LITIGATION GUARANTEES IN FAST-TRACK LAWSUITS AND ONE-SESSION LAWSUITS - A COMPARATIVE STUDY

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ABSTRACT

Objective: The UAE legislator has introduced a new mechanism within the judicial system aimed at achieving swift justice and preserving the right to litigation, with: the objective of resolving cases quickly and fairly, providing reassurance and confidence to all parties involved, and ensuring their rights are secured through the most straightforward and expedited procedures.

Methods: the research methodology is in line with this, the United Arab Emirates has launched a judicial system known as the “One-Day Court,” designed to simplify procedures and expedite the resolution of civil cases within a period of up to 15 days. This move is intended to enhance the country's competitiveness on both regional and global levels, with the aim of advancing the development of its legislative and judicial environment.

Result: Despite the effectiveness of the “One-Day Court” and the fast-track approach in achieving its intended goals, there are still challenges associated with various litigation guarantees, particularly those concerning the stages of notification, appeals, litigation at two instances, and maintaining the principle of open court hearings.

Conclusion: As a result, scholars and jurists have been contemplating innovative solutions to strike a balance between the speed and simplicity of procedures on one hand and safeguarding and preserving litigation guarantees on the other.

Keywords: judicial system, one day court, litigation, lawsuits.

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GARANTIAS DE LITÍGIO EM PROCESSOS JUDICIAIS DE RASTREAMENTO RÁPIDO E PROCESSOS DE SESSÃO ÚNICA - UM ESTUDO COMPARATIVO

RESUMO

Objetivo: O legislador dos EAU introduziu um novo mecanismo no sistema judicial destinado a alcançar uma justiça rápida e preservar o direito ao litígio, com: o objetivo de resolver os casos de forma rápida e justa, proporcionando tranquilidade e confiança a todas as partes envolvidas, e garantindo que seus direitos sejam garantidos através dos procedimentos mais simples e acelerados.

Métodos: a metodologia de pesquisa está de acordo com isso, os Emirados Árabes Unidos lançaram um sistema judicial conhecido como "Tribunal de Um Dia", projetado para simplificar procedimentos e agilizar a resolução de processos civis dentro de um período de até 15 dias. Esta medida destina-se a reforçar a competitividade do país, tanto a nível regional como mundial, com o objetivo de promover o desenvolvimento do seu ambiente legislativo e judicial.

Resultado: Apesar da eficácia do "Tribunal de um dia" e da abordagem acelerada para alcançar seus objetivos pretendidos, ainda há desafios associados a várias garantias de litígio, particularmente aquelas referentes às fases de notificação, recursos, litígio em duas instâncias e manutenção do princípio de audiências abertas.

Conclusão: Como resultado, estudiosos e juristas vêm contemplando soluções inovadoras para encontrar um equilíbrio entre a rapidez e a simplicidade dos procedimentos, por um lado, e a salvaguarda e preservação das garantias do litígio, por outro.

Palavras-chave: sistema judicial, tribunal de um dia, litígio, processos judiciais.

1 INTRODUCTION

The phenomenon of accumulating lawsuits and their delayed resolution, which various countries experience, has driven the search for solutions to address this issue and achieve efficient justice. Among these solutions is the introduction of new litigation mechanisms, such as electronic litigation, the system of civil case management, fast-track lawsuits, and one-session lawsuits. Some legislations, like the Jordanian legislation, have implemented a fast-track litigation system, where the lessor is granted an opportunity to obtain an expedited judgment for eviction without the need for trial sessions or following objective lawsuit procedures. Additionally, they established a fast-track process for cases not exceeding a certain monetary value, which constitutes the majority of cases before the Jordanian judiciary. On the other hand, other legislations, like the UAE legislation, adopted the one-session lawsuit system, in which the case is resolved within a short period, not exceeding 15 days, as per Federal Decree-Law No. 42 of 2022 on Civil Procedures. Furthermore, the same decree introduced the "performance orders" system, granting creditors enforceable court orders without the need for trial
sessions. Although these solutions are pertinent and necessary to address the flaws in traditional notification methods and litigation procedures that cause delays, they seem to focus mainly on the positive aspects without prior assessment of potential implications or establishing a well-regulated framework to avoid negative consequences. These solutions may surpass well-established procedural rules in human history and litigation guarantees linked to the overall legal system, particularly the right to appeal and challenge judgments, the right for the defendant to present arguments, and the right to appear before the court to counter the claimant's allegations, as well as the principle of open court hearings that reflect public oversight of judicial proceedings.\(^4\) It is well-known that the swiftness of fast-track and one-session lawsuit procedures may lead to errors, both in procedures and judgments. Hence, adherence to litigation guarantees becomes even more critical in these types of lawsuits than in traditional cases\(^5\). Therefore, it becomes essential to strike a balance between these two noble goals: expeditious resolution and safeguarding litigation guarantees. This balance may require prioritizing one over the other. The research problem revolves around the possibility of sacrificing litigation guarantees to achieve speedy resolution and efficient justice. It also seeks to determine the limits that newly established or potential future litigation mechanisms should not exceed, as well as the governing principles that control this matter. Is swift resolution as a supreme goal sufficient justification for compromising some or all aspects of litigation guarantees, especially those related to confrontation between parties, open court hearings, and the right to appeal? The research aims to shed light on an extremely important aspect that has been overlooked regarding litigation guarantees in fast-track lawsuits and one-session lawsuits and the newly established litigation mechanisms. The research calls for giving this topic the attention it deserves and attempts to provide solutions capable of balancing the two noble goals: expeditious resolution and litigation guarantees, and how to prioritize one over the other. Additionally, it aims to pave the way for other researchers to contribute to finding suitable solutions. Fast-track lawsuits refer to all mechanisms provided by procedural legislation that grant the rightful claimant an order of performance or a judicial ruling issued within a short period, without following the usual litigation

