multiplicity of defendants and its effect on judicial jurisdiction is of great importance in the doctrine of private international law. This is due to its direct connection with the principle of the proper administration of justice and the aim of preserving the unity of legal proceedings.

As a rule, legal proceedings are initiated between one claimant and one defendant before a competent court, in accordance with established procedural rules. However, in practice, disputes often arise involving multiple parties. This may be due to a shared cause of action, overlapping legal interests, or the involvement of multiple legal positions in the dispute.

In such cases, applying traditional jurisdictional rules may lead to the fragmentation of proceedings across several courts. This could result in conflicting judgments, prolonged litigation, and a potential violation of the rights of the parties. From this perspective, the principle of multiplicity of defendants has emerged as a vital tool for enhancing procedural efficiency and avoiding contradictory rulings—particularly in disputes of an international nature that may involve parties from different countries.

Comparative legal systems have given this issue special attention. They have adopted the principle of “connection” (or relatedness) as a mechanism for expanding the scope of national courts' jurisdiction and ensuring unified adjudication. These legal systems have also established safeguards to prevent the misuse of jurisdictional rules.

Within this context, the position of the Algerian legislator stands out. Algeria has adopted this principle in the context of domestic jurisdiction and extended its application to the domain of private international law, aligning with trends seen in some comparative legislations and international agreements.

The importance of this topic lies in its reflection of the delicate balance between national autonomy and the needs of international justice. It raises the central question:

To what extent does the principle of multiplicity of defendants contribute to achieving the unity of judicial proceedings and ensuring the jurisdiction of national courts in disputes of an international nature?

To address this issue, the paper is divided into two main sections:

- **Section One:** Jurisdiction in cases involving multiple defendants and the position of the Algerian legislator.
- **Section Two** Conditions for establishing jurisdiction in cases of multiple defendants.

Section One: Multiplicity of Defendants and Its Impact on Judicial Jurisdiction

A typical legal scenario arises when a claim is filed against a single defendant. In such cases, the competent judge considers the claim submitted by one of the parties to a dispute that involves a foreign element. This falls within the framework of one of the fundamental principles of private international law.

Accordingly, the scope of the legal dispute is determined in terms of subject matter, legal cause, and the parties involved. The court is bound by the contents of the statement of claim, in line with the principle of the unity of the statement of claim.

However, in the interest of facilitating litigation procedures, most comparative legal systems have allowed some relaxation of this principle. They permit the modification of the scope of the claim for several reasons, most notably: considerations of justice and the need for unified proceedings.

Based on these considerations, the idea of multiplicity of defendants has emerged¹.

Moreover, within the framework of private international disputes falling under the jurisdiction of national courts, the issue of multiple defendants may arise. This situation becomes particularly complex when one of the defendants is a foreign party who does not fall under the court's international jurisdiction, as they have no domesticity within the national territory.

If this party is not subject to the procedural rules applied at the domestic level, the court may be forced to decline international jurisdiction. This leads to a denial of access to justice, undermines the proper administration of legal proceedings, and threatens the rights of the parties involved.

To address this challenge, the concept of extending jurisdiction has been introduced. Under this approach, jurisdiction may cover all defendants, provided that a set of specific conditions is met. These conditions must be satisfied in order to apply the rule concerning the establishment of jurisdiction in cases involving multiple defendants².

Scholars of private international law in both Egypt and France maintain that the jurisdiction of national courts in such cases serves to ensure the proper administration of justice. It also seeks to preserve the unity of judicial proceedings, avoid their fragmentation, and prevent the issuance of conflicting or contradictory judgments—especially when the dispute is of a purely international nature.³ Since comparative legal systems have introduced various solutions within domestic laws to address the issue of multiple defendants, it can be observed that both the Algerian and French legislators have extended domestic procedural rules to the international level in a way that aligns with the nature of such disputes⁴.

For this reason, it is necessary to examine the basis of jurisdiction in cases involving multiple defendants (Section One), before addressing the conditions for establishing jurisdiction in such cases (Section Two).

First: Jurisdiction in Cases of Multiple Defendants and the Position of the Algerian Legislator

Most comparative legal systems allow the claimant to bring a case against more than one defendant through a single statement of claim. This is intended to avoid conflicting judgments that may arise if separate claims were filed against each defendant individually. In doing so, these systems also uphold a number of core principles, most notably the principle of procedural economy⁵. In addition, bringing separate claims against multiple defendants imposes significant costs on the claimant. For this reason, the proper administration of justice requires that a claimant be allowed to bring all defendants together

¹- Yasser Subhan Hamad, the multiplicity of defendants and requests and its impact on determining international judicial jurisdiction, *Journal of the College of Law and Political Science, University of Iraq, Iraq*, Vol. 01, No. 09, 2021, p. 04.

