

Referral Payment for Dispute Resolution in Palestinian Law: An Analytical Study

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Abstract: *The research addresses the topic of "Referral Payment for Dispute Resolution in Palestinian Law - An Analytical Study," examining the nature of referral payment for dispute resolution. It defines the concept and conditions of referral payment for dispute resolution, discusses its effects on the fate of disputes referred to the court that initially filed the lawsuit, and the obligations of the referred court in scheduling hearings and notifying absent parties. The research concludes with a discussion on conflicting schedules between the referring court and the referred court. It suggests that Palestinian legislation should follow the Egyptian model in addressing referral payment for dispute resolution and advocates for the addition of a new legal provision in Palestinian law specifying the recipient of such payment*

Introduction:

In certain legal proceedings, multiple competent courts may be involved, especially when there are multiple defendants with diverse citizenships or when a plaintiff initiates a lawsuit and passes away during its proceedings. Additionally, a plaintiff may initially file a lawsuit before a non-locally competent court, later establishing its jurisdiction, and then refile the lawsuit before another court. However, if the law prohibits a single lawsuit from being filed before two courts, the second lawsuit must be referred to the court where the lawsuit was initially filed.

Problem Statement:

This research aims to examine whether the referral of disputes effectively reduces conflicting judicial judgments and addresses the implications of this practice. The Palestinian legislator has outlined this referral in Article 91 of the Law of Civil and Commercial Procedure, but lacks the detailed provisions found in Egyptian legislation.

Research Questions:

1. What constitutes the referral of disputes, and what are its conditions and implications?
2. How does the referral of disputes relate to the broader legal framework?
3. What happens to disputes referred to another court? Do they terminate, extend, or transfer to the other court?
4. How does the absence of scheduled sessions and notifications affect the referral process?
5. How do conflicting dates between the referring and referred courts impact the parties involved?

Importance of the Research:

This research holds scientific and practical significance by enriching legal thought and providing insights into procedural law. It sheds light on the guarantees of individuals in civil litigation, such as avoiding conflicting judgments and expediting dispute resolution.

Research Scope:

The research focuses on the referral of disputes under Palestinian legislation as a means of reducing conflicting judicial judgments issued by a single judicial authority.

Research Methodology:

An analytical approach will be employed to examine Palestinian and Egyptian legal texts related to the referral of disputes. The primary focus will be on the Palestinian Law of Civil and Commercial Procedure No. 2 of 2001 and its amendments, as well as the Egyptian Law of Litigation No. 13 of 1968 and its amendments.

Research Plan:

The research will be structured as follows:

Section One: The Nature of Referral of Disputes

Subsection One: Defining the Referral of Disputes

Subsection Two: Conditions for Referral of Disputes

Section Two: Implications of Referral of Disputes

Subsection One: Outcome of Referred Disputes

Subsection Two: Non-Compliance of the Referred Court with Scheduling a Session and Notifying Absentees

Subsection Three: Handling Conflicting Dates between Courts

Section One: The Nature of Referral of Disputes

Referral is considered one of the significant procedural mechanisms, referring to the transfer of a lawsuit from one court to another upon the occurrence of specified reasons for referral in the law. The focus of this research is on the referral of disputes, particularly concerning the following:

Subsection One: Defining of Referral of Disputes

Article 91 of the Palestinian Law of Civil and Commercial Procedure states: "Objections regarding lack of local jurisdiction, referral of the lawsuit to another court for the occurrence of the same dispute before it or for affiliation, objections of nullity, and all procedural objections must be made collectively before any request, defense, or objection of inadmissibility, otherwise, the right shall be forfeited".

Procedural objections are those aimed at disposing of procedural matters without judgment on the merits or those procedural objections specified by the legislator as a means for the defendant to assert the procedural penalty resulting from a procedural violation. Examples include objections of lack of jurisdiction, nullity of the claim, referral for affiliation, or the occurrence of the same dispute.

Procedural objections can be classified into those related to public policy and those related to the private interest of the parties. Objections of lack of jurisdiction, functionally, qualitatively, or quantitatively, fall under public policy, while objections of lack of local jurisdiction are related to the private interest of the parties, as well as referral for affiliation or the occurrence of the same dispute.

Referral of disputes refers to the plaintiff initially filing a lawsuit before a specific court and subsequently filing the same lawsuit, against the same defendants, before another court for the same reasons. This occurs when the rules of jurisdiction allow the plaintiff to file the lawsuit before more than one court.

