GAR Global Arbitration Review

The Middle Eastern and African Arbitration Review

2024

Egypt

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Egypt

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Summary

IN SUMMARY

This article outlines the main features of Egypt's arbitration legal framework and covers key developments in arbitration in 2023. It highlights the main arbitration principles established by the courts in 2023 concerning, among other matters, the effect and scope of the doctrine of ***res judicata***, the applicability of the IBA Guidelines under Egyptian law, the consequences of not adhering to pre-arbitration conditions, the possibility to waive the right to enforce an arbitral award and the pro-validation approach taken by courts.

DISCUSSION POINTS

- Legal framework for arbitration in Egypt
- Constitution of ECAS
- Effects of pre-arbitration conditions on the validity of the arbitral award
- Principles from Court of Appeal and Court of Cassation decisions in 2023
- CRCICA's new arbitration rules and developments

REFERENCED IN THIS ARTICLE

- Arbitration Act
- Civil and Commercial Procedures Law
- CRCICA Arbitration Rules

EGYPTIAN ARBITRATION ACT

Egypt was one of the first countries in the region to introduce an arbitration law. It enacted the Arbitration Act No. 27/1994 (the Arbitration Act) based on the UNCITRAL Model Law on International Commercial Arbitration (1985). It applies to arbitrations conducted in Egypt or in cases where the parties to an international commercial arbitration conducted abroad agree to subject the arbitration to the Arbitration Act.[1]

While the Arbitration Act is regarded as the general law governing arbitration Egypt, there are other laws that govern aspects of arbitration regarding certain legal relationships, such as transfer of technology contracts, sport arbitrations, investments under the investment law and contracts of public entities.

Egypt has become more arbitration-friendly through the courts' repeated findings that somewhat defective arbitration clauses may still be valid arbitration agreements,[2] and through legislation widening the scope of the matters that may be resolved through compromise, including matters that are traditionally regarded as matters of public law, such as tax disputes,[3] customs disputes[4] and certain crimes under the Investment Law of 2017-[5] and the Criminal Procedural Law.[6]

Egypt signed the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention) on 2 February 1959, and the Convention entered into force on 8 June 1959. Egypt signed and ratified the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (the ICSID Convention)

in 1972.[7] Egypt has concluded 115 bilateral investment treaties, 28 of which are not yet in force, and 15 of which have been terminated.[8]

To date, 46 investment treaty cases have been registered against Egypt as a respondent state[9] (including 38 ICSID cases).[10] Of these 46 cases, eight are currently pending (including four ICSID cases),[11] 15 were settled, 14 were decided in favour of Egypt, five were decided in favour of investors, and in one case liability was found but damages were awarded.[12]

Seven cases have been registered with Egypt as the home state of the investors, two of which are currently pending, two of which were settled, two of which were decided in favour of the host state.[13] There is no available data for one of those cases.[14]

Arbitration agreement

The Arbitration Act defines an arbitration agreement as an agreement in which the parties agree to resolve, by arbitration, all or part of a dispute that arose or may arise between them in connection with a specific legal relationship, contractual or otherwise.[15] Since 2005, the Cairo Court of Appeal (the Court of Appeal) has held that an arbitration agreement is considered to be the constitution of an arbitration. The agreement determines the scope, extent and subject of the arbitration and grants the arbitrators their powers, resulting in the exclusion of the dispute from the jurisdiction of the courts.[16]

An agreement to arbitrate may take three different forms:

- the arbitration agreement may be embodied as a clause or an annex to the agreement between the parties before a dispute arises between them;
- the parties may enter into a 'submission agreement', which is an arbitration agreement that the parties agree to after a dispute has risen, in which case the parties must define in the agreement the matters or disputes subject to arbitration, otherwise the agreement is null and void; or[17]
- the arbitration agreement may be incorporated by reference.