²- Wissam Tawfiq Abdullah Al-Kutbi, *Considerations of Justice in Determining International Jurisdiction (A Comparative Study)*, Dar Al-Jamiah Al-Jadida, Alexandria, 2011, S 92.

³- Hafiza Al-Sayed Al-Haddad, *General Theory of International Private Judicial Law, Book Two, (International Judicial Jurisdiction and Enforcement of Foreign Judgments and Arbitration Awards)* Al-Halabi Legal Publications, Beirut, 2004, p. 97.

⁴- Ben Shab Naima, *The Role of the Homeland As an officer For International Jurisdiction in Algerian Law*, *Annals of the University of Algiers 1, Faculty of Law*, Vol. 34, No. 01, 2020, p.357.

⁵- The principle of economy of procedure (L'économie judiciaire) It is one of the principles included in the established rules to ensure the proper conduct of justice, and the latter is one of the most important factors that contribute to influencing the course of the trial in general. This principle can also be classified within the scope of those related to the course of the necessary legal procedures that seek to facilitate litigation procedures and organize all matters related to the judiciary, and strengthen interest By devoting cooperation between the judge and the parties to the lawsuit and avoiding prolonging the litigation process, In this regard, see Mustafa Ahmed Al-Daraji, *The Principle of Economy in Litigation Procedures (A Study in Libyan Civil Procedure Law)*, *Journal of Legal Research*, No. 12, 2021, p. 5.

in a single statement of claim before one court. This is possible when certain conditions related to multiplicity are met—most importantly, the existence of a common cause of action, a legal connection between the claims, and the presence of genuine multiplicity⁶. A claimant may wish to file a lawsuit against several defendants whose places of residence fall under different local jurisdictions. This raises a key question: should the claimant initiate separate lawsuits, each before the court of the defendant's domicile? Or is it possible to file a single lawsuit before the court of one defendant and bring the others into the same proceedings before that court?

An example of this would be a person purchasing a vehicle from a group of co-owners, each of whom resides in a different jurisdiction. If a separate case were to be filed before the court of each seller's domicile, the result would be unnecessary procedural costs, a waste of time and resources, and an increased risk of conflicting judgments on the same dispute⁷.

This applies in the case of a dispute of a national nature. However, if the dispute falls within the scope of private international law and the rules of international judicial jurisdiction, and involves a foreign element, then we are faced with a situation in which one of the defendants is subject to the jurisdiction of the national courts, while the other defendants are not within the jurisdiction of those courts.

It is important to note, however, that the claimant is not required to initiate multiple lawsuits against the defendants in different countries. Under this scenario, the dispute would be considered as pending before a foreign court. Therefore, the claimant should file only one action⁸. From a practical perspective, this principle is derived from the general rules of territorial jurisdiction. It should be noted that jurisdiction based on the idea of multiple defendants is a genuine form of connection recognized under the rules applied in domestic procedures⁹.

Within the same context, the UAE legislator addressed the issue of multiple defendants under Paragraph 7 of Article 21 of the Civil Procedure Law, which states: “The courts shall have jurisdiction over cases filed against a foreigner who has no domestic or residence in the State in the following situations: ... if one of the defendants has a domestic or residence in the State.”

This provision indicates that the UAE legislator has expressly granted jurisdiction to national courts over such disputes when multiple foreign defendants are involved, provided that at least one of them has a domicile or residence within the State.

In line with this, when there are multiple defendants, the court jurisdiction holds over the case filed against all of them, even if the rest do not reside within the territory of the State. The rationale behind applying this principle in granting jurisdiction to national courts over this type of dispute is to ensure the proper administration of justice and to avoid conflicting judicial decisions at the international level in the same foreign-related dispute, even if multiple defendants are involved¹⁰.

The Egyptian legislator has also adopted the concept of multiple defendants. This appears in Article 30, Paragraph 9 of the Code of Civil Procedure, which provides that the courts of the Republic shall have jurisdiction over cases brought against a foreigner who has a domestic or residence in Egypt in the following situations: 9 – *If one of the defendants has a domestic or residence in the Republic*¹¹. The explanatory memorandum to the draft of this law states: “Paragraph nine of this article (ie, Article 30) establishes a

⁶- Yasser Subhan Hamad, Nada Khair El-Din Saeed, previous reference, p. 5

⁷ Nabil Saqr, the mediator in explaining the lawproceduresCivil andAdministrativeDar Al-Huda for Printing and Publishing, Ain Mlila, Algeria, 2008., p. 68.