It is evident that the Palestinian legislator has merely outlined how to assert this objection before the judiciary, leaving it to jurisprudence to define the concept of this objection, its conditions, and its implications. It is undeniable that this assumption is rarely achieved in practical reality, as the defendant will not allow the plaintiff to manipulate the proceedings in this manner. Therefore, the legislator provided a recourse to avoid such manipulation, which is the referral of disputes.

The defendant makes the payment before the last court notified of the dispute, as the plaintiff may have filed the lawsuit before more than one court. Therefore, the first court is not obliged to rule on the subject matter of the lawsuit.

According to the rules of concurrent jurisdiction, the referral of disputes has two effects:

1. **Positive Effect:** The first court that filed the lawsuit before it has jurisdiction over the dispute among the other courts with concurrent jurisdiction.
2. **Negative Effect:** The referral results in depriving other courts with concurrent jurisdiction of jurisdiction over the dispute. Consequently, the last court becomes incompetent to adjudicate the dispute previously presented before a competent court.

It is evident that the referral of disputes has a similar outcome to objections of lack of jurisdiction but is limited to the second court. Therefore, it has been said that this objection represents a formal multiplicity of lawsuits, where there is one lawsuit filed before multiple courts.

The rationale behind the referral of disputes is twofold:

1. Eliminating procedural waste, in addition to conflicting judgments issued by the judiciary in the same dispute, as such conflict undermines the validity of the final judgment.
2. The negative Impact of judicial claims in depriving jurisdiction over the dispute presented to the court among other courts with concurrent jurisdiction.

Subsection Two: Conditions for Referral of Disputes

The conditions for the referral of disputes revolve around several matters. It Is required that we are dealing with one lawsuit before two courts, where there is unity in the parties, subject matter, and cause of action. Additionally, the lawsuit must already be pending before both courts, and the lawsuits filed before different courts must be subordinate to the same judicial authority. Finally, the court to which the referral is sought must have jurisdiction over the dispute both qualitatively and territorially. These conditions will be discussed as follows:

First Condition: Unity of Lawsuit

This condition requires that we have one lawsuit filed before two courts, meaning that the same lawsuit is filed before two courts. Unity of the lawsuit implies unity in its three elements: parties, subject matter, and cause of action. It is insufficient for the subject matter to be partially requested in one court and partially in another, or for one to be filed as an original claim and the other as a counterclaim.

Referral is permissible even if the subject matter of one lawsuit is part of the subject matter of the other. For example, if one lawsuit seeks ownership of part of a property, and the second lawsuit seeks ownership of the entire property, the consolidation of the lawsuits is permitted, even If it is at the expense of the less valuable or less significant claim, as long as the first court has qualitative jurisdiction.

However, if the first court is not qualitatively competent to adjudicate the dispute, the consolidation renders the first court qualitatively incompetent, leading to lack of jurisdiction and referral. Therefore, qualitative jurisdiction must be considered when requesting consolidation and referral of disputes.

Regarding the unity of the cause of action, it is required that the cause of action be the same in both lawsuits. The cause of action refers to the legal basis upon which the plaintiff relies in their claim. If the cause of action differs between the lawsuits, each lawsuit is considered independent of the other. For example, if a tenant demands the delivery of leased property based on a lease contract in one lawsuit, and in another lawsuit demands the delivery of the same property based on a sales contract, each lawsuit is distinct from the other.

Regarding the unity of parties, it is necessary for the defendant in the second lawsuit to be the same as the defendant in the first lawsuit. Unity of parties refers to their legal union, not their nature. Therefore, it is permissible for a person to file a lawsuit on behalf of another to claim a right for their child as their legal guardian, and at the same time claim the same right for themselves as the original claimant, not as the guardian of their child. Referral of disputes is not permissible in such cases, although referral for affiliation is allowed.

Furthermore, it is not required for both lawsuits to be filed simultaneously, as one of the lawsuits may be filed as a counterclaim. For instance, if a lawsuit for the enforcement of a specific contract is filed, and the defendant submits a request to nullify and invalidate the contract, while simultaneously filing an original lawsuit to invalidate the contract, in this case, referral for disputes is not permissible. Instead, the original lawsuit should be suspended pending the resolution of the other lawsuit, but this does not prevent the court from ruling on referral for affiliation.

