EGYPT



Law and Practice

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Matouk Bassiouny & Hennawy is a leading, full-service law firm with offices in Algiers, Cairo, Dubai, and Khartoum, as well as a country desk covering the firm's Libya practice. A team of more than 200 lawyers specialises in advising multinationals, corporations, financial institutions and government entities on all the legal aspects of investing and doing business in North Africa and the Middle East. Trained locally and internationally in civil and common law systems, the firm's lawyers are fully conversant in Arabic, English and French. The dispute resolution group consists of nine partners and more than 50 fee earners, and is active in the ICC, ICSID, Cairo Regional Centre for International Commercial Arbitration, Dubai International Arbitration Centre, Abu Dhabi International Arbitration Centre, the Court of Arbitration for Sport, and the LCIA – as well as local courts – representing clients in high-value disputes in a variety of sectors, including automotive, construction, heavy industry, manufacturing, oil and gas, pharmaceutical, real estate, telecommunications, and tourism.

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1. Identifying Assets in the Jurisdiction

1.1 Options to Identify Another Party's Asset Position

Under the Egyptian legal system, enforcement may be carried out against assets which encompass both tangible and intangible assets, including shares, bonds, and commercial papers.

In this regard, the process of identifying such assets is primarily left to the creditor, who is required to investigate and identify the assets they seek to claim. However, the process of investigating the defendant's assets and identifying the elements constituting their financial patrimony is often a complex and burdensome task.

In all cases, there are a number of public registers that might help identify a defendant's assets, including the Real Estate Register's Office for the identification of immovables and the Commercial Register for the identification of commercial companies. A company's entry in the Commercial Register shows material information about the company, such as:

- its headquarters;
- board members;
- the existence of any liens on its assets; and
- whether the company is subject to bankruptcy proceedings.

In addition, if the defendant is a listed company on the Egyptian stock exchange, it might be possible to identify its assets from its disclosures and financial statements. Egyptian law also obliges banks to disclose the financial position of debtors subject to the fulfilment of certain judicial procedures.

Moreover, the Central Depository and Registry Law of Financial Instruments creates a centralised system that keeps records of all shares, including the names of owners and transactions that take place with those shares. Thus, it can be used to determine the defendant's ownership of shares and financial instruments.

2. Domestic Judgments

2.1 Types of Domestic Judgments

Egyptian law permits the issuance of different types of domestic judgments, subject to the nature and jurisdiction of the competent courts (ie, civil or criminal courts). Egyptian jurisprudence advances the following categorisations of judgments.

Categorisation Based on Finality of Judgments

A final judgment puts an end to the whole dispute, a part thereof, or a secondary matter in response to the parties' pleas (eg, lack of jurisdiction). These judgments have a res judicata effect that prevents the litigating parties from filing another action for the same matter. However, these judgments might still be subject to appeal.

Non-final judgments do not settle the dispute and do not provide a final opinion in a particular matter. They include judgments referring the matter to an expert for financial or technical investigations or inspection.

An interim judgment does not end the dispute wholly or partially. Instead, it is a provisional judgment that might be changed later, subject to the surrounding circumstances. Thus, for instance, a provisional judgment might be issued declaring the right of a party to possess a specific property pending a final judgment on the ownership of the same property.

Categorisation Based on Content of Judgments

A judgment on the merits decides on the merits of the dispute, whether wholly or partially. It determines, declares, or confirms the existence or non-existence of a specific right or legal position (or any amendment thereof).

A procedural judgment decides on procedural issues that arise during the dispute – for example, the jurisdiction of the court, adjoining the case to another, or suspending the case.

In addition, there are other categorisations of judgments as to whether:

- a judgment is subject to an appeal;
- a judgment is declaratory, constitutive or compulsory; and
- a judgment has res judicata status or is self-executing.

A judgment could also be issued "in the presence" if the defendant attended the hearing, was notified in person or submitted a memorandum in response to the statement of claims. Conversely, a judgment in absentia is where the defendant did not attend the hearing, was not notified and did not submit a memorandum in response to the statement of claims.