For an agreement made by incorporation by reference to be valid, there must be explicit reference to an existing document with a valid arbitration agreement.[18] Under article 10(3) of the Arbitration Act and Egyptian jurisprudence, the following conditions must be satisfied:

- reference should be made to an existing document or contract that includes an arbitration clause;
- the document or contract that reference is made to should be known to all the parties against whom that document or contract applies and the included arbitration clause will be invoked; and
- reference should be explicitly made to the arbitration clause itself and to the fact that it is an integral part of the contract (general reference to the existing document or its terms is not sufficient).[19]
- In terms of the scope of the arbitration agreement, the Court of Appeal has held that the scope of the arbitration agreement excludes disputes related to the execution of the applicable contract if it is drafted in a manner that would only empower the arbitral tribunal to hear disputes arising out of the difference in interpreting the provisions of the agreement. The Court of Appeal has decided that the tribunal would only be

competent to hear disputes relating to the interpretation, not the performance, of the contract.[20]

However, the Court has found that even if the tribunal exceeded its mandate and the scope of the arbitration agreement without any objection by the parties, this would not be a ground for annulment of the award as long as the party making the claim for annulment did not make any objection in this respect during the arbitration proceedings.[21] In another judgment, it found that rendering an award for tort liability falls outside the jurisdiction of the tribunal.[22] In that case, the tribunal awarded compensation for the abuse of using a trademark that was categorised by the tribunal itself as tortious liability and was considered by the Court to fall outside the scope of the arbitration agreement.

CONDITIONS OF VALIDITY OF THE ARBITRATION AGREEMENT

In addition to the general requirements for the validity of contracts, such as consent, capacity and the existence of a legal relationship, the following requirements, as well as any further requirements mandated by a specific provision of law, must be satisfied for there to be a valid arbitration agreement: the arbitration agreement must relate to matters that are amenable to compromise,[23] and the agreement must be in writing, otherwise it will be null and void.[24]

The arbitration agreement will be deemed written if it is included in written communication exchanged between the parties. This requirement is widely interpreted to include an arbitration agreement concluded by exchanging offers and acceptance through electronic means.[25] Silence may be considered as acceptance of the arbitration agreement if there are previous continued transactions between the parties where the arbitration agreement is included,[26] or where proceedings are initiated without objection from the opposing party.[27]

Defective arbitration clauses have been repeatedly held by the Cairo Court of Appeal as valid arbitration agreements and have been interpreted to favour arbitration over courts.[28]

ENFORCEMENT OF ARBITRAL AWARDS IN EGYPT

Under article 55 of the Arbitration Act, all arbitral awards rendered under the Act have ***res judicata*** effect and shall be enforceable in conformity with its provisions.[29] The enforcement of domestic arbitral awards is governed by article 56 of the Arbitration Act, which requires a request for enforcement to be submitted to the president of the competent court, along with the required documents.[30] The enforcement order must be submitted after the lapse of the 90-day period prescribed for filing the nullity action,[31] and it will be issued after verifying that certain conditions have been met.[32]

The enforcement of foreign arbitral awards in Egypt is governed by the New York Convention[33] and, as such, is subject to the same enforcement rules applicable to national arbitral awards under the Arbitration Act.[34]

The Court of Appeal has rendered a judgment enforcing a foreign arbitral interim measure that was issued by an International Chamber of Commerce (ICC) tribunal. It found that arbitral interim measures must be applied according to the same legal procedures as those for enforcing a final arbitral award (ie, by an order on application without notification of, or hearing, the parties). The Court went further[35] and required that the interim measure:

- be final and be considered final if rendered by a competent arbitral tribunal;
- be based on a valid arbitration agreement;

- have offered both parties the opportunity to present their case; and
- not be against public policy.