⁸ Wassam Tawfiq Abdullah Al-Kutbi, the previous reference, p. 94

⁹ Hisham Ali Sadiq, Private International Law, Dar Al Fikr Al Jami'i, Alexandria, 2005, p. 182.

¹⁰ Saeed Saif Al-Sabousi, the previous reference, pp. 12-13.

¹¹ Law No. 13 of 2003, 1986 includingEgyptian Civil and Commercial Procedure Law.

rule granting jurisdiction to the courts of the Republic based on the presence of multiple defendants. This is a well-recognized principle in the doctrine of private international law.”

According to the procedural rules set out in the Egyptian Code of Civil Procedure, this jurisdiction applies to both real status matters and personal status matters. Therefore, it is not limited to a specific type of claim¹².

Egyptian legal scholars hold the view that when jurisdiction is established for Egyptian courts on the basis of multiple defendants, this does not apply to matters of exclusive jurisdiction, including real estate claims concerning property located abroad. This is because national courts' jurisdiction over such cases is considered original jurisdiction.¹³ Egyptian legal scholars also believe that as long as the national judge has jurisdiction over one of the defendants, based on one of the established criteria in the Code of Civil Procedure, there is no general rule preventing the judge from extending jurisdiction to the rest of the defendants in such disputes.

In the same context, traditional legal opinion holds that if the presence of multiple defendants brings jurisdiction to national courts—as a rule applied unilaterally—then this principle cannot be used to deprive national courts of their jurisdiction in favor of foreign courts¹⁴.

While traditional legal opinion has recognized that the residence of one of the defendants in Egypt may serve as a basis for establishing international jurisdiction for Egyptian courts, this view has not supported the idea of relinquishing jurisdiction in favor of a foreign court, even if one of the defendants resides abroad.

In contrast, the modern legal approach—which has been discussed in similar contexts—holds that national courts may decline to hear a case if it appears that a foreign court is better suited to resolve the dispute and to ensure the enforcement of its judgment. This view reflects a commitment to the principle of legal certainty in international private relations and aims to avoid conflicting judgments¹⁵.

The French legislator, under the Code of Civil and Administrative Procedure, addressed the issue of multiple defendants in Article 42/02, first paragraph¹⁶. Although this article was originally intended to regulate territorial jurisdiction within French courts, the principle it contains has been extended and applied to matters of international jurisdiction by the Court of Cassation. Most of the rules governing local jurisdictions have, in fact, been extended to the international level, as France does not regulate international jurisdictions separately.

On this basis, French courts have jurisdiction if one of the defendants resides in France or has a domestic there. This applies to claims brought against that defendant, as well as against other defendants, even if they are foreign nationals residing outside France. Accordingly, the French Court of Cassation has incorporated Article 42, Paragraph 02 into the body of rules governing international jurisdiction, considering it one of the standards that define the authority of the courts¹⁷.

¹² Ezz El-Din Abdullah, *Private International Law, Part Two, Conflict of Laws and Conflict of International Jurisdiction*, T 09The Egyptian General Book Authority, 1986, p. 727.

¹³ Ezz El-Din Abdel God, the previous reference, p. 729.

¹⁴ Hisham Ali Sadiq, *Private International Law*, previous reference, p. 184.

¹⁵ Hesham Ali Sadek, the extent to which the Egyptian judiciary has the right to waive its international jurisdiction over civil and commercial disputes., pp. 15-16.

¹⁶ Article 42/2 The civil French procédure code «The competition test procedure is available, will have to make a contraire, then place it or remove the defence/1...If the defender is not home to the residence, the demand may be due to the judgment of the lieu on the date or cell of his son's choice on the date of the change. »

¹⁷ Hafiza Al-Sayed Al-Haddad, the previous reference, p. 97.

On this basis, the majority of legal scholars in Egypt, France, and several comparative Arab legal systems share this view.¹⁸ This jurisdiction granted to national courts in such disputes serves to ensure the proper administration of justice. It also protects the unity of the legal proceeding, prevents its fragmentation, and avoids the risk of multiple conflicting judgments in the same case—an outcome that could undermine justice and lead to the loss of individual rights¹⁹.

The Algerian legislator has adopted this principle in the field of local territorial jurisdiction. Article 38 of the Code of Civil and Administrative Procedure states: “In the case of multiple defendants, territorial jurisdiction belongs to the court within whose jurisdiction the domicile of one of them is located.”