2.2 Enforcement of Domestic Judgments

The Civil and Commercial Procedures Law No 13 of 1968 regulates the enforcement procedures for domestic judgments. As a rule, final judgments are subject to compulsory enforcement, which is also the case for judgments rendered by the court of appeal. However, some judgments rendered by the court of first instance may also be enforceable if provided for by law (eg, summary judgments), unless the judgment provides for the depositing of a security. In addition, the law grants the successful party the right to impose a precautionary attachment over movables that are owned by – and in the possession of – the debtor or a third party (eg, the defendant's bank account). Finally, this law also regulates the requirements and procedures for the compulsory enforcement of domestic judgments.

Enforcement Process

The first step in the enforcement process is the service of the relevant judgment on the defendant, demanding that it responds to the judgment voluntarily (eg, pay the amount awarded or deliver the land sold).

The notice is served by the court bailiff on the defendant at their actual residence, including a copy of the document based on which the enforcement is sought and a request that the defendant undertake the necessary action. This could include paying the debt, performing specific work, or delivering a particular item. The defendant can avoid the compulsory enforcement procedures if it acts on the judgment voluntarily following notification.

Secondly, the respective party must submit an enforcement request to the head of the competent enforcement administration. Thirdly, the enforcing party may then proceed to enforce the judgment against the defendant's assets through an attachment followed by a public auction. The proceeds from the auction will then be distributed to the creditors of the defendant.

Furthermore, the defendant's assets might be subject to precautionary attachment and executive attachment. It is also possible for creditors to file a lawsuit before the competent court to declare a debtor bankrupt or insolvent.

Precautionary Attachment

The Civil and Commercial Procedures Law No 13 of 1968 regulates the procedures to preserve assets on an interlocutory basis. The law grants the successful party the right to impose a precautionary attachment over movables owned by, and in the possession of, the debtor or a third party (eg, the debtor's bank).

Precautionary attachment puts the assets under the control of the courts. Thus, a defendant may not dis-

pose of any of the assets subject to precautionary attachment. A precautionary attachment does not require a court decision; rather, it can be carried out by a court bailiff upon fulfilling certain legal requirements. Broadly, it is an interim measure to determine the assets of the defendant and to restrict the defendant from taking any action in relation to the assets that would be to the detriment of the enforcing party.

The general requirements for precautionary attachment are that:

- the right is certain;
- the right is due; and
- the right is quantified.

If the creditor does not have an enforcement instrument or an enforceable judgment, or its debt is not quantified, the precautionary attachment will only be levied by an order from the enforcing judge as long as the debt is certain and due. In this case, the debt will be quantified temporarily.

Finally, only movables can be subject to precautionary attachments.

Executive Attachment

Subject to the satisfaction of certain legal requirements and procedures, the executive attachment is the step preceding the compulsory sale of the defendant's assets by public auction under the supervision of the competent enforcement judge. Executive attachment procedures differ depending on the nature of the asset subject to the attachment (ie, a movable or an immovable asset).

Insolvency and bankruptcy proceedings

Furthermore, for insolvency proceedings, Egyptian law differentiates between insolvency (which is regulated under Egyptian civil law) and bankruptcy (which is regulated under a recently promulgated law – namely, Law No 11 of 2018). Unlike bankruptcy proceedings, insolvency proceedings apply to non-traders with regard to non-commercial disputes.

Under civil law, a debtor may be declared insolvent if their assets are insufficient to satisfy their debts. Insolvency is declared either by the judgment of the court of first instance of the district in which the debtor is domiciled or upon a petition of the debtor themselves or one of their creditors. The lawsuit will be adjudicated in an expedited manner.

On the other hand, bankruptcy is primarily sought when a merchant ceases to pay its commercial debts due to disturbance/disruption/turmoil in its financial affairs, subject to the satisfaction of specific legal requirements. It thus aims at liquidating the assets of the merchant, enabling creditors to satisfy their claims from the proceeds of the sale.