Article 24 of the Arbitration Act allows a court to order the enforcement of interim measures decided by arbitral tribunals in arbitrations that are subject to the Arbitration Act.[36]

Under article 54(2) of the ICSID Convention, the recognition and enforcement of an award may be obtained from the competent court or other authority designated by a contracting state on presentation of a copy of the award certified by the secretary general of ICSID. The Ministry of Justice has been designated by Egypt as the competent authority for the recognition and enforcement in Egypt of arbitral awards rendered under the ICSID Convention.

Under article 54(3) of the ICSID Convention, execution of the award is governed by the law on the execution of judgments in force in the country where execution is sought, which in Egypt is the Civil and Commercial Procedures Law (CCPL). Under article 55 of the ICSID Convention, ICSID awards should be enforced in Egypt without prejudice to the Egyptian law provisions regarding the immunity of Egypt or any foreign state from execution.

Article 87 of the Civil Code provides that public assets of the Egyptian state are immune from enforcement and attachment procedures.

SETTING ASIDE ARBITRAL AWARDS

Under article 53 of the Arbitration Act, arbitral awards can only be challenged by annulment proceedings. An award may be annulled for several reasons, including that:

- the award contradicts public policy, there was no valid arbitration agreement;
- the tribunal did not apply the law agreed on by the parties;
- one of the party's right of defence was violated; or
- as is the case more recently, there is a complete absence of reasoning (unless the parties agree not to provide any reasoning).[37]

Annulment proceedings can only be brought within 90 days of the date of valid notification of the award debtor;[38] the 90-day period will not commence even if the counterparty became aware of the award through other means.[39]

The Supreme Constitutional Court held that the right to bring annulment proceedings against arbitral awards is a constitutional one. Additionally, the Court of Appeal held that if the parties agreed in the arbitration clause that the arbitral award is final and no party may challenge it, this cannot prevent either party from filing a nullity suit. However, waiver of an annulment lawsuit after the issuance of the arbitral award is permitted under Egyptian law.[40]

Egyptian courts have opined on whether an international commercial arbitration award rendered in Egypt in the context of an international treaty could be subject to annulment proceedings before Egyptian courts, where the treaty seems to prohibit challenging the award. The Court of Cassation took the view that annulment proceedings are allowed under the treaty and that the treaty does not contradict the Arbitration Act regarding the right to request annulment,[41] overturning a previous Court of Appeal judgment.[42]

KEY DEVELOPMENTS IN THE ARBITRATION REGIME

Constitution Of ECAS

The Regulation on Non-Banking Financial Markets and Instruments provides for the establishment of an arbitration centre by presidential decree to resolve disputes arising out of the application of the laws governing non-banking financial transactions, subject to the parties' agreement to arbitrate. Presidential Decree No. 335 of 2019 was issued in this regard, establishing the Egyptian Centre for Arbitration and Settlement of Non-Banking Financial Disputes (ECAS).

ECAS specialises all disputes arising from the application of laws concerning non-financial transactions, in particular disputes between shareholders, partners or members of companies and entities that work in non-banking financial markets.

PRINCIPLES FROM COURT OF APPEAL DECISIONS IN 2023

Res Judicata Effect Of Arbitral Awards And Its Scope

In one court case,[43] the respondent alleged that it did not sign the contract containing the arbitration agreement and that the contract and the arbitration agreement were therefore not enforceable. This case was filed in light of an arbitral award rendered prior to the filing of this case. The arbitral tribunal concluded that the contract was valid regardless of the respondent's plea concerning the validity of the contract.

The Court of Appeal rejected the respondent's claims on grounds of the *res judicata* effect of arbitral awards. In this respect, the arbitral tribunal had already discussed the validity and enforceability of the contract before the disputants, and the disputants could not re-litigate matters that have already been adjudicated by the arbitral tribunal, which revolved around the same subject matter and related to the same contract between the same parties.

Effects Of Non-fulfilment Of Pre-arbitration Conditions

In an annulment case before the Court of Appeal, the Court of Appeal elaborated on the nature of pre-arbitration conditions.[44] In this case, the appellant requested the setting aside of an arbitral award because the parties did not fully satisfy the pre-arbitration conditions.

