

Chapter IX : Dispute Resolution

Litigation & Enforcement of
Foreign Judgments

Commercial & civil Disputes

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- **Principle of two-stage appeal:** the **losing party** is able to have the **decision reviewed** by another independent judges. The court determining an **appeal will correct errors** by the trial judge and the right of appeal **ensures** that, as far as possible, **courts arrive at correct decisions**.
- **Types of Egyptian Courts**
 1. **General Courts**
 2. **First instance Courts**
 3. **Courts of Appeal**
 4. **Cassation Court**

General Court

- has **jurisdiction** over civil and commercial **claims not exceeding LE 100,000**.
- Judgments issued by the general courts **are not** subject to appeal ***if*** the amount in dispute is **less than or equal to LE 15000**

First instance Court

- has jurisdiction over claims equal to or greater than LE 100,000 EGP.
- Judgments issued by the courts of first instance are **not** subject to appeal *if* the amount in dispute equals to LE 100,000.

Court of Appeal

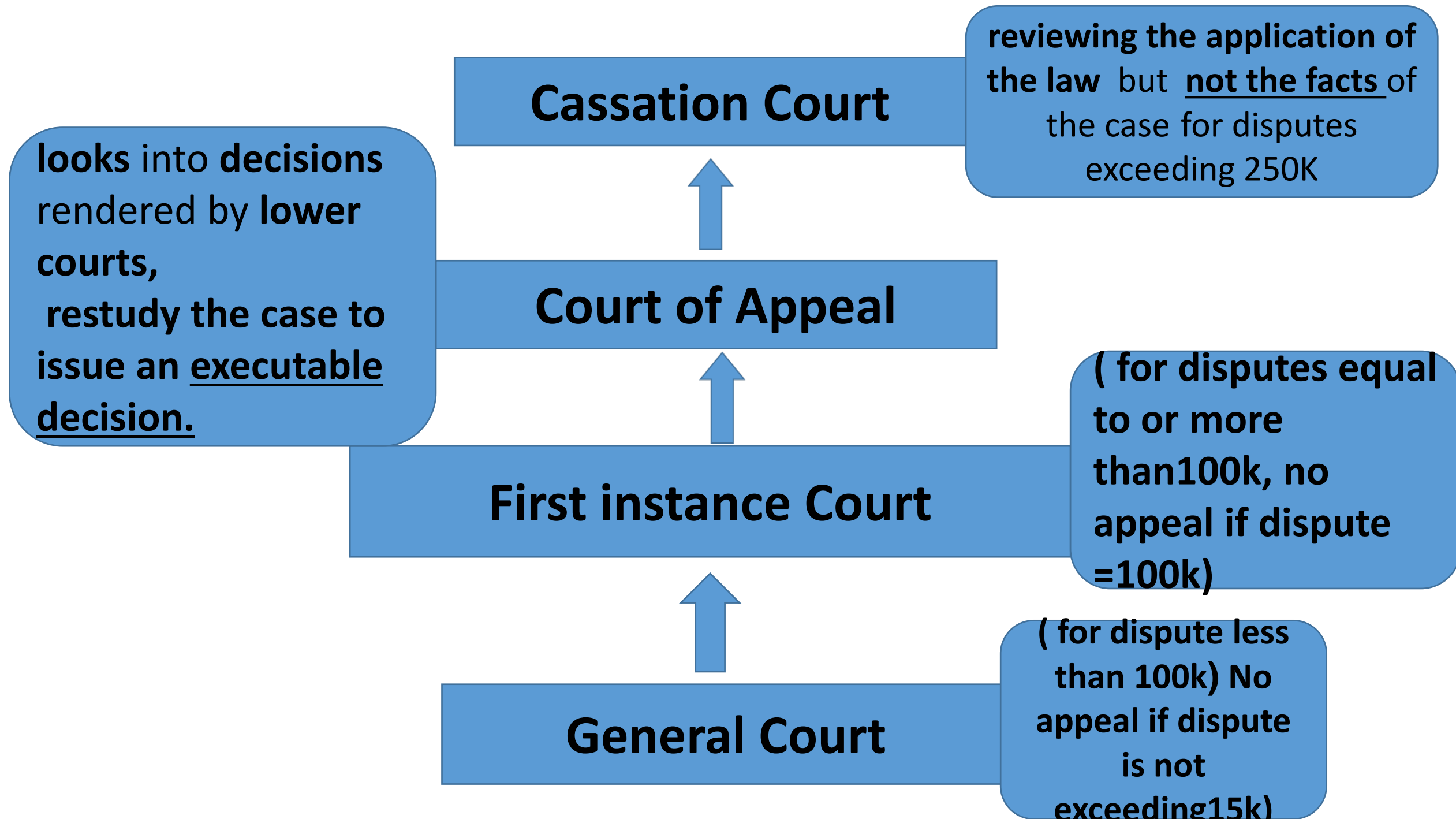
- **looks** into challenges to **decisions** rendered by these **lower courts**
- **restudy** the case to issue an executable decision.