\(^4\) Dr. Draji Belkheir, Fair Trial between International and Regional Conventions, Journal of Legal Sciences, Jijel University, Issue No. 7 - June 2013, page 97.

procedures.\(^\text{(6)}\) An example of the fast-track system is the performance orders mentioned in Article 11 of Federal Decree-Law No. 42 of 2022 on Civil Procedures. Instead of burdening the creditor with initiating a lawsuit against the debtor following regular litigation procedures and giving the latter a chance to present their defenses and evidence, the law allows the creditor to obtain a performance order independently, without the presence of the debtor. Article 143/1 of the law exempted performance orders from the general rules of filing a lawsuit. Paragraph 2 of the same article states that the procedures for performance orders shall be based on an electronic or paper application submitted by the creditor, accompanied by the debt document and evidence of the debtor's obligation to fulfill it. The performance order is issued within three working days from the date of submitting the application, without the debtor's presence or their notification to appear before the court. Furthermore, the court is not obliged to provide a rationale when issuing the performance order.\(^\text{(7)}\) This is what the UAE judiciary followed when it issued an order prohibiting the defendants from traveling after the plaintiff deposited a bail of (AED 100,000) for damages. The defendants were required to avoid travel by depositing the claimed amount into the court treasury, subject to the order on the application.\(^\text{(8)}\) Article 19 of the Jordanian Law on Landlords and Tenants No. 11 of 1994, as amended, allows the landlord to obtain a court decision for eviction upon the expiration of the lease term without the need to initiate a substantive lawsuit or even hear the tenant's defenses.\(^\text{(9)}\) It is notable that the experience of fast-track lawsuits is recent in Jordan, but what distinguishes this experience is its coverage of a significant portion of the cases presented.

\(^\text{(6)}\) In Jordan, the term "Small Fast-Track Disputes" is used to refer to rights claims with a value of less than three thousand Jordanian Dinars. If the dispute's value is less than one thousand Dinars, it is considered a "small dispute." If the claim's value is one thousand Dinars or more but does not exceed three thousand Dinars, it is categorized as a "fast-track lawsuit." The procedures for these disputes are governed by Articles 5 to 7 of the Jordanian Conciliation Courts Law.

\(^\text{(7)}\) Regarding the legal nature of a performance order, Dr. Munira Salem's article titled "The Legal Nature of the Performance Order" in the Journal of the University of Sharjah for Legal Sciences, Volume 18, Issue 1, 2021, starting from page 413 and onwards, as well as Dr. Bakr Abdul Fattah Al-Surhan's explanation of the UAE Civil Procedure Law in the book "Sharh Qanun Al-Ijra'at Al-Madaniyah Al-Imarati" (Explanation of the UAE Civil Procedures Law), published by Dar Al-Hafez in 2022, starting from page 275 and onwards.

\(^\text{(8)}\) An order on an application with reference number SHCFICIPTO2022/ issued by the Civil Primary Court in Sharjah on December 28, 2022 (unpublished).

\(^\text{(9)}\) Jordanian Law No. 11 of 1994, as amended by Law No. 22 of 2011. The first paragraph of the law states that if the landlord notifies the tenant of the need to vacate or return the leased property at the end of the lease term, and the tenant refuses to return the property within ten days from the date of notification or the lease's expiration date, whichever is later, then the landlord has justifiable grounds to apply to the Summary Judge... to issue an eviction order. The second paragraph states that the Summary Judge's ruling is considered an enforceable judicial judgment. Additionally, paragraph (c) states that the landlord is "not obligated to initiate a substantive lawsuit."
before the judiciary, noticeably reducing the burden on judges. The focus of these lawsuits is on speedy resolution, simplifying and expediting procedures, reducing timeframes, and utilizing electronic services\textsuperscript{10}.