2.3 Costs and Time Taken to Enforce Domestic Judgments

Generally, there is no specific timeframe in which to enforce a domestic judgment. The costs and timeframe vary depending on the selected enforcement method – ie, precautionary or compulsory enforcement – and whether the enforcement proceedings are against movables or immovables. The law regulates the necessary requirements and procedures for each enforcement method. By way of example, assuming that enforcement will be made against movables owned by the debtor, the process may take approximately 18–24 months. For a precautionary attachment, it may take six to eight months.

It is generally advisable to commence enforcement procedures against the defendant's bank account, as this is a more efficient and prompt enforcement procedure.

2.4 Post-Judgment Procedures for Determining Defendants' Assets

Generally, there is no central official record where the successful party can identify the assets owned by the defendant. However, certain public registries may be helpful in identifying some of the defendant's assets. These registers include the Real Estate Register's Office for the identification of immovables ownership and the Commercial Register for the identification of commercial companies.

Additionally, there are some procedures that can be followed by the successful party to identify the defendant's assets. For instance, to initiate an attachment on the defendant's bank account, the applicant

must inform the relevant banks of their debt and the intended attachment via a document procured from a court bailiff. The applicant must then submit an application to the competent judicial authority to obtain an order obliging the banks to disclose the financial position of the defendant.

The banks must disclose the financial position of the defendant within 15 days of receipt of the document from the court bailiff and the disclosure order. The banks cannot then pay the amounts under their custody to the defendant.

COVID-19

It should be noted that the COVID-19 outbreak led the government to temporarily close and suspend the operation of the Real Estate Register's Office to curb the spread of the virus. This office has since resumed its operation with a limited capacity.

On 29 June 2020, the prime minister issued Decree No 1295 of 2020, stating that the period of lockdown – from 17 March until 27 June 2020 – would be treated as a suspension period for all limitation periods, including those pertaining to enforcement proceedings. As such, the non-commencement of enforcement proceedings within that timeframe does not impact any limitation periods related to enforcement proceedings. Recently, the Court of Cassation invoked the above-mentioned decision to justify the suspension of procedural periods regulating the contestation of judgments.

2.5 Challenging Enforcement of Domestic Judgments

The Civil and Commercial Procedures Law No 13 of 1968 includes the legal options available for the defendant to challenge the enforcement of domestic judgments. These options include:

- filing an appeal before the highest courts, such as the Court of Cassation;
- seeking the cancellation of the judgment; and
- a stay of enforcement until the final decision on merits is rendered by the court.

Additionally, in order to ensure a balance between the creditor's right to obtain compulsory enforcement and the debtor's right to avoid invalid enforcement, Egyptian law regulates the initiation of certain lawsuits to:

- suspend the enforcement automatically; or
- grant the competent judge the discretion to suspend the enforcement.

Egyptian law further regulates the legal requirements and procedures for the initiation of these lawsuits. By way of example, the defendant can challenge the enforcement if the creditor's right is extinguished for any reason. The defendant can also challenge the enforcement if the applicant is seeking enforcement against an asset that cannot be subject to enforcement or attachment. This includes property owned by the state or public juridical persons and allocated for a public purpose, as well as any amount more than a quarter of a person's salary.

Another option is to file a contestation against the enforcement of the judgment. The first contestation automatically suspends the enforcement of the judgment until the court's determination on the merits of the contestation itself.

2.6 Unenforceable Domestic Judgments

Any judgment that does not impose an obligation on its parties cannot be subject to enforcement. By way of example, a declaratory judgment cannot be subject to enforcement. In addition, the judgment should be final and not subject to an appeal (other than a challenge before the Court of Cassation), unless it is issued in a summary matter or accompanied by an expeditious execution.

2.7 Register of Domestic Judgments

There is no central register that includes all judgments rendered by the Egyptian courts. However, each court has a documentary record of all the judgments that it has issued. This record only includes the parties' names, the number of judicial proceedings, and the date of the judgment.

The Ministry of Justice is currently preparing documentary records for all judgments issued by the Egyptian courts.