The Court of Appeal rejected this plea. It reasoned that fulfilment of pre-arbitration conditions, such as amicable settlement efforts, does not constitute a requirement to set aside an arbitral award since it is an admissibility condition that can be invoked before the arbitral tribunal and, in any case, does not affect the competence of the arbitral tribunal.

The Court noted that the annulment proceedings do not simply encompass violations of any mandatory rule; rather, it encompasses the rules that aim to preserve public policy.

For these reasons, the Court of Appeal rejected the appellant's challenges and dismissed the case.

Waiver Of The Enforcement Of Arbitral Awards

In an enforcement dispute before the Court of Appeal, the Court addressed whether the re-litigation of an already-litigated arbitration dispute by the winning party constitutes a waiver of the right to enforce the previous arbitration award.[45] In this case, the respondent obtained an enforcement order on an award rendered in 2006 that was issued in its favour (Award A). The appellant challenged Award A and requested its nullity.

Before the court's decision on the validity of Award A, the respondent submitted the same claims raised in Award A in another arbitration. In that case, the tribunal rejected the respondent's claims on the merits (Award B). Accordingly, the Court of Appeal was faced with the issue of conflicting awards and whether the re-litigation of the matters confined in Award A can be regarded as a waiver of Award A and its effects.

The Court concluded that the respondent's re-litigation in Award B of the matters previously addressed in Award A constitutes a waiver of what had already been addressed and settled by Award A; otherwise, this would result in an instability of legal positions and lead to legal uncertainty. Consequently, the Court accepted the petition and cancelled the enforcement order of Award A.

Start Of The 90-day Period For Filing An Annulment Lawsuit

The Court of Appeal noted that the date for submitting a setting-aside challenge starts from the date of providing an official notice to respondent; therefore, even if the respondent became aware of the award by any means other than an official notice, including if the respondent became aware of the award by one of the means prescribed under the CCPL, it will not be taken into account as this would otherwise be against the ***lex specialis*** nature of the Arbitration Act.[46] This judgment confirms the position already established by the judiciary on this issue.

Capacity In Arbitration

In an annulment case before the Court of Appeal, the claimant alleged that its capital was seized and confiscated and that the Seizure and Confiscation Committee was supposed to represent the appellant in the arbitration proceedings. The tribunal rejected this request, so the claimant requested the setting aside of the award rendered by the arbitral tribunal because of its incapacity and lack of representation in the arbitration proceedings.[47]

The Court of Appeal set aside the award, holding that if the disputing party did not have the required capacity, the arbitral tribunal cannot progress the proceedings, regardless of the intention of the disputing parties.

To that end, given that the claimant's capital was seized and that the arbitral tribunal did not take into account the status of the claimant and whether it lacked the required capacity as a result of this seizure and confiscation, the award that was rendered is procedurally flawed and null and void.

PRINCIPLES FROM COURT OF CASSATION DECISIONS IN 2023

Validation Of Arbitration Proceedings In The Case Of Dilatory Tactics

The Court of Cassation refused to set aside an arbitral award despite the issuance of a court order to terminate the arbitration proceedings. In this case, the appellant alleged that the arbitral tribunal had disregarded the court order to terminate the proceedings and that the award should therefore be set aside.[48]

The Court dismissed this claim on the grounds that the appellant cannot evade the provisions of the arbitration agreement confined in the disputed contract to which it consented. The appellant should therefore not have requested a termination order as the order would deprive the tribunal of its authority provided for in the parties' agreement.

