# Egyptian Court of Cassation Affirms That the CLC 1969 Legislative Corrigendum Applies from the Date the Convention Took Effect in Egypt

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Law of treaties | Apr 23, 2024

Court of Cassation

Appeal No.9537 of Judicial Year 83, Judgment of 13 January 2022

Appeal No.13684 of Judicial Year 83, 13 March 2023

Appeal No.13684 of Judicial Year 83, 23 April 2024

The Court of Cassation in its judgments of 13 January 2022 ,13 March 2023 & 23 April 2024 addressed the applicability of the International Civil Liability Convention for Oil Pollution Damage (CLC 1969), which Egypt acceded to in 1988. In all three appeals, the Appellants pleaded that the Convention does not apply to the dispute, arguing that the original Arabic translation contained errors that were only corrected when the government published an official legislative corrigendum in 2012, that is, after the incident.

**1- Background Facts**

All three appeals arose from a 2006 incident in which a Liberian-flagged tanker suffered a navigational casualty in the Suez Canal, leaking oil.

*In Appeal No. 9537 of Judicial Year 83 (decided in chambers),* oil leaked onto land in Suez belonging to a tourism investment company. The company then sued the ship's owners for damages and had the vessel provisionally attached; the trial court appointed an expert panel and awarded the company EGP 3.1 million, a decision upheld on appeal in 2013. The shipowners appealed the impugned decision before the Court of Cassation, on the ground of an error in the application of the law. They challenged the decision’s application of CLC 1969, to which the Arab Republic of Egypt acceded pursuant to Presidential Decree No. 478 of 1988, contending that it was not in force because the English text had not published as required by Article 21 of the Convention, and because of errors in the Arabic translation of the Convention. These errors were subsequently rectified by republishing the English text and the authentic Arabic translation in the Official Gazette,

without any indication that the earlier erroneous publication, on which the challenged judgment relied, should be recognized. The shipowners argued that this rendered the judgment defective and warranted its reversal.

*In Appeal No. 13684 of Judicial Year 83 (decided in chambers),* a farmland near the Suez Canal was damaged by the leak. The shipowners were found at fault, and the owner of the farmland was awarded compensation. The shipowners appealed the decision, disputing –among other things– the applicability of the CLC.

*In Appeal No. 13685 of Judicial Year 83,* this was a further cassation appeal in the case, this time admitted to a full hearing rather than dismissed in chambers. The ship owners raised eight grounds among which the inapplicability of CLC 1969.

**2- The Court of Cassation Decision:**

**The Court of Cassation in all three appeals rejected the plea regarding the inapplicability of CLC 1969, on the grounds that CLC1969 was approved pursuant to presidential decree no.478 of 1988 and published in the official gazette, Issue no (21), dated 25/5/1989, thereby taking the effect of law. Furthermore, the Court in Appeal No. 13685 elaborated that the legislative corrigendum to the aforementioned decree was issued due to the presence of errors in the translated Arabic text of the convention, and pursuant to this corrigendum, the Convention was republished in English together with its certified Arabic translation in the Official Gazette, Issue No. (16) Supplement, dated 19/4/2012.**

**The Court then emphasized that this corrigendum forms part of the corrected text; and thus, it shall have the same force and shall apply as of the date on which this law entered into force, not as of the date on which the corrigendum was published in the Official Gazette. This is because the errors in the previously published Arabic text are linguistic errors that do not alter the intended meaning of the words and, consequently, do not affect the legal position of those addressed by its provisions.**

And given that the challenged judgment adhered to this view, the Court decided that the appellants' argument regarding the inapplicability of the provisions of CLC 1969 to the present dispute is without merit.

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