1.1 RESEARCH OBJECTIVES

1. Identify the procedural variations between fast-track and one-session lawsuits.
2. Investigate the potential challenges and barriers that litigants may face in the context of fast-track and one-session lawsuits.
3. Explore the perspectives of stakeholders, including litigants, attorneys, and judges, regarding their experiences and satisfaction with the litigation process in fast-track and one-session lawsuits.

1.2 RESEARCH QUESTIONS

1. What are the key procedural differences between fast-track and one-session lawsuits?
2. What challenges and barriers do litigants encounter in the fast-track litigation process, and how do these challenges affect the overall outcome of the cases?
3. How do litigants, attorneys, and judges perceive the efficiency, fairness, and effectiveness of the litigation process in fast-track and one-session lawsuits, and what suggestions do they have for improvement in each system?

1.3 RESEARCH JUSTIFICATION

The study on litigation guarantees in fast-track lawsuits and one-session lawsuits would be a valuable contribution to legal scholarship and practice. This study will provide insights into the efficiency, fairness, and effectiveness of different legal procedures, helping to inform policymakers, legal practitioners, and scholars about the strengths and weaknesses of each approach.

1. Fast-track lawsuits are designed to expedite the resolution of cases, often through streamlined procedures and shorter timelines. One-session lawsuits, on

the other hand, aim to resolve cases in a single court session. Comparing the
efficiency and timeliness of these two approaches can shed light on which method
is more effective in delivering swift justice.
2. Legal systems vary globally, and different jurisdictions may adopt
distinct approaches to fast-track and one-session lawsuits. A comparative study
can explore how these models function in diverse legal environments, offering a
nuanced understanding of their effectiveness and adaptability.
3. Research in this area can contribute to the development of informed
policies and procedural reforms. Policymakers can benefit from evidence-based
insights into the advantages and challenges associated with fast-track and one-
session lawsuits, helping them design systems that balance efficiency and fairness.
4. The study will contribute to academic scholarship by providing a
comprehensive analysis of litigation guarantees in fast-track and one-session
lawsuits. It can be a valuable resource for legal scholars, researchers, and students
interested in procedural law and civil justice.

2 LITERATURE REVIEW
2.1 ONE-SESSION LAWSUITS

The "One Session Lawsuits" is a newly introduced system in the UAE's civil and
criminal legislation, aimed at expediting the resolution of disputes\(^\text{(11)}\) and aligning with
the UAE's overall modernization efforts to achieve Vision 2021 and UAE Centennial
2071 in enhancing and updating judicial procedures to ensure ease of implementation
for individuals. Article 22 of the (repealed) Cabinet Resolution No. 75 of 2018 on the
Regulatory Law for the Federal Law on Civil Procedures allowed the allocation of one or
more chambers of the partial courts to adjudicate cases in a single session.\(^\text{(12)}\)

However, in the new law, the legislator stipulated the provisions for these courts
in Article (29). This article states: "Except for administrative and urgent cases and orders
on petitions, the President of the Judiciary Council or the head of the local judicial entity,
as the case may be, may allocate one or more chambers to adjudicate cases in a single
session, where the decision is issued or a session is scheduled for it. This applies to the

\(^{(11)}\) Ahmed El-Sayed Khalil, Mustafa El-Metwally Kandil, "The Legal System of the One Session Court
\(^{(12)}\) For information about the jurisdiction of this court, refer to Bakr Abdul Fattah Al-Sarhan, the previous
reference, page 131 and onwards.
following cases: A- Claims not exceeding one million dirhams, B- Signature validity claims, regardless of their value." Judgments issued by the One Session Court are conclusive if the claim value does not exceed 50,000 dirhams. If the claim value exceeds 50,000 dirhams but does not exceed 500,000 dirhams, the judgments can be appealed before the Court of Appeal, which issues judgments that are final and not subject to further appeal.

The UAE judiciary has adopted this system of "One Session Lawsuits" and applied its provisions in various court rulings. For instance, in a case involving an insurance company (Company XYZ) on April 13, 2023, the company sought to oblige the defendant (Company ABC) to pay the plaintiff an amount of 26,299 dirhams, along with legal interest at 5% from the date of the claim until full payment, along with fees and expenses. The court ruled in favor of the plaintiff on the same day, including the judgment's immediate execution.