On 10 June 2020, in a welcome response to the COVID-19 outbreak, the Court of Cassation announced the launch of a new electronic platform that contains a record of all challenges before the Court of Cassation, including the challenge number, status, hearing date, and other relevant data.

3. Foreign Judgments

3.1 Legal Issues Concerning Enforcement of Foreign Judgments

The Civil and Commercial Procedures Law No 13 of 1968 regulates the recognition and enforcement procedures of foreign judgments in Egypt. A party seeking the enforcement of a foreign judgment must obtain an exequatur. Foreign judgments can be enforced in accordance with the same requirements for the enforcement of domestic judgments. This general rule is subject to foreign judgment enforcement conventions and treaties to which Egypt is a signatory.

A petition for the enforcement of foreign judgments should be filed before the competent court of first instance as per the normal procedures for the initiation of a lawsuit. The court will not render its enforcement order unless the following conditions are satisfied:

- Egyptian courts have no jurisdiction over the dispute and the foreign court has jurisdiction to decide on the respective dispute;
- the concerned parties are duly notified and represented in the proceedings;
- the relevant judgment is final as per the law of the court rendering the judgment; and
- the judgment does not contradict any existing judgment or order rendered by any Egyptian court and is not in contravention of public policy or morality in Egypt.

In addition, the court has to ensure that the country in which the judgment was rendered enforces judgments issued by Egyptian courts (reciprocity). The receipt of the enforcement order (an exequatur) is subject to the fulfilment of the recognition procedures under Egyptian law.

Application Provisions

The application of the above-mentioned requirements and procedures is subject to the provisions of the relevant conventions and treaties to which Egypt is a party. However, if any of these requirements are absent but the applicant fears the loss of their right, the applicant may apply to obtain a precautionary seizure. In any case, the applicant will need to file a writ of enforcement within eight days of enforcing the precautionary seizure.

Egypt joined the Al Riyadh Arab Convention for Judicial Cooperation of 6 April 1983. Egypt is also a signatory to certain enforcement conventions, such as the Arab League Convention of 1952 and the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters of 1965. In addition, Egypt is a signatory of a number of bilateral treaties concerning judicial enforcement (eg, with France and China), as well as the Legal and Judicial Co-Operation Agreement with the UAE.

3.2 Variations in Approach to Enforcement of Foreign Judgments

Subject to the satisfaction of the conditions referred to in **3.1 Legal Issues Concerning Enforcement of Foreign Judgments**, Egyptian law does not differentiate between the enforcement of domestic and foreign judgments. Therefore, all types of foreign judgments are subject to the same legal requirements and procedures as domestic judgments.

3.3 Categories of Foreign Judgments Not Enforced

Subject to the provisions of the relevant enforcement conventions or treaties to which Egypt is a party, Egyptian courts do not generally enforce any foreign judgment that is subject to an appeal in the country where the judgment was rendered. Also, the courts will not enforce a foreign judgment if the party or parties concerned was/were not duly notified and represented in the proceedings.

Moreover, Egyptian courts will not enforce foreign judgments that are in conflict with any prior judgment or order issued by the Egyptian courts, or that contain anything that contravenes public policy or morality.

Furthermore, the courts will not enforce a foreign judgment where Egyptian courts have exclusive jurisdiction to decide on a dispute – for example, a dispute involving real estate situated in Egypt.

Finally, it should be noted that Egypt ratified the Al Riyadh Arab Convention for Judicial Cooperation of 6 April 1983 in 2018, which provides for reciprocal recognition and enforcement of judicial judgments, service of judicial documents, and broader judicial co-operation between the contracting Arab States.

However, a judgment issued by one of the contracting states cannot be enforced in Egypt if:

- it is contrary to the provisions of Islamic Sharia, the Constitution, public order, or public morals;
- it was rendered in absentia and the defendant was not properly served with the claim or judgment in a manner that enabled them to defend themselves;
- the rules concerning legal representation of persons lacking or having limited capacity were not observed;
- the dispute in respect of which recognition is sought has already been decided by a final judgment between the same parties, concerning the same subject matter and cause of action, and such judgment has acquired res judicata effect in Egypt or in another contracting State and has been recognised in the requested State; or
- the dispute is already pending before the Egyptian courts between the same parties, concerning the same subject matter and cause of action, provided that the case was filed in Egypt prior to the institution of proceedings before the court that issued the judgment.