Cassation Court

- court of last resort on questions of law:

has only the power of **reviewing the application of the law** but not the facts of the case for disputes exceeding 250K.

- It is located in **Cairo** and has **several divisions** for criminal, civil, commercial, family and inheritance matters.
- The Court of Cassation **was established to unify the law.**



Case

- Ahmed had sold his car to his friend Layla for 250,000EGP. After delivering the car, Layla paid 50% as down payment refusing to pay the rest of the price. Ahmed is going to sue her. **Advise Ahmed on possible litigation procedures before Egyptian courts.**

Answer

- He can sue her in the first instance court because the amount of the dispute is higher than 100k and if he is not satisfied with the judgment, he can file an appeal in the court of appeal. Finally, he doesn't have the right to file case in the cassation court because the dispute is less than 250k and the cassation court is competent only to correct any mistake in the application of the laws but won't restudy the facts of the case.

Administrative disputes

- **Council of state:** Has jurisdiction over any **dispute the government is involved in** and to **Cancel any administrative decision**
- **Administrative Prosecution:** investigate **infractions and financial crimes committed by public service employees** and file cases before the disciplinary courts.

The Economic Courts

- **specialized courts** that are integrated into the overall system
- the **jurisdiction** of the Economic Courts includes **all criminal** as well as **civil/commercial disputes** .
- Economic Courts will have the jurisdiction to decide on all applications relating to the "execution" of substantive decisions **relating to its jurisdiction**.

the jurisdiction of the Economic Courts

- Company Law; • Capital Markets Law; • Investment Law; • Financial Leasing Law; • Mortgage Finance Law; • Intellectual Property Protection Law; • Banking Law; • Investment Companies Law; • Protection from Bankruptcy provisions in the Code of Commerce; • Competition; • Investor Protection Law; • Communication Regulation Law; and • Electronic Signature Law.

The Economic Courts Procedures

- a judge to "prepare" the case before it is submitted to the Court.
- **The process of "preparation"** involves a **hearing** of the parties, **completing the file**, attempting an **amicable resolution** of the dispute and in general **ensuring** that once the file is submitted to the Court, **will not be delayed** as a result of the absence of any documents or any failure to complete any pre-trial procedures.
- **process of preparation** may only take up to **sixty days** at most .
- use of **experts** from the business community and **outside** experts employees of **the Ministry of Justice**

The Recognition and Enforcement of Foreign Judgments

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- Egypt has adopted the **principle of reciprocity**, according to which **foreign judgments are recognized and enforced**

if

- the **foreign law** provides **equivalent proceedings for the recognition and execution of Egyptian judgments** with a cursory review
- the recognition of foreign judgments is **effected** by '**exequatur proceedings**' before the court of first instance.

requirement for recognition and execution of foreign judgment

- the foreign judgment must be a **final** judgment.
- it must **not conflict** with any **judgment on the same matter** already **issued** in **Egypt**.
- **Not** to be in **conflict** with **Egyptian laws**.
- **foreign court** must have had **jurisdiction** to decide the matter **exclusively** = an **egyptian court** had **no jurisdiction on the matter**
- the **parties** were duly **notified** and **represented** before the **foreign court**