2.2 FAST-TRACK LAWSUITS

Fast track litigation was created by Rule 15-1 of the British Columbia Supreme Court rules. The aims to expedite certain court cases for a cost significantly less than typical trials. Introduced in British Columbia (BC) through Supreme Court Civil Rules in July 2010, it consolidated the former Rules 66 and 68. Fast-Track Litigation applies to cases that can be heard within three days or less, are valued at $100,000 or less, or if both parties consent. It is not applicable to family law, class actions, or jury trials, and is initiated by a Notice of Civil Claim.

Rule 66, introduced in 1998 and expanded in 2002, focused on reducing the trial time required for certain actions to two days. Rule 68, implemented in 2005, facilitated expedited litigation for actions valued up to $100,000 without restrictions on trial length.

(13) Article 29, paragraph B, of the Civil Procedures Law.
(15) Judgment number SHCFICICIVS2023// Civil, issued by the Civil First One Session Court in Sharjah, dated April 13, 2023, (unpublished).
(17) Case Law Corner (n 13)
There are specific procedures under Rule 15-1, such as limitations on examinations for discovery to two hours and the requirement that these examinations be completed at least 14 days before the trial. Jury trials are not allowed under this rule, and there are particular guidelines regarding discovery and inspection of documents. Additionally, the rule allows for court discretion to award costs above the $100,000 limit and requires that all pleadings indicate they are subject to Rule 15-1 following its activation. A Case Planning Conference is required, and certain actions cannot be applied for until such a conference has been held, although exceptions exist for urgent matters.

2.3 THIRDLY, STRIKING A BALANCE BETWEEN THE GOAL OF ACHIEVING EXPEDITED JUSTICE AND ENSURING LITIGATIONS GUARANTEES

There is no denying that achieving expedited justice and promptly resolving disputes are of utmost importance. Delaying the delivery of rights to their rightful owners is considered unjust and oppressive, as the saying of the Prophet (peace be upon him) goes, "The rich person's silence is oppression." (18) One of the clearest forms of oppression is delaying the fulfillment of another's rights beyond their due time. (19) However, it is observed that many litigation guarantees can be misused or abused, turning positive mechanisms designed to achieve maximum justice and protect public rights and freedoms into means of manipulation and procrastination. (20)

Nevertheless, there is another aspect to consider, which is not solely focusing on the negative aspects of traditional litigation procedures and their guarantees. (21) Adjudication cannot solely rely on applying the law without attaining its purpose, which is justice and fairness. (22) The judge's task is to properly apply the law as a tool to regulate society and protect individuals' interests and rights, ensuring legal protection is provided to all parties, and that the proceedings of the dispute have been duly considered.

(18) Reference to the saying of the Prophet Muhammad (peace be upon him) can be found in Sahih Ibn Majah, page or number: 1963, authenticated by Imam Tirmidhi (1309), Ahmad (5395) at length, and Ibn Majah (2404).
Balancing between achieving expedited justice and respecting litigation guarantees is a sensitive matter and a challenge within the judicial system. The judiciary must strive to achieve expedited justice and promptly resolve disputes, but without compromising the rights of litigants and their guarantees. The judge must apply the law carefully and ensure the protection of everyone's rights without bias or discrimination. (23)

Regarding fast-track litigation and one-session court cases, a balance must be struck between expedited resolution and litigation guarantees. These systems can be effective in achieving expedited justice and reducing delays, but it must not come at the expense of individuals' rights, and the legal protection for everyone must be ensured. (24)

Moreover, one of the judge's most important duties is to ensure that "legal protection has been provided to all parties and that the procedures of the dispute have been duly considered." Furthermore, one of the most effective means of proper law application and protection of rights is to consider litigation guarantees. The resolution of a lawsuit directly impacts the legal standing of individuals, affecting their social and family life, especially for the defendant against whom judicial measures are taken. Hence, it necessitates striking a balance between conflicting interests and avoiding surprises for the parties involved. Providing them with an opportunity to present their evidence, arguments, and defenses within a reasonable timeframe is essential. (25)

We will now endeavor to examine the procedures of fast-track litigation and one-session court cases to ensure a precise and objective balance between the goal of expedited resolution and the need for litigation guarantees, considering them as criteria and values associated with the overall legal system.