Arbitrators' Duty To Disclose And IBA Guidelines

In a case before the Court of Cassation, the appellant requested an arbitral award to be set aside on the grounds that the presiding arbitrator and its appointed arbitrator were members of the advisory committee of the Cairo Regional Centre for International Commercial Arbitration (CRCICA). The presiding arbitrator was also a member of the CRCICA's board of trustees and had also attended a scientific conference sponsored by the respondent's counsel. The appellant alleged that these facts constituted evidence of bias in the proceedings, and the arbitrators' lack of disclosure further posed a violation to the principle of impartiality and independence.

The Court of Cassation rejected this allegation for several reasons:

- The arbitrator's obligation to disclose arises in circumstances where there is a risk of bias or justifiable doubts about the arbitrator's impartiality towards one of the parties. Review of an arbitrator's lack of disclosure falls within the scope of the annulment court. The lack of impartiality must have a tangible form. Given that article 7 of the regulation concerning CRCICA's advisory committee allows the arbitration parties to appoint members of the committee, there was no violation in regard to the appointment mechanism.
- Under the Guidelines on Conflict of Interest in International Arbitration of the International Bar Association (IBA), having an institutional relationship with another arbitrator or counsel is permissible.
- The fact that the appellant did not make those objections before the arbitral tribunal, despite being aware of the violations during the arbitration proceedings, was considered to be tacit waiver of its right to object.

Conditions Of Validity Of Arbitral Awards

In another case, the Court of Cassation elaborated on the conditions for the validity of an arbitral award issued by a panel comprising more than one arbitrator. It held that:

- there must be deliberations between the arbitrators, including the arbitrator who abstained from signing the award;
- the award must be issued and signed by the majority of the arbitrators; and
- reasons must be provided in the award explaining the abstention of any arbitrator from signing the award.

Accordingly, the Court upheld the annulment of the arbitral award as it was only signed by the presiding arbitrator, without any substantiation on why the other two arbitrators did not sign the award.[49]

Nature Of Enforcement Orders

The Court of Cassation had to answer a question pertaining to the nature of enforcement orders and whether enforcement orders possess ***res judicata*** effect. It held that ***res judicata*** effect is only attached to judgments. In contrast, an enforcement order is a writ on petition, which makes it subject to the rules governing writs on petition under the CCPL;[50] therefore, the rejection of an enforcement order does not preclude a party from challenging the rejection or requesting a new enforcement order since ***res judicata*** is not attached to enforcement orders.

Effects Of Unconstitutionality Of Sports Law And ESSAC Regulations

The Court of Cassation rendered a judgment concerning the effects of the unconstitutionality of article 69 of the Sports Law No. 71/2017 (the Sports Law) on the competence of the Egyptian Olympic Committee's board of directors to make decisions based on that article and the regulations of the Egyptian Sports Settlement and Arbitration Centre (ESSAC).[51]

The appellant alleged that the appealed judgment, by adjudicating the matter of setting aside the award rendered by the ESSAC, constitutes implicit recognition of its jurisdiction to adjudicate those matters and constitutes a violation of the ESSAC's regulations.

The Court dismissed this challenge, concluding that the unconstitutionality of an article in a statute leads to the inapplicability of that article from the day of the date of declaration of its unconstitutionality.

Given that article 69 of the Sports Law and the ESSAC's regulations were declared unconstitutional, the Arbitration Act is the applicable law; therefore, the Court of Appeal is the competent court to hear annulment cases.

*Effect of interpretation awards on period for setting-as*ide awards

The Court of Cassation elaborated on the effects of interpretation awards on the arbitral award and the time frame setting-aside applications can be made.[52] It held that a request for the interpretation of an arbitral award has no effect on the validity of the arbitral award, its possibility to be set aside or the prescriptive period for challenging it because an interpretation award merely supplements the existing award; it is not an independent, stand-alone award. The 90-day period for filing an annulment lawsuit is therefore calculated from the date of notifying the other party of the award, not from the date of notifying the other party of the interpretation award.

Effects Of The Term 'name Of The People' On The Validity Of Awards

The Court of Cassation decided on a challenge in which the appellant argued that the arbitral award should be set aside because it was issued in the 'name of people'.[53] The Court rejected this plea because the addition or exclusion of the 'name of people' in an arbitral award does not affect its legitimacy or validity.