Supreme Court Oversight:

Through this condition, the judge in the case exercises complete authority to determine the extent of the unity of the lawsuits in terms of parties, subject matter, and cause of action. On the other hand, the Supreme Court ensures that the two lawsuits filed before the judiciary are either the same dispute or different disputes. Therefore, the judge's assessment of the facts in the lawsuit and the application of the conditions are subject to the oversight of the Supreme Court.

Second Condition: Lawsuit Pending Before Both Courts

This condition requires that both lawsuits are pending before the two courts, meaning that the lawsuits have already been filed before both courts. Referral is not permitted if the lawsuit has been concluded by rendering a judgment on its subject matter,

without judgment, with the dismissal of the lawsuit, or with the consideration of the lawsuit as if it did not exist. Additionally, referral is not permitted if the court lacks jurisdiction over the lawsuit.

However, if the dismissal of the lawsuit is contingent on the acceptance of the defendant's request and before the defendant accepts this dismissal, referral is not permissible. Instead, jurisdiction belongs to the court that filed the lawsuit for the second time, unless the dismissal is acquittal.

Moreover, if the court orders the suspension or removal of the lawsuit, this does not prevent the assertion of referral for disputes, as suspension or removal does not terminate the lawsuit, but it remains in effect, producing all its effects unless considered as if it did not exist.

If a judgment is rendered in the lawsuit and the second lawsuit is filed for the same dispute in terms of subject matter, cause of action, and parties, referral is not permissible. Instead, the validity of the judgment rendered in the lawsuit should be contested before the court that filed the lawsuit for the second time.

Third Condition: Lawsuit Filed Before Different Courts Subordinate to the Same Judicial Authority

The application of referral for disputes requires that the lawsuit is filed before the same judicial authority. Therefore, referral is not permissible if the lawsuit is filed before the regular judiciary and, at the same time, before the administrative judiciary. The competent court to determine the jurisdictional court for the dispute is the Supreme Court, according to Article 52 of the Palestinian Law of Civil and Commercial Procedure.

On the other hand, the assertion of referral is not prevented if the lawsuit is filed before a court and a judge when filing a complaint. In this case, the judge is considered equivalent to a court.

Referral from a court of the second degree to a court of the first degree is not permitted. However, referral from a conciliation court to another conciliation court is allowed provided that they belong to the same tier. Referral from an appellate court to another appellate court is permissible. Still, referral from the court of first instance, acting as an appellate court, to an appellate court is not permitted.

Fourth Condition: Court Competence

It is required that the court to which the referral is sought has jurisdiction over the lawsuit both qualitatively and territorially. Referral to a non-competent court is not permissible. If the court, to which the opponent insists on referral, is not competent, there is no room for insisting on referral, but rather referral for lack of jurisdiction. In this case, referral for lack of jurisdiction is made according to Articles 92 and 93 of the Palestinian Law of Civil and Commercial Procedure, where the court itself shall rule on lack of jurisdiction and referral.

The importance of this condition is evident when one lawsuit is filed to claim a portion of a debt, and another lawsuit is filed to claim the entire debt. In this case, the other lawsuit must be referred to the court that is competent to adjudicate the lawsuit regarding part of the debt, provided that this court has qualitative jurisdiction over the lawsuit.

If the court to which the lawsuit is to be referred is not territorially competent, and no objection to its jurisdiction was raised in a timely manner, its jurisdiction is established.

If the court to which the lawsuit is to be referred is not qualitatively competent, and the two cases are indeed one lawsuit in the true sense, there is no reason for referral, and there is no fear of contradictory judgments because this court will inevitably rule on its lack of jurisdiction over the lawsuit, either at the request of one of the parties or on its own initiative. Jurisdiction is established for the court to which the lawsuit was recently filed.

Furthermore, the court to which the referral is requested is not required to verify the jurisdiction of the referring court. The reason for this is that the court cannot exercise control over another court as long as they are of the same level. In the event that the court to which the lawsuit was recently filed has exclusive jurisdiction over the dispute, it is not allowed to refer the case to the court where the dispute is pending first because the establishment of the same dispute is not present. Therefore, the lawsuit is not within the jurisdiction of the first court, and it cannot adjudicate it.