2.3.1 Stage of Notification:

In fast-track and single-session lawsuits, notifications typically rely on electronic means such as email or text messages sent to the parties involved. (26) While this electronic approach has its shining characteristics, such as speed and keeping up with the latest

(25) Dr. Aisha Jamal and Dr. Ali Abdul Hamid Turki, previous reference, page 156.
(26) Electronic notification can be carried out using the addressee's email address, text messages, or through messaging applications like WhatsApp on their mobile phone. The notification becomes effective from the day following the sending of the email, text message, or WhatsApp message.
technological advancements, it raises questions about its impact on the rights of litigants guaranteed by the law. Particularly, notification is a manifestation of fundamental principles and guarantees that the judicial system is built upon, such as the principle of confrontation between the parties, which the judiciary is obliged to adhere to as it relates to the public order. The essence of this principle is "the necessity to inform each party of what the other party is doing to enable them to defend their interests." (27) However, such mechanisms should not encroach on the personal life of the addressee, as if not properly regulated, they may compromise individuals' privacy and family life. (28) These means obligate the addressee to continuously monitor their email, which can be nerve-wracking and might lead to neglecting the confidentiality of individuals' personal and family lives. (29) It is known that one of the aims of the legislator is to consider the human aspect in the judicial process and safeguard the personal and family life of the addressee in the notification. Hence, there are provisions that prohibit judicial notifications after sunset and on holidays and public celebrations. (30)

Moreover, the electronic notification may not achieve the true knowledge of the addressee when they fail to monitor their email, neglect to carefully read everything sent to them, (31) are on vacation without thinking of checking their means of communication, or their email has been hacked by online pirates. (32) Consequently, the actual knowledge may not be achieved, and the notification may not be properly completed as required by the law.

When evaluating electronic notification, it is evident that it is an effective and advantageous mechanism that cannot be denied due to its speed and convenience.

(29) It is essential for the parties involved in a lawsuit before the courts to consistently and continuously check their mobile phones and email addresses. For reference, see Dr. Sakher Al-Khasawneh’s work titled "The Use of WhatsApp and Email in Judicial Notifications," available on the following website: petra.gov.jo.
(30) According to Article 7/1 of the UAE Civil Procedure Law, it is not permissible to make any announcements before 7:00 AM or after 9:00 PM, nor during official holidays. However, the second paragraph of the same article stipulates that if the announcement is made through any technological means, the restrictions mentioned in paragraph 1 do not apply, except for phone calls.
(31) It is well-known that individuals vary significantly in their behavior concerning monitoring email or using mobile phones, with some being regular users and others sparing in keeping up with their email communications.
(32) This issue is of great importance in the United Arab Emirates due to the large number of residents from various nationalities who take annual vacations in their home countries. It is expected that those on vacation will be attentive to their external communications.
However, the application of this mechanism requires a series of guarantees and controls to achieve its intended purpose of notifying the addressee while preserving their privacy. (33) Differentiation should be made between notifying legal entities, where electronic notification can be adopted since legal entities usually have an administrative team that checks their emails daily. However, adopting electronic notification for natural persons should be carefully regulated due to its potential intrusion into their personal and family life. Notification, being one of the most significant guarantees in the judicial process, occurs at the forefront of the legal proceedings. If notification procedures are flawed, it will reflect on all subsequent litigation guarantees.

To strike a balance between the advantages of electronic notification and the guarantees of a fair trial, it is essential to carefully regulate the notification of natural persons, taking into consideration their personal and family life and their level of vigilance in monitoring their personal emails. A suggested approach would be to initially notify natural persons through traditional means until they are fully aware of the existence of legal proceedings or lawsuits against them. This would serve as a warning to monitor their emails or mobile phones in anticipation of subsequent electronic notifications, whether related to serving documents, rescheduling hearings, or notifying of interim decisions or final judgments in the case.

2.3.2 The right to appeal and non-finality of judgments:

National constitutions and international conventions agree on the non-finality of judgments. (34) The entrenchment of judgments is associated with authoritarian regimes and special or exceptional courts. Providing avenues for appeal is one of the fundamental guarantees of fair trial, (35) allowing the losing party the right to appeal before higher courts, seeking to rectify errors, amend the judgment, or even overturn it. The extent to which a judgment is appealable is considered a matter related to the general system governing the principles on which the judicial system is based. (36)

(33) Studies and recommendations emphasize the importance of preserving the procedural integrity and standards in remote trials when utilizing modern technologies in judicial proceedings. For more insights on this matter, refer to Dr. Omar Abdul Majid Musbah's article titled "Guarantees of Fair Trials with the Adoption of Remote Communication Technology in Criminal Procedures in the UAE," published in the International Journal of Kuwait University Law, Issue 4, 2018, page 402.
(34) Dr. Aisha Jamal Ahmed and Dr. Ali Abdul Hamid Turki, previous reference, p. 156.
(35) Refer to Article 2 of the International Covenant on Civil and Political Rights states:
(36) Dr. Mustafa El-Metwally Kandil, previous reference, p. 48.
Accordingly, one should be cautious when establishing or implementing single-session courts or fast-track procedures that do not grant litigants the right to appeal against judgments issued by such courts. Such a system might not fully comply with the guarantees of fair trial. The judicial process is conducted by human beings who are fallible, and judgments are susceptible to errors, just like any other human actions, statements, or behaviors. Moreover, there might be aspects or other dimensions of the dispute where the court might have erred in understanding the facts, or the parties might not have had sufficient opportunity to present their defenses due to the expedited nature of the single-session procedures. In such cases, granting the right to appeal would enable the parties to clarify or further elaborate on their defenses, clearing up any confusion for the court handling the matter.