According to this provision, if there are multiple defendants in the same case and each of them resides within the jurisdiction of a different court, the plaintiff has the right to choose among these courts²⁰. The purpose of applying this rule is to encourage the plaintiff to combine claims against multiple defendants into a single case before one court. This avoids filing several separate cases before different courts, which could prolong the proceedings, increase costs, and raise the risk of conflicting judgments in the same dispute.

Considerations of proper judicial administration are what led to the adoption of this principle. When multiple defendants are involved in the same case and each has a domicile under the jurisdiction of a different court, it becomes permissible to bring the case before the court where any one of them resides. In this situation, the plaintiff is free to choose among these courts. Based on the procedural rules applied in domestic litigation, it is preferable to adopt this solution and extend it to international jurisdictions as well²¹.

At the level of international agreements ratified by Algeria, the Convention on Legal and Judicial Cooperation among the Member States of the Arab Maghreb Union is of particular relevance. This convention addresses the issue of jurisdiction in cases involving multiple defendants.

This is reflected in Article 34, paragraph (a), which states: “In matters not covered by the previous article, the courts of the contracting party shall have jurisdiction in the following cases: (a) If the domicile or residence of the defendant, or one of them in the case of multiple defendants, at the time the case is initiated, is located in the territory of that contracting party, or if he has a representative there”²² It is concluded from this article that if there are multiple defendants, then according to the

¹⁸- Among the comparative Arab legislations that addressed the issue of multiple defendants, we find Bahraini law through the ninth paragraph of Article 10/9, which states: Granting jurisdiction to the relevant courts, in the event of multiple defendants, if one of them has a domicile or residence in Bahrain, and on this basis it is not necessary for all defendants to be domiciled or residing in it to establish jurisdiction for its courts. We also find that the Syrian legislator has kept pace with previous legislation through Article 4, Clause (d), as Article 10 of the Kuwaiti law also stipulates that: «Kuwaiti courts have jurisdiction over lawsuits filed against a foreigner who has no domicile or residence in Kuwait, if one of the litigants is a Kuwaiti, or if the foreigner has a domicile, residence or chosen domicile in Kuwait. «Unlike other legislation, the Kuwaiti legislator allowed a lawsuit to be filed against all foreign persons who are not residents or domiciled in Kuwait, if one of the parties to the lawsuit is Kuwaiti. However, this provision was criticized for causing harm to the foreign defendant who does not have a residence permit in Kuwait, and for whether the Kuwaiti party was considered a “nominal party,” meaning that no claims were made to him. See: Hisham Khaled, *International Private Judicial Law*, Dar Al Fikr Al Jami'i, 1st ed., Alexandria, 2012, p. 107.

¹⁹- Okasha Muhammad Abd al-Aal, *International Civil and Commercial Procedures and the Enforcement of Foreign Judgments*, University Publications House, Alexandria 2007, p. 57 See also, in the same sense, Hafiza Al-Sayyid Al-Haddad, the previous reference, p. 97.

²⁰ - Bin Shab Naima, the previous reference, p. 357.

²¹ -Kamal Samia, the previous reference, p. 48.

²² Presidential Decree No. 01-47 ratifying the Riyadh Arab Agreement for Judicial Cooperation.

general rules it is sufficient for one of them to have a domicile²³ Or a place of residence in the country that issued the ruling, so that jurisdiction returns to its courts, and also to avoid filing several lawsuits and the possibility of conflicting rulings between the countries of the union, and on this basis the jurisdiction of the court of residence of the defendants or some of them extends to the rest of the defendants²⁴.

The second requirement: Conditions for establishing jurisdiction in the event of multiple defendants

The majority of international private law scholars stipulate that in order for the international jurisdiction of national courts to be established in the event of multiple defendants in a dispute involving a foreign element, a set of conditions must be met. These conditions are embodied in the realization of a connection between the requests directed to the defendants (first), that the multiple defendants be real (second), and that one of the defendants be domiciled in the territory of the state, either through an original or chosen domicile (third).

First: Verify the connection between the requests directed to the defendants.

Jurisprudence in both Egypt and France holds that there must be a connection between all claims against defendants, and jurisprudence, according to this approach, relies on the unity of claims for all defendants.²⁵The connection here appears when we consider that the subject of these requests is one, such as if it relates to one contract or one harmful act.²⁶The reason for the connection is the presence of a link between the two requests, as it is in the interest of justice to unify them and bring them together before the same judicial authority, especially if the ruling issued regarding them affects the other ruling²⁷.