Second Section: Implications of Referral of Disputes

It is agreed that the court does not rule on the payment related to the referral for the emergence of jurisdictional conflict on its own, as this payment is considered unrelated to public policy. The defendant must assert it since it is a formal payment not related

to public policy, as mentioned earlier. When the court to which the lawsuit was recently filed verifies the conditions for referral, it must refer the dispute regarding payment to the court to which the lawsuit was initially filed, and it does not have discretionary authority in this regard. Because the interest in payment is realized once the conditions for judgment are met, in addition to the fact that public interest requires avoiding conflicting judgments in a single case, and there is no room for exhausting the defendant by pursuing more than one case as long as the subject matter is the same.

Article (95) of the Law of Civil and Commercial Procedure states: "If the court decides to refer, it must specify to the parties the session in which they appear before the court to which the lawsuit was referred and notify absentees thereof."

It is clear from the above text that it is the responsibility of the court that decided the referral to specify the session in which the parties appear before the court to which the lawsuit was referred. If some parties of the lawsuit are absent from attending the session in which the court decided the referral for the emergence of jurisdictional conflict, it is incumbent upon the court to notify them of the session date and the court to which the lawsuit was referred.

Questions arise in this regard:

Firstly: What is the fate of the lawsuit that the court has referred to another court? Is it terminated, considered an extension of the lawsuit, or transferred to the other court?

Secondly: What if the court fails to schedule a session and notify absent parties?

Thirdly: What is the extent of alignment between the date set by the referring court and the date set by the referred court if both dates differ? Should the parties appear before the referred court at the date set by the referring court, or does their attendance at the other date suffice?

To answer these questions, it is necessary to divide this section as follows:

Subsection One: Outcome of Referred Disputes

The lawsuit terminates as a general rule by judgment on the subject matter of the lawsuit, and the judgment on the subject matter is the natural result of the litigation proceedings and its ultimate goal. However, the lawsuit may not reach this goal or conclusion and may end prematurely, meaning the termination of the lawsuit without a judgment on its subject matter. Therefore, determining the circumstances of the termination of the lawsuit without a decisive judgment on its subject matter can be attributed to two factors: the willpower of the litigants and the concept of procedural penalty. Examples of premature termination of the lawsuit include the objection of lack of jurisdiction and the referral for jurisdictional conflict.

Regarding the premature termination related to the referral for jurisdictional conflict, we find that the lawsuit terminates when facing the defendants before the referring court. This is a logical and legal consequence, leading to the removal of the lawsuit from the jurisdiction of the referring court to the referred court. As for the referred court, does the lawsuit consider to have terminated or does it continue from where it left off?

As a general principle and logical consequence before legal text, the lawsuit remains standing and produces all its effects, transferring its status and all its effects to the referred court. Therefore, the lawsuit is considered to have transferred without termination in all circumstances of referral. However, some argue that the lawsuit may terminate or may continue when facing the referred court depending on the circumstances.

In particular, regarding the referral for jurisdictional conflict, some argue that issuing a judgment for referral for jurisdictional conflict means the termination of the lawsuit before the court where the lawsuit was recently filed and all its effects are considered nullified.

Accepting this view makes the referral for jurisdictional conflict contradictory to its purpose and motives on one hand, and on the other hand, it results in procedural waste and loss of time and effort invested in the referred lawsuit proceedings.

Referring back to the referral, it reflects the principle of the litigants' willpower in transferring the lawsuit to another court for adjudication. This transfer does not imply the termination of the lawsuit but rather its transfer from the referring court to another court for judgment on its subject matter.

The transfer of the lawsuit differs from its termination, as the latter is considered the result of the lawsuit reaching its end, whether naturally or prematurely due to another reason. Considering the termination of the lawsuit in the referred litigation leads us to conclude that imposing its termination empties it of its substance and renders its non-existent to be referred to another court.

Comparatively, regarding the referral for lack of jurisdiction, the legislator has addressed this issue through Article (93) of the Law of Civil and Commercial Procedure, which states: "If the court decides lack of jurisdiction, it must order the referral of the lawsuit in its state to the competent court. The court to which the lawsuit is referred must consider it." This means that the lawsuit transfers in its state to the referred court, and the referred court must consider the lawsuit. If the procedures taken in the referred lawsuit in the case of referral for lack of jurisdiction remain effective despite being taken before a non-competent court, it is preferable that the lawsuit and the procedures taken in the referral for jurisdictional conflict remain effective and productive for all their effects even after their referral.

Moreover, the referral for jurisdictional conflict does not imply that the court is not competent but rather that it is competent, and for the sake of avoiding conflicting judgments and considering the unity of the lawsuit, its transfer to another court was requested. Instead of referring for jurisdictional conflict, it would be more appropriate to refer for lack of jurisdiction. Therefore, we find that the previous opinion contradicts legal logic.