Harmony between the guarantees of fair trial and the necessary speed required by the single-session system can be achieved by limiting the time allowed for appeal, especially with the availability of modern means of communication that allow parties to prepare their appeals within shorter periods. Moreover, the time for considering and deciding on the appeal can also be defined to maintain a balance between the two objectives.

It may be argued that these are new experiments that involve limited disputes concerning relatively small amounts, and they need to be given a chance to demonstrate their validity before being fully evaluated. In the future, legislation might develop these experiments to ensure they align with the guarantees of fair trial.

Regardless of the weight of arguments related to the expeditiousness of decisions and the novelty of these experiments, sacrificing established principles of fair trial poses a greater danger than delaying the resolution of the dispute. Therefore, the right to appeal should be provided for any judicial decision, regardless of the value or nature of the claim.

One of the distinguishing and progressive features of the UAE legislation is that it has preserved the guarantees of fair trial in the Code of Civil Procedure concerning single-session cases. These cases are subject to the general rules of litigation, including the possibility of appealing against the judgments issued by such courts. Article 160/1 of the UAE Code of Civil Procedure provides that "judgments and decisions issued within the limits of the conclusive jurisdiction of the courts of first instance may be appealed due to violation of the rules of jurisdiction related to the public order or due to the invalidity

(37) Dr. Bakr Abdul Fattah Al-Surhan, previous reference, p. 416.
of the judgment, decision, or the proceedings affecting the judgment or decision." Furthermore, the second paragraph allows the appeal of all judgments and decisions within the jurisdictional limits if the judgment or decision contradicts a previous judgment or decision that has gained the force of res judicata.

The UAE legislator has also provided another guarantee for rectifying erroneous judgments. Article 176 allows the Public Prosecution to lodge a cassation appeal against any judgment that violates the law. The first paragraph states: "The Public Prosecution may file a cassation or a differentiation appeal on its own initiative or upon the request of the Minister of Justice or the head of the local judicial authority, as the case may be in final judgments, regardless of the court that issued them, if the judgment is based on a violation of the law or an error in its application or interpretation, in the following cases: a) judgments that the law does not allow litigants to appeal against; b) judgments in which the litigants missed the deadline for appeal or waived their right to appeal or filed an appeal that was subsequently rejected."

2.3.3 The principle of transparency and its impact on the rights of litigants:

The principle of transparency (publicity) is undoubtedly one of the fundamental guarantees of a fair trial, as it ensures the people, who hold the power, exercise oversight over the judicial process. It also provides reassurance to the litigants about the transparency and integrity of the judiciary, allowing everyone to witness the proper administration of justice, as proceedings take place before their eyes.

Court judgments are rendered in the name of the people, and the lack of transparency can compromise this oversight, especially when a judgment or order is issued in the presence of the plaintiff while the defendant is absent. The principle of transparency, as one of the guarantees of a fair trial, is enshrined in Article 14(1) of the International Covenant on Civil and Political Rights.

While some argue the necessity of updating legislation to reflect the characteristics of the modern age, it is equally important to ensure that the principles recognized in international, constitutional, and legal treaties for the guarantees of a fair trial are respected. This will ensure the proper application of the law and the provision of

(38) Dr. Ahmed Muslim, "Principles of Litigation: Judicial Organization, Procedures, and Judgments in Civil, Commercial, and Personal Matters," Dar Al-Fikr Al-Arabi, Cairo, 1977, Section 45.
(39) Dr. Omar Abdul Majid Masbah, previous reference, page 402.
a secure legal environment\(^{(41)}\) for the litigants, enabling them to present their arguments on an equal footing. The principles of transparency and confrontation (face-to-face proceedings) guarantee this environment, as they not only give opportunities to the litigants but also allow society to follow the litigation procedures, satisfy the public sense of justice, \(^{(42)}\) and ensure that the law is applied correctly while respecting the basic procedures of the trial.