However, jurisprudential opinions differed on the issue of determining the connection that must be present in the event of multiple defendants. Some jurisprudence sees only the minimum level of connection as being present, i.e. without the need for unity of subject and cause. On the other hand, there are those who see only the necessity of unity of subject without resorting to unity of cause.²⁸On the contrary, others believe that the unity of the cause is sufficient. If the above is the case, then a side of jurisprudence believes that there must be a single lawsuit in which there are multiple defendants, an example of which is the lawsuit against multiple debtors²⁹.

There is no doubt that the desired goal of most comparative legal systems in this regard is to bring together the two related requests before the same court, with the desire to save expenses and procedures, ensure the smooth running of justice, unify the judicial dispute, and seek to avoid any possibility that could lead to the issuance of conflicting rulings in the same case. From this standpoint,

²³ The Agreement on Legal and Judicial Cooperation of the Arab Maghreb Union countries defined the domicile through paragraph (a) of Article 34/A as: Domicile, in relation to a natural person, means his usual place of residence or place of business with regard to claims relating to that business or his elected domicile or last known domicile if he leaves it and becomes an unknown domicile, and with regard to a legal person, its headquarters or the location of its center or branch if the lawsuit relates to the exploitation of this center or branch and he is summoned to it. «

²⁴ Balgheeth Amara, International Jurisdiction According to the Agreement on Judicial Cooperation of the Arab Maghreb Union Countries, previous reference, p. 394.

²⁵ Hafiza Al-Sayed Al-Haddad, The General Theory of International Private Judicial Law, previous reference, p. 98.

²⁶ Akasha Muhammad Abd al-Aal, International Civil and Commercial Procedures and the Enforcement of Foreign Judgments, previous reference, p. 58. See also, Kamal Samia, the previous reference, p. 49.

²⁷ Hafiza Al-Sayed Al-Haddad, The General Theory of International Private Judicial Law, previous reference, p. 98.

²⁸ Mahmoud Lotfy Mahmoud Abdel Aziz, Arab Renaissance House, Egypt, 2013p. 118.

²⁹ Wasam Tawfiq Abdullah Al-Kutbi, the previous reference, p. 98.

jurisprudence sees that adopting the jurisdiction of the court of residence of one of the multiple defendants constitutes a form of connection in the event that the unity of the requests in the lawsuit brought against them is achieved.³⁰This is what was confirmed by the Brussels Agreement.(Bruxelles I bis)Through the first paragraph of Article 08/1³¹.

In a related context, the French Court of Cassation upheld this condition through its ruling dated February 8, 1983, and went on to recognize the jurisdiction of the Paris Court, considering that Paris is the headquarters of many of the defendant companies regarding the lawsuit filed by the plaintiff against several French and foreign airlines, where the content of this lawsuit was due to the noise caused by the aircraft of these companies. On this basis, the connection appears in the requests directed to all the defendants regarding their responsibilities for the resulting damage caused to their affiliated companies, and accordingly, the connection in the requests directed here requires that they be considered by a single judge³².

Second: The multiplicity of defendants must be real and not fictitious.

Meaning that first, the claim submitted against one of the defendants in the lawsuit who resides or is domiciled in the territory of the state whose judge is competent to hear the dispute must be real and serious in his view.³³On this basis, the multiplicity of defendants must be real and not fictitious.³⁴The main objective of applying this condition is to avoid fraud regarding the rules of jurisdiction, since if the aim is to circumvent the criteria of jurisdiction by proving the jurisdiction of national courts that were not originally competent from the beginning, and bringing the defendants before these courts knowing that they do not have a domicile or place of residence there, then in this case the national courts are not competent to consider this dispute.³⁵To avoid such cases, the French Court of Cassation added this condition through its ruling issued on April 13, 2010.³⁶, where I added to this condition the criterion of seriousness (Caractère sérieux (³⁷French jurisprudence holds that this privilege must be revoked if no real claims are made to the defendant, whose domicile and residence have given jurisdiction to the French courts³⁸.

Returning to the French judicial precedents at an earlier time, we find that the French Court of Cassation issued in its ruling dated July 16, 1970 that he was not considered a real defendant.»When is the individual obligated to assist the judiciary in accordance with the provisions of Article 10 of the Civil Code?«The court also added for the same purpose and in general, a person is not considered a real defendant if the latter is merely a fictitious or formal person. The French Court of Cassation also confirmed that it is mandatory for the defendant to be resident in France and for his role in the dispute

³⁰ Hafiza Al-Sayed Al-Haddad, General Theory of Private International Law, previous reference, pp. 98-99.

