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Egyptian Court Strikes Down New Market-Based Medicine Pricing System as Undermining 'Health Security'

Case No 2457/64, Court of Administrative Justice, Egypt, April 27, 2010

A new medicine pricing system was introduced by the Ministry of Health which threatened the accessibility and affordability of drugs in Egypt, especially the price of generic drugs, which Egyptian citizens rely heavily due to their relative low cost. Previous to this decree, the price of generic drugs was determined on the basis of the actual production cost, plus profit mark-ups. Under the contested system, the price of brand-name drugs would be set 10% lower than the cheapest consumer price of the drug in the countries in which it is currently available and the price of generic drugs would be set at a fixed percentage of brand-name drugs – thereby linking the prices with global markets. The Court issued an injunction to suspend implementation of the decree, pending further consideration on the petition for annulment. Citing Article 16(2) of the African Charter on Human and Peoples' Rights, the Court found that the new system would lead to "inevitable repercussions...principally increased prices of pharmaceutical drugs and the consequences this will have for citizens' health and their right to obtain affordable medicine." The Court also said that the decree failed to factor in the social dimensions of the old pricing system and that any system should seek to fulfill the "health security" of all Egyptians.

The Ministry of Health has appealed the lower court's decision, and the appeal is now pending before the Supreme Court of Administrative Justice. The Egyptian Initiative for Personal Rights (EIPR) has reported that access to Ministry of Health officials before the court decision had been difficult; the Assistant Ministry of Health for Pharmaceuticals has consistently denied their request for a meeting and for information. After the decision the Assistant Minister met with EIPR and expressed interest in cooperating with civil society in future research on the subject-matter. Ministry of Health officials have also confirmed that they are no longer pricing medicines based on the suspended decree. This case was the first to contest the national drug pricing system and question the accessibility and affordability of medicines in Egypt under the system. It was also the first to argue for a rights-based approach to implementing such a policy and system and the Court confirmed the intricate link between what it called the "health security" of the individuals with their rights to access medicines which should be an integral component in designing drug pricing systems. Human rights NGOs in Egypt have traditionally not been engaged on access to medicines issues, so EIPR's involvement in this case was critical to shedding light on this neglected issue.

For a [full case summary](#) and information on the enforcement and other outcomes of this decision, visit the [Caselaw Database](#) at www.escr-net.org. There you will also find information on groups involved, case documents and secondary literature.

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