### 2.3.4 The principle of two-tier litigation:

The principle of two-tier litigation is considered one of the fundamental guarantees upon which the judicial system is based. \(^{(43)}\) It has proven its importance and necessity over decades in various legal systems, \(^{(44)}\) becoming deeply rooted in modern litigation practices. This principle grants litigants the opportunity to present the same dispute before a higher court than the one that issued the initial judgment. \(^{(45)}\) The higher court has the authority to make a new ruling on the subject of the dispute. Courts of appeal, which represent the second tier, in various legal systems, thoroughly examine the dispute from both procedural and substantive aspects, aiming to annul or modify judgments issued by the lower courts if they are found to be in violation of the law. Many times, the course of the lawsuit is corrected during the appellate stage.

This guarantee is indispensable in modern litigation systems, as it has become firmly established in various legal frameworks. \(^{(46)}\) However, it is noteworthy that there may be flexibility in its application concerning simple and low-value claims. Exceptions to this principle have become widely accepted, with many legal systems limiting its application to significant lawsuits. Legal frameworks usually specify the maximum threshold of a claim that allows for an appeal before the court of the second instance. As for simple, uncomplicated, and low-value claims, the judgment in such cases may not be

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\(^{(41)}\) The principle of transparency also encompasses the issuance of judgments and oral pleadings. Ahmed Abu Al-Wafa, "Civil and Commercial Litigation," Mansha'at Al-Ma'arif in Alexandria, 1990, Section 39, page 120.

\(^{(42)}\) Dr. Mohammed Rashid Al-Danhani, "Transparency Supports Citizens' Confidence in Judicial Justice," available on the website www.alkhaleeg.ae.


\(^{(46)}\) Dr. Mustafa El-Metwally Kandil, previous reference, p. 48-49.
subject to appeal before the court of the second instance, and it is said that the judgment falls within the final jurisdiction of the court of first instance.\(^{(47)}\)

However, the flexibility in applying the two-tier litigation principle should not, under any circumstances, prevent the activation of another guarantee by granting the parties to the lawsuit the right to appeal to the court of cassation. This ensures that there remains a procedural margin to correct errors. Judges may make mistakes in applying the law, understanding or interpreting the facts, or when evaluating the evidence. It is inconceivable not to grant the litigants a means to correct a mistake made by the trial judge. Without providing the right to appeal, regardless of its name, it would be a violation of the guarantees of a fair trial.

3 METHODOLOGY

The research methodology is in line with this, the United Arab Emirates has launched a judicial system known as the "One-Day Court," designed to simplify procedures and expedite the resolution of civil cases within a period of up to 15 days. This move is intended to enhance the country's competitiveness on both regional and global levels, with the aim of advancing the development of its legislative and judicial environment.

4 RESULTS AND DISCUSSION

4.1 KEY PROCEDURAL DIFFERENCES BETWEEN FAST-TRACK AND ONE-SESSION LAWSUITS

Fast-track courts aim to expedite the process of conviction, handle a specific category of cases, and are given a target number of cases to dispose of within a definite time. Unlike one-session courts, they are expected to examine all witnesses in a single trial and do not adjourn hearings due to delays in preparation of documents such as summons or warrants\(^{(48)}\). In judicial efficiency, fast-track courts are designed to de-clog the judicial system by quickly disposing of cases, thus addressing the backlog of cases that one-session courts may take much longer to resolve. Despite their objectives, fast-track courts can suffer from logistical issues such as technology gaps, staff shortages, and slower-than-expected trial completions. Such challenges can undermine the effectiveness

\(^{(47)}\) Mustafa El-Metwally Kandil, previous reference, p. 55.

of fast-track courts and make their performance similar to or sometimes worse than one-session courts.

4.2 CHALLENGES AND BARRIERS LITIGANTS ENCOUNTER IN THE FAST-TRACK AND ONE-SESSION LITIGATION PROCESS, AND HOW DO THESE CHALLENGES AFFECT THE OVERALL OUTCOME OF THE CASES

Litigants face various challenges and barriers in both fast-track and one-session litigation processes, affecting the outcomes of their cases. Fast-track litigation, designed to expedite straightforward and less complex cases, presents limitations regarding potential recovery of legal costs and may be unsuitable for cases that require extensive discovery or are likely to involve claims exceeding predetermined thresholds. The case of Bean v. Emco Corporation exemplifies this, as there were concerns about the recovery amount and the ability to try the case within three days. There's also the risk of prejudice to a party concerning discovery rights and costs, and the necessity for a "holistic analysis" to determine fairness to both parties involved, underlining the principle of proportionality. Factors like the potential prejudice to parties regarding costs may lead to a matter being removed from fast-track litigation.

