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### **Contradictory legal judgments A study in the Jordanian Civil Procedure Code**

**Dr. Mashal Mufleh Jarrah**

Assistant Professor, faculty of law, Amman Arab University, Jordan.  
Email Correspondent: [mashal.jarrah@aau.edu.jo](mailto:mashal.jarrah@aau.edu.jo)

**Dr. Mohamed F. Ghazwi**

Email Correspondent: [Dr. Mohamed F. Ghazwi](mailto:Dr. Mohamed F. Ghazwi)  
Deputy Dean of Faculty of Law, Al-Zaytoonah University, Jordan

**Received:**

#### **Abstract**

The purpose of issuing judgments is to protect rights. Courts may issue many judgments, and these judgments may contradict each other, or a single judgment may contradict its parts, and in order for the contradiction to be considered, there must be a union in the subject, the reasons, and the parties. By contradicting the provisions and clarifying the forms of contradiction with these provisions, the researcher used the descriptive-analytical approach by analyzing the legal texts related to the subject of the study and the comparative approach. In order to enrich the study and reach the desired results, and the researcher reached a number of results and recommendations, one of the most important results for the contradiction to be considered, there must be two judgments, one of which is issued in contrast to the other between the same opponents and for the same reason and subject.

#### **Keywords**

Judgment, contradiction, pronouncement.

#### **First: the importance of the study:**

The courts issue many rulings after the conclusion of the trial chapter, so that its separator is in the subject matter of the case, and these rulings may conflict with each other. There is a contradiction in which certain images must be available, and a contradiction may occur between the same judgment, such as the contradiction between the reasons for the judgment and its utterance, or between the parts of the one uttered, and this contradiction affects the purpose of the judgment, which is implementation, as it is difficult to implement ([Al-Hajjar, 2002](#)).

## **Second: The problem of the study:**

The main problem of studying the contradiction of human rights judicial rulings, a study in the Jordanian Civil Procedure Code, lies in the adequacy of the texts contained in the Jordanian Civil Procedure Code in absorbing the various aspects of this subject and the adequacy of the solutions provided by these texts to the problems and questions it raises. ([Al-Zoubi, 2019](#))

## **Third: Study questions:**

To answer the main question, which is when are the human rights judicial rulings issued by the courts contradictory?

Several questions are raised, including:

What is the legal ruling and its types?

What is meant by the contradiction of legal judgments?

What are the contradictions in legal judgments?

## **Fourth: Study Objectives:**

The study of the issue of contradiction in human rights judicial rulings, a study in the Jordanian Code of Procedure, aims to achieve many goals, the most important of which are:

Clarify what is meant by contradiction.

Determining images of contradictory rulings.

A statement of the legal judgment and its types. ([Al-Sabawi, 2017](#))

## **Fifth: Study Methodology:**

In studying the issue of contradiction in human rights judicial rulings in the Jordanian Code of Procedure, the researcher will adopt an integrated methodology to find a clear and comprehensive framework for analysis, among the most prominent of these approaches:

### **The descriptive analytical approach:**

This is done by reviewing the legal texts related to the subject of the study contained in the Jordanian Civil Procedure Code and any other texts related to the subject, analyzing and describing these texts and describing them accurately, explaining the aspects related to the variables of this study and its criticism.

### **The comparative approach:**

By comparing with some Arab laws such as the Egyptian Civil and Commercial Procedures Code, whenever possible.

### **Sixth: Study plan:**

In order to answer the various questions raised by the issue of conflicting human rights judicial rulings in the Jordanian Code of Procedure, the researcher decided to divide this study as follows:-

#### **The first topic:**

The concept of contradiction in legal judgments and their types. The second topic: Pictures that contradict legal judgments.

#### **Conclusion:**

Results and recommendations.