³¹ Article 08 (1) in Bruxelles I said: "A person is familiar with the territory of the city and may also be at fault: (1 / If there are more defenders, the domestic jurisdiction of the family, a condition that the demanders receive. It comes from a rapport that says it's an instruire and a jugger at some time before the solutions that are inconciliable if it causes temporary separation.

³² Referred to: Hafiza Al Sayed Al Haddad, General Theory of Private International Law, the previous reference, p. 99.

³³ Kamal Samia, Application of the Judge's Law to Private International Disputes, a thesis for a doctorate in private law, Faculty of Law and Political Science, Abu Bakr Belkaid University, Tlemcen, 2015-2016, p. 51.

³⁴ Ezz El-Din Abdullah, the previous reference, p. 728.

³⁵ Akasha Muhammad Abd al-Aal, International Civil and Commercial Procedures and the Enforcement of Foreign Judgments, previous reference, p. 58.

³⁶ Cass. Com., 13 April 2010, due no. 09-11.885, Bull. IV. N° 77.

³⁷ "Competition promotion issued by Article 42, Alinéa 2, the civil procedural code, applicable in the international order, does not allow for any French jurisprudence to protect against the demand of the country and another. Domicilié code in France does not appear in the past, in the order of this dear, a serial card, but connects to a new device on demand against the default messages. », Cass. Com., April 13, 2010, next month : https://www.legifrance.gouv.fr/juri/id/JURITEXT000022109158?init=true&page=1&query=09-11.885&searchField=ALL&tab_selection=all.

³⁸ Hafiza Al-Sayed Al-Haddad, General Theory of Private International Law, previous reference, p. 103.

to be serious and real.³⁹In line with this, French judicial rulings have been issued repeatedly in this regard and regarding this condition, as the Court of Appeal issued (Rouen)A ruling dated May 18, 1989, and based its ruling on the fact that the second paragraph of Article 42 of the Code of Administrative Civil Procedure is not applicable when the defendant is fictitious and not directly connected to the dispute. In line with what was mentioned, the Court ruled (Aix en Provence)In its ruling issued on February 22, 1994, in the case of the ship's trustee being sued, even though he was merely its agent without having any responsibility in this regard, as long as this jurisdiction was based on artificiality, because its purpose was to deprive the ship's outfitter of appearing before his natural judge.⁴⁰Accordingly, it is not appropriate to extend the jurisdiction of the national judiciary to persons in a judicial dispute who are not subject to it.⁴¹However, there are cases in which the condition of actual plurality of defendants is not met, the most prominent of which are: (that the plurality of defendants is embodied in one person from a legal standpoint, such as the situation that imposes one company with several branches affiliated with it. - The assumption that the plaintiff abandons the first defendant whose position in the dispute has formed an extension of the rest of the defendants in the suit - if the defendant is committed to submitting documents that would be useful in the suit and in order to assist the judiciary.⁴²

The defendants are original defendants in the lawsuit.

It is understood from this condition that if some of the defendants are brought in as original defendants and others as precautionary defendants, and when the court's jurisdiction returns to the others without the first, then it is not competent to hear the case.⁴³This is what Egyptian jurisprudence has adopted, and it is the same result that was adopted by the old Civil and Commercial Procedures Law through Article 55/2. As for the new Procedures Law, it dealt with it through the text of Article 49/02. In this context, it is required when applying this text that the defendant who filed the lawsuit before the competent court of his place of residence should not have been sued in a subsidiary capacity, as if he were considered a mere guarantor or surety. On this basis, it is not permissible to sue the rest of the defendants before the court of his place of residence⁴⁴.

Third: That one of the defendants be resident in the territory of the State.

According to this condition, we are faced with two hypotheses. The first is the jurisdiction of the court before which the dispute is brought, in its capacity as the court of domicile or residence of one of the defendants in the suit, and at the same time it has the jurisdiction to decide on the original claims related against the defendants when one of them has a domicile there. However, this hypothesis is self-evident and does not pose any difficulty, as the idea of multiple defendants according to judicial jurisdiction in this regard goes back to the court of the defendant's domicile. As for the second hypothesis, it appears when the jurisdiction here is based on another of the recognized controls and is not based on the rule of the court of the defendant's domicile. From this standpoint, the state's courts' jurisdiction to consider the case of multiple defendants is the inevitability of the domicile or residence of one of them in the state⁴⁵. And when jurisdiction in the event of multiple defendants does not raise any difficulty in the event that one of the defendants is considered a resident or domiciled in the territory of the state, except that the jurisprudence differed in its positions on the issue of the extent to

³⁹ The same reference, the same page.