3.4 Process of Enforcing Foreign Judgments

Subject to the application of the relevant conventions and treaties, Egyptian law requires the party seeking enforcement of a foreign judgment to obtain an exequatur. Subject to the recognition and enforcement requirements, foreign judgments are enforced in accordance with the same requirements as domestic judgments. A writ of enforcement of a foreign judgment should be filed before the competent court of first instance, as per the normal procedure for the initiation of a lawsuit before such courts.

In practice, the applicant party submits a number of documents, including:

- the original version of the foreign judgment along with its official Arabic translation;
- a certificate ensuring that the judgment is final according to the laws of the country in which the judgment was rendered; and
- a copy of the relevant convention, treaty or agreement between the issuing country and Egypt (if any).

The request for enforcement is then submitted to a court with jurisdiction over the place of enforcement. The competent court will render its exequatur without reviewing the merits of the foreign judgment. However, the court must ascertain that the conditions referred to in **3.1 Legal Issues Concerning Enforcement of Foreign Judgments** are fulfilled.

Once the exequatur is issued, the applicant must serve it on the defendant. If the defendant does not accept the judgment voluntarily, the applicant may seek compulsory enforcement of the judgment.

3.5 Costs and Time Taken to Enforce Foreign Judgments

In the absence of any exceptional circumstances, the receipt of an exequatur on a foreign judgment takes around six to 12 months. The court's decision to issue an exequatur is subject to appeal, which takes around six months to decide.

The costs incurred in the enforcement of a foreign judgment consist of a filing fee of approximately EGP1,000, while a fee of 2.5% of the amounts subject to the enforcement procedures (not the total awarded amounts) is charged for each enforcement measure. This fee could be paid more than once, depending on the nature of the enforcement measures against the defendant's assets. However, the 2.5% fee will be retrieved from the counterparty – ie, added to the amounts collected from the counterparty.

3.6 Challenging Enforcement of Foreign Judgments

Generally, the party against whom enforcement of a foreign judgment is sought may argue non-fulfilment

of the legal requirements in order to stop the enforcement procedures. By way of example, this party may raise specific arguments about the due process and proper notification of the foreign proceedings, the lack of jurisdiction of the court that rendered the judgment, and that the foreign judgment violates public policy or is not final.

However, once an exequatur is issued, the judgment will be enforced according to the same requirements and procedures as for the enforcement of domestic judgments. It will also be subject to the same challenges and obstacles explained in **2.5 Challenging Enforcement of Domestic Judgments**.

4. Arbitral Awards

4.1 Legal Issues Concerning Enforcement of Arbitral Awards

Subject to the provisions of international conventions applicable in Egypt, the enforcement of arbitral awards is regulated under the Egyptian Arbitration Law No 27 of 1994. Arbitral awards enjoy the authority of res judicata under Egyptian law. However, a party seeking the enforcement of an arbitral award must obtain an execution order from the competent court (exequatur) to forcibly enforce it against the defendant.

In addition, Egypt is a signatory to a number of conventions that facilitate the enforcement of arbitral awards, such as the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the "New York Convention") (Egypt signed it on 2 February 1959 and ratified it on 8 June 1959) and the 1966 ICSID Convention (Egypt signed it on 11 February 1972 and ratified the same on 2 June 1972).

4.2 Variations in Approach to Enforcement of Arbitral Awards

Egyptian arbitration law differentiates between domestic arbitral awards seated in Egypt and foreign arbitral awards seated outside Egypt. While the enforcement of domestic arbitral awards is governed by Article 56 of the Arbitration Law, the enforcement of foreign arbitral awards is governed by the New York Convention. Recently, the courts found that in the event of a contradiction between the provisions of Egyptian domestic law and the provisions of the New York Convention, the provisions of the New York Convention would prevail.