EGYPTIAN ARBITRATION CENTRES IN 2023: AN OVERVIEW

CRCICA

The CRCICA is the leading arbitral institution in the region. It was established in January 1978 by a decision of the 19th session of the Asian-African Legal Consultative Organization. It is an independent, non-profit international organisation.

The Court of Appeal considered the CRCICA's status as a non-profit international organisation to be that of an international body enjoying judicial immunity in practising its role as an arbitration institution; therefore, the CRCICA cannot act as a defendant in challenging its arbitration-related function.

In the past year, the CRCICA registered 52 arbitration cases.[54] In the first quarter of 2023, 15 new cases were filed, three of which were ad hoc and 12 of which were institutional.-[55] The scope of arbitration of the cases in the first quarter of 2023 encompassed various sectors, including construction, oil and gas, banking, corporate restructuring, real estate development, and tourism and hospitality. The parties of these disputes were from Bermuda,

the British Virgin Islands, Egypt, Greece and Kuwait, while the arbitrators were from Egypt, Lebanon and Saudi Arabia.[56]

The CRCICA has adopted the UNCITRAL Arbitration Rules, with minor modifications. It unveiled its new arbitration rules on 15 January 2024, having previously amended its rules in 1998, 2000, 2002, 2007 and 2011. Similar to the amendments of 2011, the 2024 amendments were based on the UNCITRAL Arbitration Rules, as revised in 2011 and amended in 2013 and 2021.

The 2024 CRCICA Arbitration Rules maintain the flexibility of the UNCITRAL Arbitration Rules and also include provisions that are not contained in the UNCITRAL Arbitration Rules. The Rules provide for more transparency and efficiency, including the following provisions:

- Article 1(4) provides that the parties can incorporate the Rules on Transparency in Treaty-based Investor-State Arbitration.
- Article 17(4) imposes an obligation on the parties not to delay the proceedings and to cooperate towards the efficient conduct of the proceedings without unnecessary delays or expenses.
- Article 50, in an attempt to minimise the risks of conflicting judgements and awards, and to reduce the costs of the disputing parties, introduces the concept of consolidating arbitral proceedings.
- Article 51 allows the disputing party to make claims arising out of more than one contract in a single arbitration.
- Article 52 allows the arbitral tribunal to dismiss claims at an early stage of the proceedings if a claim is manifestly without legal merit.
- Article 53 requires the parties to disclose the existence of third-party funding and the identity of the funder at the commencement of and throughout the arbitral proceedings.
- Annex 2 introduced emergency arbitration procedures.
- Annex 3 introduced expedited arbitration, with article 11 of Annex 3 setting a time frame for the arbitral tribunal to issue an arbitral award in the case of expedited arbitration within six months of the date of the constitution of the tribunal, unless otherwise agreed by the parties.

The CRCICA Arbitration Rules offer more flexibility in terms of the following:

- *Article 5(1) explicitly allows the parties to be represented or assisted by one or more chosen persons, regardless of the jurisdiction in which they are based or p*racticing.
- *Article 18 explicitly allows the arbitral tribunal to sign the arbitration award at any location, regardless of the seat of ar*bitration.
- *Article 28(2) provides that the arbitral tribunal can decide to hold hearings remotely after consulting with the parties,*[57]*although the Rules do not address whether the arbitral tribunal can electronically sign the arbitrati*on award.
- *Article 2(2) allows parties to send notices and other communications electronically, and the CRCICA also encourages the use of videoconferencing te*chnology.[58]
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Articles 3(6) and 4(4), and article 2(3) of Annex 2 detail the recent introductions to the CRCICA *Arbitration Rules regarding the implementation of an online filing system for submitting the notice of arbitration, the response to the notice and the application for the appointment of an emergency arbitrator, respectively, using the CRCICA's designated online forms and applications, which are available on it*s website.