Furthermore, it results in procedural waste and loss of time in the lawsuit, as the referring court may have taken extensive procedures and evidence, such as hearing witnesses, presenting evidence, and submissions, which may have been included in the subject matter. Repeating these procedures before the referred court would be a waste of time and effort.

The Egyptian legislator reached a similar conclusion to what we have stated at the beginning of Article (174 bis) of the Code of Civil Procedure, which states: "The pronouncement of judgments issued during the proceedings and do not end with the lawsuit, and decisions to open the pleading process in them are considered announcements to the litigants who attended one of the sessions or submitted a memorandum of defense." The judgment issued for referral for jurisdictional conflict is a judgment issued during the proceedings and does not end with the lawsuit.

The Palestinian Court of Cassation ruled in its judgment as follows: "Referring to the grounds of the appeal in the law, the legislator specified in Article (60) of the Civil and Commercial Procedures Law that 'if the court rules that it lacks jurisdiction, it must order the referral of the case to the competent court, and the court to which the case is referred must hear it.' Article (95) of the same law states: 'If the court decides on the referral, it must set a session for the parties to appear before the court to which the case was referred, and notify the absent parties of that'.

Since the agent of the defendant (the appellant) was present at the session where it was decided to refer the case to the Tulkarm Court, and a date was set for its hearing before the referred court, and since that session is an extension of the previous sessions and not separate from them, it does not require notifying those who were present among the parties of the case to understand its date. Therefore, any party's failure to attend that session exposes them to the legal penalties stipulated. It cannot be argued that considering the defendant aware of the session date and the trial procedures held in absentia is contrary to the law. Likewise, it cannot be argued that the referred court should notify the parties of the originally set session date, even if it was given a new number in the referred court's records.

It is established that the defendant had attended part of the trial sessions before the referring court. Therefore, her absence from the sessions before the referred court and the subsequent issuance of a decision in her absence is considered as a trial conducted in absentia, indicating the applicability of the first paragraph of Article 193 of the aforementioned Civil Procedures Law concerning the appeal deadlines before the Court of Appeal. Given that the Court of Appeal, which issued the contested judgment, considered the actual procedures conducted in the case and correctly applied the law, and since the grounds of the appeal do not affect the decision of the court to dismiss the appeal in form, they are thus subject to dismissal".

Subsection Two: Non-Compliance of the Referred Court with Scheduling a Session and Notifying Absentees

Article (95) of the Law of Civil and Commercial Procedure states: "If the court decides referral, it must specify to the parties the session in which they appear before the court to which the lawsuit was referred and notify absentees thereof."

From the above text, it is clear that the judgment of referral must be accompanied by specifying the session for the parties to appear before the court to which the lawsuit was referred and notifying absentees thereof. This makes notification mandatory for the court, and it does not have discretionary authority in this matter. Rather, there is oversight over it by the Court of Cassation, as the Court of Cassation is a court of law and it is obliged to monitor the legality of the procedures undertaken by the courts at all levels.

Furthermore, even if the referred court is a court where reconciliation has been offered by the Supreme Judicial Council, the court must still appoint the session as determined by the judge responsible for reconciliation between the litigants, in accordance with what the legislator stated in Articles (68) and subsequent articles of the Law of Civil and Commercial Procedure concerning judicial settlement.

In the event that the referred court fails to schedule a session for the litigants or fails to notify absentees of the session's date, this renders the judgment null and void, and this nullity is related to public policy.

The Palestinian Court of Cassation ruled: "Article (95) of the Law of Civil and Commercial Procedure states: 'If the court decides referral, it must specify to the parties the session in which they appear before the court to which the lawsuit was referred and notify absentees thereof.' Thus, the lawsuit exiting the jurisdiction of a specific court and entering the jurisdiction of another court can only be done through the path drawn by the legislator. Conversely, the separation of the lawsuit from the court by abandoning its consideration and connection with another court and the direct consideration of the latter, has occurred in a manner contrary to the principle aiming to clarify and determine how the lawsuit is connected to its judge, and this principle is related to public policy by preventing any separation or connection through other means."

