

DISREGARDING CONSTITUTIONAL ENTITLEMENTS THREATENING COURTS OF FELONIES STABILITY



المركز العربي لاستقلال القضاء والمحاماة
THE ARAB CENTER FOR THE INDEPENDENCE OF
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(ACIJLP)



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The Justice Support Foundation affiliated by The Arab Center for the Independence of the Judiciary and the Legal Profession (ACIJLP) warns against the critical judicial consequences of the government disregarding binding constitutional entitlements regarding regulating the right to litigate at two levels in Felonies lawsuits, which, according to article no.240 of the constitution, are decided to be abolished by the 17th of current January, 2024.

The constitution has established the right to two-level litigation in criminal lawsuits, in accordance with Article no.96 of the Constitution. Article no.240 of the Constitution has set a deadline for implementing this right of ten years starting from the date of issuance of the Constitutional Document on January 18, 2014, as it explicitly stipulated that: "The State shall ensure providing financial and human resources necessary to appealing the judgments issued by criminal courts on felonies within 10 years from the date on which this Constitution comes into effect. The foregoing shall be regulated by Law".

The text of Article no.240 came addressing the legislative deficiency in guarantees of fair justice in Egypt, as Egyptian law excludes criminal judgments from the right to appeal, despite that exception violating criminal justice standards, and contradicts the International Covenant on Civil and Political Rights, which became internal law by Law no.536 of 1981. The text came entrenching the Egyptian human rights movement demands, which has long called for the legalization of this right being one of fair trial standards, including the ninth recommendation of the "Cairo Declaration on the Independence of the Judiciary in the Arab Region 2003"

<http://acijlponline.org/archive/conferences.5.asp>

and Recommendation 18 of the "Judicial Reform Conference in Egypt 2006"

<http://acijlponline.org/archive/conferences.5.asp>

The new 2014 constitution has considered recognizing the right to appeal on criminal rulings, asserting upon the right to criminal justice, giving the government a maximum

period of ten years starting from its issuance date. However, until publishing this statement, the government had not implemented the necessary legal regulations for this right, despite the ticking clock of the constitutional deadline expiry date.

The Justice Support Foundation affiliated by the Arab Center for the Independence of the Judiciary and the Legal Profession (ACIJLP) confirms that the expiration of the constitutionally specified deadline for organizing the appeal of felony rulings threatens the stability of the judiciary of the Egyptian criminal courts, and portends a serious danger that will threaten the stability of one of the pillars of criminal justice, especially since the specified deadline is binding as well as mentioned in the text of a constitutional article with decisive significance.

The Institution confirms that missing the constitutionally specified deadline for regulating the appeal of criminal rulings will result in serious legal consequences, including the impermissibility of criminal rulings enforcement issued after January 17th, as they become non-final rulings and have many other legal implications.

The Justice Support Foundation affiliated by the Arab Center for the Independence of the Judiciary and the Legal Profession (ACIJLP) calls on the Egyptian government and legislative institutions to accelerate the implementation of the binding constitutional entitlements, provided that this implementation takes place through a broad societal dialogue with the participation of civil society organizations, legal experts, and Egyptian university professors. The institution also assures following up on the implementation of this important criminal justice entitlement, working by all legal means to implement it as fast as possible in a way that ensures that the