- *Article 34(5) provides for a review of the form of the CRC*ICA award.
- *Article 36(4) states that the law governing the arbitration agreement is the law of the place of arbitration unless the parties explicitly agree in writing to apply different laws or rule*s of law.[59]
- Annex 1 includes revised tables of administrative fees and arbitrator's fees.

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ENDNOTES

[1] Arbitration Act No. 27 of 1994 (the Arbitration Act), article 1.

[2] Cairo Court of Appeal, Circuit (8), Challenge No. 55 of JY 134, 16 September 2018; Cairo Court of Appeal, Circuit (50), Challenge No. 59 of JY 135, 28 November 2018.

[3] Tax Law No. 91 of 2005, article 138.

[4] New Customs Law No. 207 of 2020, article 64.

[5] Investment Law No. 72 of 2017, articles 90 and 93.

[6] Criminal Procedural Law, article (18)-bis(a).

[7] International Centre for Settlement of Investment Disputes (ICSID), 'Egypt, Arab Republic of'.

[8] United Nations Conference on Trade and Development (UNCTAD), 'International Investment Agreements Navigator: Egypt – Bilateral Investment Treaties (BITs)'.

[9] UNCTAD, 'Investment Dispute Settlement Navigator: Egypt – Cases as Home State of claimant'.

[10] ICSID, 'Cases database'.

[11] ibid.

[12] See footnote 9.

[13] ibid.

[14] ibid.

[15] Arbitration Act, article 10(1).

[16] Cairo Court of Appeal, Circuit 91, Commercial, Case No. 95 of120 JY, 27 April 2005.

[17] Arbitration Act, article 10(2).

[18] Arbitration Act, article 10(3).

[19] Court of Cassation Judgment, Challenge No. 495/72 J, 3 January 2004.

[20] Cairo Court of Appeal, Challenge No. 3 of 136 JY, 27 May 2019.

[21] Cairo Court of Appeal, Circuit (1), Challenge No. 15 of JY 137, 8 July 2020.

[22] Cairo Court of Appeal, Circuit (1), Challenge No. 39 of JY 136, 10 September 2020.

[23] Arbitration Act, article 11. Public policy matters are not subject to compromise and are therefore non-arbitrable (see article 551 of the Civil Code). Non-arbitrable matters include the personal status of individuals, criminal matters, bankruptcy claims, public assets and matters for the sole purpose of requesting interim measures (see Cairo Court of Appeal judgment, Case No. 29 of JY 117, 25 February 2002).

[24] Arbitration Act, article 12.

[25] Fathy Waly, ***Arbitration Act in Theory and Practice***, Vol. 1, 2021, pp. 238–239.

[26] Professor Mahmoud El Briery, ***International Commercial Arbitration*** (4th edn.), 2010, Dar El Nahda El Arabi'a, p. 59.

[27] Cairo Court of Appeal, Circuit (50), Challenge No. 59 of 135 JY, 28 November 2018.

[28] Cairo Court of Appeal, Circuit (8), Challenge No. 55 of 134 JY, 16 September 2018 and Cairo Court of Appeal, Circuit (50), Challenge No. 59 of 135 JY, 28 November 2018.

[29] Arbitration Act, article 55.

[30] Arbitration Act, article 56.

[31] Court of Cassation, Challenge No. 17492 of 91 JY, 9 May 2023.

[32] Arbitration Act, article 58.

[33] Some jurists take the view that the Arbitration Act and the Civil and Commercial Procedures Law No. 131 of 1948 (articles 296 to 301) also apply.

[34] Cairo Court of Appeal, Circuit (7), Challenge No. 55 of JY 135, 6 February 2019.

[35] Cairo Court of Appeal, Circuit (7), Challenge No. 44 of JY 134, 9 May 2018.