⁴⁰ The same reference, pp. 103-104.

⁴¹ Mahmoud Lutfi Mahmoud Abdel Aziz, the previous reference, p. 119.

⁴² Look:Wasam Tawfiq Abdullah Al-Kutbi, the previous reference, pp. 74-75.

⁴³ Kamal Samia, the previous reference, p.50.

⁴⁴ Hesham Ali Sadiq, Private International Law, previous reference, p. 183, Hafiza Al-Sayed Al-Haddad, General Theory of Private International Law, previous reference, p. 102, see also, Akasha Muhammad Abd Al-Aal, International Civil and Commercial Procedures and the Enforcement of Foreign Judgments, previous reference, p. 58.

⁴⁵ Look,Kamal Samia, the previous reference, pp. 51-52.

which it is permissible to grant jurisdiction to national courts when one of the defendants is subject to another rule other than the rule of domicile or place of residence⁴⁶.

Some Egyptian jurisprudence considers that for the Egyptian judiciary to have jurisdiction over the issue of multiple defendants, it is necessary that it be convened based on the availability of a place of residence or domicile of one of the defendants in Egypt. However, if the Egyptian courts have jurisdiction based on other rules regulating jurisdiction, then the Egyptian judge is not competent to consider the dispute with respect to the rest of the defendants, but their right remains valid and guaranteed to submit the plea of the lack of jurisdiction of the Egyptian courts.⁴⁷ Another trend in jurisprudence holds that there is nothing to prevent the Egyptian court from extending its jurisdiction over all defendants, provided that it has jurisdiction over one of the defendants, in accordance with other controls in force in the field of international judicial jurisdiction, according to the Code of Civil Procedure.⁴⁸ As long as the jurisdiction based on the multiplicity of defendants is due to the idea of connection, and whenever the lawsuit filed against one of the defendants according to one of the criteria of jurisdiction addressed by most civil and administrative procedures laws is considered connected to the lawsuits directed to the rest, and on the practical level there is nothing preventing the judge from ruling on the last lawsuits connected to the first lawsuit according to the general rules in effect in this regard⁴⁹.

From another perspective, when the lawsuit filed against one of the defendants is based on one of the criteria of jurisdiction, and when this lawsuit is linked to the requests directed to the rest of the defendants, in this case, jurisprudence believes that two important matters should be taken into consideration regarding the international jurisdiction of the courts against the rest of the defendants:

- **The first order** If it comes to jurisdiction based on the idea of multiple defendants, then here jurisprudence holds that Egyptian courts no longer have jurisdiction over the rest. According to this rule (voluntary submission) based on acceptance is only valid for the one who issued the acceptance and the assumption of acceptance of the rest is not accepted.
- **The second matter:** It is based on the assumption that jurisdiction is granted to Egyptian courts in the event of multiple defendants. This does not apply in the event that it relates to a real estate lawsuit that includes a property located abroad or what is known as (exclusive jurisdiction)⁵⁰.

Perhaps it is useful to emphasize that traditional jurisprudence sees the necessity of unity of jurisdiction when there are multiple defendants, and they emphasize that it is only valid in one aspect, which is bringing jurisdiction to the national courts and not depriving them of it, because that would lead to a reduction in the sovereignty of the state and depriving it of performing its justice in its territory.⁵¹ Modern jurisprudence has preferred that national courts relinquish their jurisdiction to hear the case in this case when it becomes clear that the foreign judiciary is the most appropriate and capable of deciding the dispute, guaranteeing the effects of the judgment issued in this regard, and implementing it.⁵² On this basis, traditional jurisprudence has been criticized for its unconvincing

⁴⁶ Mahmoud Lotfi Mahmoud Abdel Aziz, the previous reference, p. 120.

⁴⁷ Akasha Muhammad Abd al-Aal, International Civil and Commercial Procedures and the Enforcement of Foreign Judgments, previous reference, p.59.

⁴⁸ Hisham Ali Sadiq, Private International Law, previous reference, p. 184.

⁴⁹ The same reference, pp. 184-185.

⁵⁰ Akasha Muhammad Abd al-Aal, International Civil and Commercial Procedures and the Enforcement of Foreign Judgments, previous reference, p. 60.

⁵¹ Review the position of traditional jurisprudence on the national judiciary's relinquishment of its jurisdiction.:Ezz El-Din Abdullah, the previous reference, p.729.