#### **The first topic**

The concept of contradiction in legal judgments and their types. To talk about the contradiction of judgments, it is necessary to clarify what is meant by contradiction, as well as legal judgments, and to clarify the types of those judgments, and this will be done through the following demands:

#### **The first requirement**

The concept of both contradiction and legal judgment  
The concept of contradiction and the concept of legal judgment will be clarified through the following sections:

#### **First branch Contrast concept**

##### **Idiomatically inconsistent:**

A direct conflict in the elements of the ruling or evidence and another ruling that leads to the impossibility of implementation. The Egyptian Court of Cassation held that: (The contradiction in the legal terminology does not differ from its linguistic meaning, which is achieved by the contradiction and the conflict between the previous and subsequent judgments. Which leads to a requirement in a later lawsuit in agreement with what was ruled in a previous lawsuit. The researcher defines inconsistency as a conflict between the elements of a single judicial ruling that the adoption of some elements without the other leads to a different result than if the other elements were taken, or between two judicial rulings that the conclusion reached by the two judgments is different from each other.

## **Second branch**

### **The concept of legal judgment**

Judgment language: (The ruling is the judiciary and the hyphen of the prohibition. It is said that I judged him with such. If I prevented him from disagreeing with him, he was not able to get out of that, and I judged between the people, and I decided between them, so I am the judge). Judicial judgment, idiomatically: It is every decision issued by the court that settles a specific dispute, whether that decision was during the litigation or to put an end to it. The Journal of Justice defined the ruling in Article (1786) as: "The ruler cuts off the litigation and resolves it." A judicial ruling is the ruling issued by a court formed under the law and decides on the dispute as a whole or part of it, or in a matter branching from the dispute.

### **The second requirement**

#### **Types of legal judgments**

The Jordanian Civil Procedure Code shows the types of judicial rulings that are issued in judicial litigation and divided them into several sections as follows:

#### **First: Breaking provisions in the subject and procedural provisions.**

The rulings that decide the subject matter are those rulings on requests and substantive defenses, such as the rulings that bind the defendant to what the plaintiff claimed. As for the procedure, it decides on more complex issues and procedures that arise during the consideration of the case.

#### **Second: Peremptory rulings and non-peremptory rulings, and this is in terms of their enjoyment of authenticity.**

This division relates to the extent to which judicial rulings acquire authority: a definitive ruling: is the ruling that puts an end to the dispute in its entirety, in part thereof, or in an issue subsisting from it. It may be a temporary judgment or related to the progress and realization of the litigation.

#### **Third: Provisions that terminate litigation and do not terminate litigation.**

This division came based on the lifting of the hand of the court, which is present in the case, for it: the judgment that terminates the litigation is the judgment that leads to the removal of the hand of the court from the case it is considering, as for the judgments that do not terminate the litigation, they do not remove the hand of the court that is present in the lawsuit because it does not lead to the fact that it is the litigation.

#### **Fourth: Judgments in terms of their susceptibility to appeal are primary, final, possessing the force of the thing judged, and final.**

The purpose of this division refers to the description of the judgments at the time of their issuance. The judgment shall be considered preliminary if it is subject to appeal by the

usual methods, which are: (the appeal and the objection to the conciliation judgment issued is considered adversarial). As for the final judgment, they are judgments that are not subject to appeal when issued by ordinary means, that is, they have the force of the case that has been decided, and the judgment of the holder of that power may not be challenged by ordinary methods, even though it may be appealed by unusual methods, which are: (such as cassation, retrial, objection of others). As for final rulings, they are rulings that may not be appealed by any of the ordinary or extraordinary means of appeal ([Dr.Mishaal Mufleh Jarrah](#)).

**Fifth: Judgments in terms of attendance and absence are divided into: adjudications in presence, rulings as adversarial, and legal precepts.**

These judgments are divided in terms of their issuance in the presence or absence of the litigants, adversarial verdicts are the verdicts that are issued in the presence of the litigants in all court sessions, and the judgments issued as adversarial are the rulings that are issued in the absence of the litigants and their non-attendance at all court sessions. Issued in the event that the litigants attend some court sessions and their absence from other sessions, with the exception of the judgment pronouncement session. Accordingly, the divisions of judgments issued by the courts were based on multiple bases such as adjudication of the issue and non-adjudication of it, and in terms of their enjoyment of the authority of the res judicata, judgments ending litigation and other appealable ones, as well as in the presence and absence of litigants for court proceedings.