Additionally, the one-session litigation process can be hampered by several systemic barriers, such as inadequate funding for legal aid services, high costs associated with legal action, lack of automatic right to counsel in common legal circumstances, and lack of awareness of legal rights, services, and procedures. These barriers not only prevent many individuals from accessing justice but also contribute to uneven outcomes, as those with resources can afford more comprehensive legal representation compared to those who rely on limited legal aid or are entirely self-represented. Solutions to these issues include increasing funding for legal aid, encouraging pro bono and "low bono" work by legal professionals, extending legal aid beyond the bar to include assistance from knowledgeable non-lawyers, and emphasizing education to raise awareness of legal rights and services. Programs like Justice for Change have been initiated to tackle these barriers by providing technology and support to legal teams working on social and racial justice issues.

4.3 LITIGANTS, ATTORNEYS, AND JUDGES PERCEIVED EFFICIENCY, FAIRNESS, AND EFFECTIVENESS OF THE LITIGATION PROCESS IN FAST-TRACK AND ONE-SESSION LAWSUITS, AND SUGGESTIONS FOR IMPROVEMENT

The efficiency, fairness, and effectiveness of the litigation process in fast-track and one-session lawsuits are critical components that litigants, attorneys, and judges must grapple with. A key theme in the legal industry is its multidisciplinary approach, striving for productivity gains and improved quality of legal advice and strategy. This requires a foundational understanding of the legal process and technology to effectively communicate and collaborate\textsuperscript{50}.

To improve these litigation systems, the following suggestions have been identified:

Visibility and Management: Implementing a single system that serves as a source of truth for all parties involved can eliminate redundant data tracking and enable focus on case resolution. This can also result in faster processing post-settlement.

Cost Reduction: Trustworthy data leads to cost savings. Identifying similar matters to understand average settlement costs can help counteract opposing claims and prepare lawyers more effectively.

Security: A secure, cloud-based tracking system with features like immutable logging and advanced encryption is crucial, especially for complying with various regulations.

Reporting Flexibility: The ability to quickly adapt reporting capabilities to meet the evolving needs of various stakeholders is important. Embedding staff from different business functions can lead to better-designed reports and more informed decisions.

Implementation Approaches: Understanding the legal technology landscape and the various types of providers is key to selecting the best approach for specific needs.

5 CONCLUSION

Through this study, we have reached the following conclusions:

A. The newly established mechanisms for expediting lawsuits and achieving efficient justice are important and necessary. Delaying the delivery of rights to their

\textsuperscript{50} Jones, K. (2022). \textit{Best practices for effective litigation tracking systems (316)} | Legal Evolution. Legal Evolution.
owners undermines trust in justice and causes harm to litigants. However, it is essential to consider litigation procedures and their guarantees at the same time, as they are crucial in ensuring the public interest and the proper functioning of justice, as well as ensuring that judgments are fair and provide equal opportunities for all parties to present their arguments in a timely manner. Without balancing between expeditious resolution and litigation guarantees, the scale of justice will be disrupted.

B. The newly established mechanisms seem to have affected litigation guarantees to varying degrees.

C. With regards to performance orders in the UAE legislation, as well as texts that grant landlords eviction judgments in the Jordanian law, they have not disregarded litigation guarantees but have delayed the time in which these guarantees are activated until there is a complaint or appeal filed against them. This allows parties to hold on to all litigation guarantees provided by law. In the case of performance orders, Article 147 of the Civil Procedure Law (effective) for the year 2022 gives the right to lodge a complaint against the order within 15 days or to appeal it if its value exceeds the final threshold of a court of first instance. Regarding eviction judgments in Jordanian law, paragraph (b/1) of Article 19 of the Landlords and Tenants Law No. 11 of 1994, amended by Law No. 22 of 2011, allows tenants to appeal the eviction order before the Court of Appeal.

D. As for the preference between expeditious resolution and litigation guarantees, some of the litigation guarantees, such as the right to appeal and the right to confrontation between litigants, are fundamental principles of modern litigation systems, and they cannot be sacrificed under any circumstances. Therefore, they outweigh expedited resolution, and they cannot be wasted or bypassed regardless of the justifications, including the pursuit of efficient justice.

E. While there is flexibility in the application of the two-tier litigation guarantee, with its application limited to important and complex lawsuits, in cases of low-value and straightforward claims, expedited resolution can outweigh the two-tier litigation guarantee if the litigants are provided with the right to appeal.
5.1 RECOMMENDATIONS

A. Consider litigation guarantees when drafting legislative texts that establish new litigation mechanisms and technologies that help expedite lawsuits and ensure that they align with and take into account these guarantees.

B. When organizing electronic notification provisions, set precise controls to ensure the certainty of the recipient's knowledge while also respecting their personal and family privacy.
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