⁵² CheckalsoIn the position of modern jurisprudence on relinquishing international jurisdiction, Hisham Ali Sadiq, the extent of the Egyptian judiciary's right to relinquish its international jurisdiction in civil and commercial disputes, the previous reference, pp. 15-16.

conception and its potential to lead to legal isolationism and ignoring the nature of international private relations. From another perspective, modern jurisprudence believes that a national judge may relinquish his jurisdiction when a set of conditions are met, the most important of which are:

- There is a serious link between the dispute and the foreign court.
- If the foreign court is the most appropriate to resolve the dispute and ensure the implementation of the judgment issued in this regard
- Meeting the requirements of the proper administration of justice and achieving the interests of the parties⁵³.

Conclusion

This study shows that the presence of multiple defendants serves as a legal mechanism aimed primarily at unifying the litigation process before a single court. This helps to streamline procedures and prevent contradictory rulings. Most comparative legal systems have supported this principle while setting clear conditions. The most notable of these include the connection between the claims, the genuine existence of multiple defendants, and the residence of at least one of them within the state's territory.

It also appears that the Algerian legislator, similar to the French and Egyptian legislators, has adopted the principle of connection as a legal foundation. The legislator has expanded its application both in domestic and international jurisdictions. This reflects an awareness of the need to adapt to the reality of modern disputes, which often involve multiple parties and intertwined interests.

However, this principle presents certain challenges in practice. Among them is the attempt by some parties to bypass jurisdictional rules by introducing fictitious defendants. Another issue is the conflict between national autonomy and the requirements of international justice. Therefore, maintaining a balance requires the establishment of clear and objective criteria that allow courts to decide disputes in a unified manner without exceeding their natural jurisdictional limits.

In conclusion, the existence of multiple defendants remains one of the key tools in ensuring the effectiveness of the judiciary, provided that the legally established conditions are respected. This ensures the stability of legal transactions and protects the rights of the parties involved.

References

I. Books

1. Ezz El-Din Abdullah, *Private International Law, Vol. II: Conflict of Laws and International Jurisdictional Conflict*, 9th ed., Egyptian General Book Organization, 1986.
2. Hafiza El-Sayed El-Haddad, *The General Theory of Private International Procedural Law, Vol. II (International Jurisdiction and Enforcement of Foreign Judgments and Arbitration Awards)*, Halabi Legal Publications, Beirut, 2004.
3. Hicham Khaled, *Private International Procedural Law*, University Thought House, 1st ed., Alexandria, 2012.
4. Hisham Ali Sadiq, *Private International Law*, University Thought House, Alexandria, 2005.
5. Nabil Saqr, *The Intermediate Explanation of the Code of Civil and Administrative Procedures*, Dar Al-Huda for Printing and Publishing, Ain M'lila, Algeria, 2008.
6. Okasha Mohamed Abdel-Aal, *International Civil and Commercial Procedures and the Enforcement of Foreign Judgments*, University Publications House, Alexandria, 2007.
7. Wissam Tawfiq Abdullah Al-Kutbi, *Considerations of Justice in Determining International Jurisdiction (A Comparative Study)*, New University House, Alexandria, 2011.

⁵³ Akasha Muhammad Abd al-Aal, *International Civil and Commercial Procedures and the Enforcement of Foreign Judgments*, previous reference, pp. 60-61.

II. Theses

1. Kamal Soumaya, Application of the Lex Fori in Private International Disputes, PhD thesis in Private Law, Faculty of Law and Political Science, Abou Bekr Belkaid University, Tlemcen, 2015–2016.

III. Academic Articles

1. Ben Chab Naïma, The Role of Domicile as a Determinant of International Jurisdiction in Algerian Law, Annals of the University of Algiers 1, Faculty of Law, Vol. 34, Issue 1, 2020.
2. Mostafa Ahmed Al-Darraj, The Principle of Procedural Economy in Litigation (A Study in the Libyan Code of Civil Procedure), Journal of Legal Research, Issue 12, 2021.
3. Yasser Subhan Hamad, Multiple Defendants and Claims and Their Impact on the Determination of International Jurisdiction, Journal of the Faculty of Law and Political Science, Iraqi University, Iraq, Vol. 1, Issue 9, 2021.

IV. Jurisprudence

1. Cass. Com., 13 April 2010, appeal no. 09-11.885, Bulletin IV, no. 77.

V. Website

1. [Legifrance - Jurisprudence Cass. Com., 13 April 2010](#)