**The second topic**

Pictures contradict the legal judgments. Most Arab legislations stipulate contradiction in provisions, such as the Jordanian Code of Civil Procedure, as Article (3/198) of it states: (It is not acceptable to appeal against judgments in cassation except in the following cases: 3- If the judgment is final in contravention of another judgment previously issued between the litigants. Cassation: It is (an unusual way of appeal, which aims to present the contested judgment to the Court of Cassation, with the aim of canceling it for violating the provisions of the law). And Article (213/6) of the same law stipulates: (The litigants may request a retrial in the judgments that gained the power of the case in one of the following cases: 6- If the judgment's text contradicts each other). A retrial is an extraordinary way of appealing the judgments that have the power of the case that has been decided by one of the litigants before the court that issued the judgment with the intention of reversing it, for one of the reasons stipulated by law exclusively, and all of them are based either on an error in the procedures or an error in reality that is not attributed to the court that issued the appealed judgment) Article (249) of the Egyptian Civil and Commercial Procedures Law stipulates: (The litigants may appeal before the Court of Cassation in any final judgment - whatever the court that issued it - to settle a dispute in contrast to another judgment that was previously issued between the litigants themselves and obtained the res judicata). Discrimination, or what is called (cassation), aims to cancel the contested judgment for violating the law, and therefore it is not permissible to appeal against discrimination except in the cases stipulated by law exclusively (2). As for the retrial, or what is called (the petition for reconsideration), the aim is to withdraw the judgment issued by the court due to an unintentional omission, an unintended mistake, or because of the convict's act, and to review the case from a new one. The Jordanian Court of Cassation ruled that: (Prove the contradiction in the judgments when the unity of the litigants, the reason, the place, and the subject matter. Whether or not the

two rulings differ in what they include is whether one of them is considered contradictory and contradictory to the other. The Egyptian Court of Cassation ruled that: (The legislator, in Article (249) of the Pleadings Code, permitted the appeal of any final judgment, whatever the court that issued it, in one case by way of exception, which is the case of the judgment's violation of a previous judgment issued between the litigants themselves, and it gained the power of the *res judicata*." It also ruled: (The final judgment issued in contrast to a previous judgment issued between the litigants themselves in the same dispute and gained the force of the *res judicata*, the permissibility of appealing it by way of cassation does not change that in that the factual elements of the previous judgment are not submitted to the court. The contradiction in juridical judgments is the conflict of those judgments with each other as a contradiction between two judgments issued by the same parties and for the same reason. Failure to pay and the contradiction in the same legal judgment may be like the contradiction of the reasons with each other or their contradiction with the judgment's utterance. The contradiction is in two forms, such as: the contradiction of two rulings with each other, or the same ruling, and these forms will be addressed through the following two requirements:

### **The first requirement**

Two court rulings contradict each other. The two judgments contradict each other, there are two judgments in one issue in a different way, so that it is impossible to implement either of them, and there is no contradiction if the second judgment decides in accordance with the first judgment, and also if the second judgment comes in an explanation of the first judgment and clarifies its purposes and objectives, and the contradiction is also negated if what was mentioned in the second judgment is only a passing description of the subject matter of the dispute, on which the first judgment was decided. The two legal judgments are required to be final issued between the same litigants with the same legal qualities, related to the same subject and based on the same reason, and it is stipulated that these two judgments be contradictory, so that the final judgment is in contrast to a previous final judgment. The two judgments shall be deemed to have been rendered in one dispute if the previous judgment had settled a comprehensive issue around which the dispute arose, and the last judgment had resolved a part of this issue, as well as if the first judgment had determined the rent of a leased property after the two parties disputed about it, and then a lawsuit was filed to claim the wage for a later period, a ruling was issued that contradicts the previous ruling in terms of determining the wage. And if the two judgments were issued by two different courts, they must be related to one judicial authority, because if one of the two judgments is affiliated with the regular judiciary and the other judgment is issued by the administrative or religious judiciary, then there is no contradiction in the judgments. Conditions for these two provisions and these conditions are:

#### **First: Possession of the first judgment in possession of the power of the adjudicated case**

Judgments that have the force of a decided case are those that are not subject to appeal by any of the ordinary means of appeal, even if they are subject to appeal by extraordinary means. It is not required for the first judgment to have the force of the case decided since its issuance. Rather, it is sufficient for it to possess that authority after its issuance, by the expiration of the deadline for appealing it by ordinary means. It does not require a specific court. Rather, the first judgment may be issued by the court of first instance or the court of second instance of appeal. Or the Court of Cassation, and the judgment may

be issued by the same court that issued the second judgment, or otherwise. The Jordanian Court of Cassation ruled: (And since it is established in jurisprudence and jurisprudence that the judgment possesses the final degree or the force of the adjudicated case, if the dispute has arisen between the litigants themselves without changing their attributes and the dispute is attached to the right itself, subject and cause....)If one of the two judgments is subject to appeal by ordinary means, then there is no room for contradiction because the contradiction can be removed by appealing the ruling in this way. The two contradictions do not remove the force of the adjudged case; it is not removed by appeal by extraordinary means. The question arises, is the fulfillment of one of these conditions sufficient, or must they be met together in order for the decrease to be raised? These conditions must be met together in order for a contradiction to occur, and then to challenge the second judgment on the grounds of contradiction with the first judgment, and this is between two judgments issued by two different courts. ([Mahmoud, 2006](#))

### **Second: The second judgment must be final.**

That is, to issue a judgment from a court of the second degree, and this court may be of a higher degree than the court issuing the judgment or equal to it in degree, provided that this judgment has exhausted the ordinary methods of appeal (appeal, objecting to the conciliation judgment issued as adversarial) and the extraordinary (cassation, objection of others, retrial).

### **The final judgment:**

Is the judgment that is not subject to appeal by appeal, and it includes judgments issued by the trial of the second degree, which is the Court of First Instance in its appellate capacity and the Court of Appeal, because the appeal is only made once, because the appeal to the appeal is not permissible, as well as judgments issued by the courts of first instance and have expired The period of appeal. The judgment that is not subject to appeal is considered final, and if it is issued in violation of another judgment, there is a contradiction between the two judgments that may be appealed by cassation in order to resolve that contradiction and issue a judgment which of the two judgments is enforceable, knowing that the contradiction is not by the issuance of the first judgment but by the issuance of the second judgment.

### **Third: To issue the two judgments between the same litigants.**

This is what is called the union of litigants, whereby the litigants in the second lawsuit are the same in the lawsuit in which the judgment was issued without their qualities changing, meaning that the plaintiff remains a plaintiff and the defendant is a defendant in the first and second lawsuits. It leads to a contradiction between the two judgments, as the plaintiff in the first lawsuit is not a plaintiff in the second lawsuit. The Jordanian Court of Cassation ruled: (Unity of the litigants, i.e., that the dispute exists between the litigants themselves without their characteristics changing) Accordingly, in order for there to be a contradiction between the two judgments, the subject and reason for the two judgments must be the



**Fourth: That the dispute relates to the same right in terms of location and reason.**

The Jordanian Court of Cassation defined the subject matter of the case as: The right requested by the litigant or the interest that he seeks to achieve by litigation, whether that right or that interest is related to something material or not. The subject matter of the lawsuit is what the litigant demands, and it is usually a right protected by law and what is disputed about, and the place in the two lawsuits must be one until the contradiction arose. But if the place in the first lawsuit differs from the second lawsuit, then the contradiction is not aroused, such as the one who files a lawsuit claiming it to rescind a contract, then the lawsuit is rejected, then he files a lawsuit to prevent an opposition. As for the reason, the Jordanian Court of Cassation also defined it as: the legal source of the claimed right or the claimed legal benefit, or it is no more than that the incident to be proven is a material agreement or legal action. The reason for the wages claim is the rental contract, and the reason for the labor rights claim is the work contract. If the subject of the second lawsuit changes from the subject matter of the first lawsuit, then the judgment issued in the first lawsuit is the plaintiff's ownership of the real estate in the lawsuit due to inheritance as one of the reasons for acquiring ownership, and in the second lawsuit his ownership is due to the sale contract. The Jordanian Court of Cassation ruled: (It is intended by the unit of the place and the reason that the subject matter of the case in which the first judgment was issued is the same subject in the case, the subject matter and the cause, and the unit of the place is intended that the subject matter of the case in which the first judgment was issued is the same subject matter in the current case). The question arises about the judgments issued in urgent matters, is there a contradiction between them and another judgment issued on the merits of the case? The judgment issued in the temporary procedure does not have the validity of the order residing in it with respect to the origin of the dispute, and due to the nature of the summary judgments, there can be no contradiction between them and another judgment issued in the subject matter of the dispute. A substantive issue, the final ruling issued by the trial court after considering this suspended ruling must be implemented; it is not valid to appeal it on the grounds that it is in violation of the previous ruling issued by the impossible judiciary. ([Judges, 2020](#))