Furthermore, Egyptian courts found that the enforcement of foreign arbitral awards cannot be subject to rules stricter than those applicable to national arbitral awards.

4.3 Categories of Arbitral Awards Not Enforced

Generally, arbitral awards that do not impose any obligation on their parties cannot be subject to compulsory enforcement. To be enforceable, arbitral awards should not contradict any previous judgment rendered by Egyptian courts, nor violate the provisions of public policy. Moreover, the Cairo Court of Appeal concluded that public policy encompasses procedural rules aimed at safeguarding the interests of the state but does not extend to procedural rules designed solely to protect the interests of the contracting parties. It is well established in the jurisprudence of the Egyptian Court of Cassation that not every breach of a mandatory rule under Egyptian law amounts to a violation of public policy.

In addition, the enforcement of the arbitral award cannot be granted if the award is rendered in a matter that cannot be subject to compromise, such as matters relating to crimes, status and family law.

As regards the requirement that foreign arbitral awards must not violate public policy, if such violation is only partial – ie, that only part of the award violates public policy – the other parts of the award that do not violate public policy may still be enforced. This requires that the parts that may be enforced can be separated from the parts that violate public policy.

In any event, for any foreign arbitral award to be enforced, it must be final.

Egyptian courts have recently adopted a friendlier approach to arbitration. For instance, the court of appeal rendered a judgment enforcing a foreign arbitral interim measure issued by an ICC tribunal. The court found that the enforcement of interim measures follows the same procedures as those for final arbitral

awards (ie, through an order on application without notification or hearing of the parties). The court only required that the interim measure be final, based on a valid arbitration agreement, and not against public order, and that both parties had the opportunity to present their case.

4.4 Process of Enforcing Arbitral Awards

A party seeking the enforcement of an arbitral award must obtain an exequatur from the competent court. The following provides a summary of the legal steps that should be followed to enforce an arbitral award.

First, the applicant should serve the arbitral award – together with its Arabic translation – on the defendant through a court bailiff. Second, the applicant must then deposit with the secretariat of the competent court the original arbitral award (or a signed copy thereof), as well as an authenticated Arabic translation thereof. In this respect, a specific forum called the "Technical Office for Arbitration at the Ministry of Justice" has to review the arbitral award before accepting its deposit.

Following the deposit of the arbitral award, a court notice should be served on the defendant to inform it of the deposit. An enforcement application must then be submitted to the president of the competent court – in the case of foreign arbitral awards, to the president of the Cairo Court of Appeal – together with the following documents:

- the original award or a signed copy thereof;
- a copy of the arbitration agreement;
- an Arabic translation of the award, certified by a competent body (if the award was not made in Arabic); and
- a copy of the procès-verbal attesting the deposit of the award pursuant to Article 47 of the Arbitration Law (Article 56 of the Arbitration Law).

Finally, it should be noted that for a judge to approve the enforcement application and to issue an exequatur, the arbitral award subject to enforcement may not conflict with a prior judgment issued by Egyptian courts on the same subject matter in dispute and may not violate public policy rules.

Conditions for Enforcement

The Arbitration Law imposes the following conditions on the enforcement of arbitral awards.

The award cannot be executed until 90 days have passed since notifying the losing party of the award. This is the period during which the losing party may file an annulment action against the arbitral award. Regarding the start of the 90-day period, a 2023 court of appeal ruling clarified that the time limit for filing an annulment lawsuit against an arbitral award commences from the day the official legal notification – accompanied by a copy of the award – was served on the respondent. The court further emphasised that an unofficial notification method, such as an email to the respondent, does not trigger the annulment action limitation period. Further, the court confirmed that the respondent's prior unofficial knowledge of the arbitral award is not enough to start this period. In another recent case, the Court of Cassation rejected the enforcement of an arbitral award and did not grant an exequatur because the claimant failed to properly notify the debtors, meaning the timeline for filing the annulment case had not yet started.