Respecting the right to be informed by the litigants of the absentees' notification is imperative. It is essential that the judgment of referral is contingent upon the knowledge of absentees by virtue of the referral judgment. The legislator was not successful in not stipulating that notification should be accompanied by proof of receipt, as provided in Article (7) of the Law of Civil and Commercial Procedure. Therefore, there is a necessity to amend Article (95) of the same law to read as follows: "If the court decides referral, it must specify to the parties the session in which they appear before the court to which the lawsuit was referred and notify absentees thereof, by registered letter accompanied by proof of receipt." This ensures the respect for the established right of the litigants in this regard.

Subsection Three: Handling Conflicting Dates between Courts

This assumption is based on the premise that the referred court has set a date different from the one scheduled for the session before the court to which the case was referred. The session set by the referred court might be either closer or farther than the session scheduled before the court to which the case was referred. In practice, it's unlikely that the sessions align perfectly. In such cases, it is expected that the parties adhere to the closest session, aiming for expedited dispute resolution and respecting the value of time in litigation. However, in practical terms, parties often adhere to the date set by the court to which the case was referred, even if it's farther than the one set by the referring court.

In the scenario where the court to which the case was referred adheres to the date set by the referring court, two assumptions arise:

1. If the court discovers that the parties weren't properly notified, it should oblige the court to re-notify them of the session date, based on the provisions of Article (63) of the Law of Civil and Commercial Procedure.
2. If the parties are absent despite proper notification of the session date by the referring court, the court should postpone the session to a new date, re-notifying the parties of the new session date, which should align with the date set by the court to which the case was referred. This ensures the court respects the established right of the parties to be informed, in line with the absence of a provision in Palestinian legislation requiring notification by registered letter accompanied by proof of receipt.

Conclusion:

Having reached the conclusion of this study titled "Referral for the Adjudication of the Same Dispute," it is imperative to present a set of findings and recommendations as follows:

Findings:

1. Referral encompasses various forms, all aiming to prevent a court from adjudicating a case due to lack of jurisdiction, redirecting it to another competent court. These forms include referral for lack of jurisdiction, referral for connection, referral for the adjudication of the same dispute, and referral based on the parties' agreement on jurisdiction.
2. Referral for the adjudication of the same dispute occurs when the claimant files their claim before multiple courts for the same reason, involving the same parties and subject matter. Consequently, the court must mandatorily refer the case to the court where the claim was initially filed.
3. The Palestinian legislator only specifies how to adhere to this referral before the judiciary, leaving it to jurisprudence to define the concept, conditions, and consequences of such referral, while addressing the general consequences in Article (95) of the Palestinian Civil and Commercial Procedure Law No. 2 of 2001.
4. The legislator's aim behind stipulating referral for the adjudication of the same dispute is twofold: firstly, to eliminate procedural waste and conflicting judgments, which undermine the authority of the final judgment; and secondly, to strip jurisdiction from other courts with concurrent jurisdiction over the dispute.

5. Referral for the adjudication of the same dispute transfers the entire case to the court where the claim was initially filed, obliging the referred court to consider the case in its entirety.

6. The referring court must refer the case to the court adjudicating the dispute, setting a session for the parties before the referred court and ensuring proper notification of absent parties, accompanied by proof of receipt, to guarantee their true awareness of the referral and the session date.

These findings shed light on the multifaceted nature of referral for the adjudication of the same dispute and underscore its significance in streamlining judicial processes and preserving the integrity of legal decisions. It is recommended that further research delve into jurisprudential interpretations and practical applications of referral mechanisms to enhance legal clarity and procedural efficiency.

Recommendations:

After presenting the overall results derived from the research and study, it is necessary to present the recommendations as follows:

1. It is Imperative to refer the adjudication of the same dispute after fulfilling its conditions and the party's adherence to it in accordance with the rule of orderly pleading.
2. We recommend the Palestinian legislator to organize the procedures followed before the referring court and how to adhere to the referral. This can be achieved by adding a legal provision after Article (93) to read as follows: "If the same dispute is raised before two courts, it is mandatory to initiate referral for adjudication before the court where the dispute was most recently filed for judgment. The court to which the claim is referred is obliged to hear it".
3. We recommend the Palestinian legislator to amend Article (95) of the same law to read as follows: "If the court decides to refer, it must schedule a session for the parties before the court to which the claim is referred and notify absent parties, accompanied by proof of receipt." This is to ensure respect for the established right of the parties in this regard.
4. We recommend the Palestinian legislator to obligate the court to which the dispute is referred to adjourn the hearing and re-notify the parties in case of their absence from the scheduled session set by the referring court. This is to ensure respect for the rights of the parties to confrontation and defense.

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