**The second requirement**

**The contradiction in the same legal ruling**

The contradiction in a single judgment is achieved when the judgment establishes its judgment on several issues, the adoption of one of them leads to a specific result, while the adoption of another topic results in the opposite of the previous result, so it is not known which of these two topics is the one who the judgment was based on, the adoption of the first topic may result in the acceptance of the case, while the consequent The second topic is the rejection of the case, which results in the erasure of the reasons for the judgment and is tainted by invalidity, as it is free of reasons that are suitable for establishing its judiciary. The contradiction may be in a single judgment issued by a single court, such as the court of first instance (conciliation, first instance) and courts of second instance (appeal). The contradiction is not achieved between a judgment issued by the regular courts and a judgment issued by religious or administrative courts. The Jordanian Court of Cassation ruled: (And there is a contradiction in the ruling, as it decided to accept the appeal in form, as it decided to accept the appeal in form and then usually, and decided to reject the appeal in form, and the court



did not deal with this incident with some cassation. The Egyptian Court of Cassation ruled: (The subsequent appealed judgment should be inconsistent with what it has been decreed or based on what the previous final judgment has decreed, whether in the same issue or in a comprehensive comprehensive issue around which the dispute arose between the litigants in the two lawsuits, and its truth has been established between them with what the previous judgment decreed, whether in its utterance or the reasons closely related to the uttered. And this contradiction is usually the contradiction of the reasons for the judgment with each other, or with the utterance of the judgment as well as the contradiction in the same utterance, and this is what will be discussed through the following sections:

## **First branch**

### **The reasons for the same ruling contradict each other**

That is, the legal judgment is based on more than one reason, and these reasons are contradictory to each other, as some of these reasons cancel what other reasons prove, which may make the judgment free of the reasons necessary for its issuance, the contradiction in the reasons must be a real contradiction, and not just An apparent contradiction, such as a material error - which is corrected based on Article (168/1) of the Jordanian Judicial Procedure Code, which states: (The court shall correct the material errors that occur purely in writing or arithmetic. But if the The judgment is sound in terms of its outcome and is based on other valid and sufficient reasons, as this is not a contradiction and is not a reason to challenge the judgment([Harga](#)).In order for us to be faced with a contradiction in terms of the reasons for a single ruling, the following conditions must be met:

#### **First: The contradiction between the real reasons.**

The reasons are either factual or legal, the realistic reasons are (a statement of the facts and evidence on which the judgment is based in deciding the existence or non-existence of the fact or the basic facts of the judgment). In addition, includes the legal arguments on which the judgment is based).The question arises, what are the reasons for the contradiction of the same ruling? The lesson in the contradiction is between the realistic and not the legal reasons, because the legal reasons are a form of error in the application of the law, as well as the conflict between the real and legal reasons, that this is a mistake in the application of the ruling. The contradiction in the real reasons leads to hesitation and the erasure of those reasons, so the judgment becomes devoid of reasons, and this leads to the invalidity of the judgment. And this is what the Egyptian Court of Cassation went to, when it ruled: (The contradiction that corrupts the rulings is the one in which the reasons contradict each other, so they are erased, so that there is no left after that what the ruling can be carried out on, or what is true in the reasons so that it cannot be understood on what basis the court ruled what it ruled it's in spoken)([Talabeh 2016](#))

#### **Second, the contradiction is real**

In order for there to be a contradiction in the reasons for a single judicial ruling, the contradiction in the reasons must be serious and real, and not just an illusion that there is a contradiction. The serious and real contradiction in the reasons is achieved when those

reasons include two different directions so that one of them agrees with the uttered. To a operative counter to the verdict, since it is not possible to know which of the two directions the ruling is based on, which itself must indicate the correctness of its reasons.