[36] Article (24) of the Arbitration Act states that: '1. Both parties to the arbitration may agree to confer upon the arbitral tribunal the power to order, upon request of either party, interim or conservatory measures considered necessary in respect of the subject matter of the dispute and to require any party to provide appropriate security to cover the costs of the ordered measure. 2. If the party against whom the order was issued fails to execute it, the arbitral tribunal, upon the request of the other party, may authorise the latter to undertake the procedures necessary for the execution of the order, without prejudice to the right of said party to apply to the president of the court specified in Article 9 of this Law for rendering an execution order.'

[37] Cairo Court of Appeal, Circuit (1), Challenge No. 65 of JY 137, 4 February 2021.

[38] Alexandria Court of Appeal, Circuit (5), Challenge No. 6 of JY 76, 20 April 2022.

[39] Cairo Court of Appeal, Circuit (3), Challenge No. 56 of JY 135, 24 June 2020.

[40] Cairo Court of Appeal, Challenge No. 78 of JY 131, 4 May 2015.

[41] Cairo Court of Appeal, Circuit (62), Challenge No. 39 of JY 130, 6 August 2018.

[42] Cairo Court of Appeal, Challenge No. 39 of JY 130, 5 February 2014.

[43] Cairo Court of Appeal, Circuit (1), Challenge No. 156 of JY 139, 8 February 2023.

[44] Cairo Court of Appeal, Circuit (1), Challenge No. 68 of JY 140, 6 September 2023.

[45] Cairo Court of Appeal, Circuit (1), Challenge No. 35 of JY 139, 6 September 2023.

[46] Cairo Court of Appeal, Circuit (1), Challenge No. 49 of JY 139, 10 May 2023.

[47] Cairo Court of Appeal, Circuit (3), Challenge No. 55 of JY 139, 26 August 2023; Cairo Court of Appeal, Circuit (3), Challenge No. 1 of JY 140, 26 August 2023.

[48] Court of Cassation, Challenge No. 7913 of JY 91, 9 May 2023.

[49] Court of Cassation, Challenge No. 1458 of JY 89, 23 May 2023.

[50] Court of Cassation, Challenge No. 11533 of JY 76, 20 March 2023.

[51] Court of Cassation, Challenge No. 1458 of JY 89, 23 May 2023.

[52] Court of Cassation, Challenge No. 4566 of JY 71, 10 January 2023.

[53] Court of Cassation, Challenge No. 6641 of JY 86, 12 June 2023.

[54] In 2022, 1,618 cases were filed before the Cairo Regional Centre for International Commercial Arbitration (CRCICA). This number reportedly increased to 1,670, as noted on 15 January 2024; therefore, the number of cases registered before CRCICA between 1 January 2023 to 15 January 2024 is 52. See CRCICA, 'CASELOAD 2022 – Number of Cases Registered Remains Steady' (31 Dec 2022); see also Ismail Selim and Mohamed Hafez, '-CRCICA Launches New Arbitration Rules 2024', Kluwer Arbitration Blog (15 Jan 2024).

[55] At the time of writing, the CRCICA has not published its caseload annual report for 2023 on its website. It has only published a caseload report for the first quarter of 2023.

[56] CRCICA, 'CRCICA Caseload Report 1st Quarter 2023, An Increase in the Sum in Dispute' (31 Mar 2023).

[57] This rule was added given the growing number of virtual hearings at the CRCICA, which have increased ever since the outbreak of the covid-19 pandemic (see CRCICA, 'Remote & Virtual Hearings: CRCICA's experiences with remote hearings an d video conferencing').

[58] For example, article 17(3) of the CRCICA Arbitration Rules allows the tribunal to utilise any technological means it deems appropriate to conduct the proceedings.

[59] This addition is designed to prevent any uncertainty or dispute regarding the determination of the law governing the arbitration agreement, which often arises because of the lack of agreement between the parties on this matter.

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