## Second branch

The contradiction between the fundamental reasons for the judgment and the operative The contradiction between the reasons and the utterance is when the reasons contradict the utterance of the judgment (which is the judgment clause), which makes it difficult for the operative to build on the reasons. And she ruled: The contradiction that defects the judgment is what lies between the uttered and the reasons for which it was based in a court, regardless of the statements that may appear in its blogs in the course of a narrative of the opponents' defense. It is not considered a defect in causation by increasing the reasons as long as the reasons for the judgment in themselves are sufficient to carry it, and accordingly the judgment is not defective by its digression to confirm a point of view, when this digression is redundant to the need of the case and the judgment will be made without it, even if it would mention legal estimates or mention a legal article that does not It applies to the incident as long as the other reasons are valid, and also the judgment does not defect by referring the reasons to a judgment issued between the litigants themselves in the same case, as in the case of the Court of Cassation to the reasons for the appeal judgment. The contradiction between the reasons and the utterance of the judgment is achieved if there is a link between the reasons related to the uttered, so that each of them is related to the other, and the operative does not exist without them. To straighten out judgment without her. The Egyptian Court of Cassation ruled: There are no more than expressions that illusion that there has been a conflict between the causes, one with another, that does not contradict as long as the intent of the court is apparent and its opinion is clear. Third branch Contradictory utterance of the ruling itself. The text of the judgment is the judgment clause, so the contradiction must be in that paragraph without the contradiction that exists between the reasons for the judgment or between the judgmental paragraph and the reasons for the judgment. In order for there to be a contradiction in the judicial ruling, there must be a contradiction in the parts of the judgment itself ([Meligy](#)). The contradiction leads to the impossibility of reconciling the two provisions so that they cannot be implemented together, and such a contradiction is what occurs in the judgment clause of each of the two provisions. Close so that it enjoys with it the authority of the *res judicata*, because if this authority is limited in principle to the judgment clause, but it extends to include the imperatives closely related to it and which constitute the main pillar and the necessary support for it. The Jordanian Court of Cassation ruled: (In this respect, we find that the decision of the Court of Appeal was, in response to the reasons for the appeal relating to the appellant against him, concluded that the litigation of the appellant was invalid on the grounds that the defendant had a financial liability independent of the partners. In terms of the result, the decision issued by the appellant must be rescinded. The Court of First Instance, as it ruled to obligate the defendant and the defendant to pay the amount claimed, but in the judgment's verdict, it did not annul the appealed decision regarding what was presented and decided to dismiss the appeal and uphold the appealed judgment, which constitutes a contradiction in the parts of the judgment uttered with each other and leads to its nullity. It also ruled: (On the other hand, it should be noted that the judgment of the Court of Appeal contained a contradiction in the text of the judgment, as the court decided to dismiss the original and accessory appeals as a matter, and at the same time decided, on its own, to rescind the appealed judgment and to dismiss the case for the lack of validity of the litigation, in violation of the rule stipulated in

Article (169/3) of the Code of Civil Procedure, which does not allow the court to settle the position of the appellant with the appeal brought from him alone, which must be overturned because of the reasons for the appeal against him)([Sawi](#)).The contradiction in the judgment's wording is that the court has reached a conclusion that rejected the case against the defendant, but it ruled in the same sentence that the defendant must pay a sum of money. This is a contradiction in the wording of the single judgment. To challenge inconsistent legal judgments.

## **Conclusion:**

After studying the issue of conflicting human rights judicial rulings, a study in the Jordanian Civil Procedure Code, the researcher reached a number of results and recommendations, the most important of which are:

## **Results:**

1- There are multiple divisions of judgments, some of which are decisive in the subject, some of which are issued in the presence and absence of opponents, and some of them are primary, final, definitive, and possessing the power of the judge.

2- The contradiction between the judgments is between the same litigants, the same reason and the subject, and in judgments that have the force of the adjudicated case.

3- The contradiction between the judgments is between two judgments, one of which is issued in contradiction to the other, or in the parts of the same judgment, as the contradiction of the reasons with the uttered.

## **Recommendations:**

1- The researcher hopes to amend the texts of the Jordanian Civil Procedure Code by stipulating the contradiction in clear and clear texts and not with scattered texts in the law.

2- The researcher hopes to amend the provisions of the Jordanian Civil Procedure Code by determining which contradictory rulings are primary, final, possessing the force of the case, or other legal judicial rulings.

3- That the contradiction in the judgments is in the essential reasons for the judgment and not because there is a contradiction that can be remedied with the court's authority to correct the judgments.

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