The court can only order enforcement of the award after verifying the following:

- that the arbitral award does not contradict a judgment previously rendered by an Egyptian court on the subject matter in dispute;
- that the arbitral award does not violate the public policy provisions of Egyptian law; and
- that the arbitral award was properly notified to the party against which it was rendered.

After 90 days have passed, the applicant will be entitled to seek official execution of the arbitral award (ie, request the issuance of an execution order, or "exequatur"), regardless of whether an annulment lawsuit is filed. Following the fulfilment of the above conditions and procedures, the competent court will issue its execution order (ie, exequatur) on the arbitral award.

Additional Requirements for the Enforcement of Foreign Arbitral Awards

For foreign arbitral awards seated outside Egypt, the applicant must submit evidence concerning the status of any nullification action in the country where the award was rendered. If the court finds that a nullification action was filed, in practice, the court would delay enforcement procedures until a judgment in the set-aside action is rendered. This practice is particularly common when handling requests to enforce foreign arbitral awards because it is carried out through an order issued in response to a petition, which does not require the attendance or contribution of a defence from the counterparty against whom enforcement is sought.

For the enforcement of ICSID awards, and pursuant to Article 54 (20) of the ICSID Convention, the Ministry of Justice has been designated by Egypt as the competent authority for the recognition and enforcement of arbitral awards rendered pursuant to the ICSID Convention.

In a recent enforcement dispute before the court of appeal, the court had to determine whether the re-litigation of an already-decided arbitration dispute by the winning party constituted a waiver of the right to enforce the original arbitral award. The respondent had obtained an enforcement order for an award issued in 2006 in its favour ("Award A"). The appellant challenged Award A and sought its annulment. Before the court could rule on the validity of Award A, the respondent submitted the same claims from Award A to a different arbitration, where the tribunal dismissed these claims on the merits ("Award B"). Thus, the court of appeal faced the issue of conflicting awards and whether the re-litigation of matters in Award A could be considered a waiver of Award A and its effects. After examining these issues, the court concluded that the respondent's re-litigation of matters in Award B that were previously addressed in Award A constituted a waiver of those matters as settled by Award A. This re-litigation could therefore lead to legal instability and uncertainty. Consequently, the court accepted the petition and annulled the enforcement order for Award A.

4.5 Costs and Time Taken to Enforce Arbitral Awards

In the absence of exceptional circumstances, the receipt of an exequatur pursuant to an arbitral award takes between eight and 12 months.

The costs may vary depending on whether an official Arabic translation of the award is required.

4.6 Challenging Enforcement of Arbitral Awards

Under the Arbitration Law, the arbitral award is final, is not subject to appeal, and enjoys the authority of res judicata. However, it may be subject to a nullification lawsuit, provided that sufficient grounds exist. Egyptian courts only have jurisdiction to decide on a nullity action against an arbitral award seated in Egypt. Thus, foreign arbitral awards seated outside Egypt are not subject to nullification lawsuits.

As a rule, Egyptian courts are not authorised to review the merits of the relevant arbitral award. They are only permitted to review an award if it violates any of the aspects exhaustively listed under Article 53 of the Arbitration Law.

From a procedural perspective, an annulment lawsuit should be filed before the competent court within 90 days of the date of receiving official notification of the arbitral award from the successful party (Article 54 of the Arbitration Law).

Grounds for Annulment

Article 53 (1) of the Arbitration Law sets out an exhaustive list of grounds for the annulment of arbitral awards. It stipulates that an arbitral award may be annulled only:

- if there is no arbitration agreement, if it is void, voidable, or its duration has elapsed;
- if either party to the arbitration agreement was at the time of the conclusion of the arbitration agreement fully or partially incapacitated according to the law governing its legal capacity;
- if either party to the arbitration was unable to present its case as a result of not being given proper notice of the appointment of an arbitrator or of the

arbitration proceedings, or for any other reason beyond its control;
- if the arbitral award failed to apply the law agreed upon by the parties to govern the subject matter in dispute;
- if the composition of the arbitral tribunal or the appointment of the arbitrators was in conflict with this law or the parties' agreement;
- if the arbitral award dealt with matters not falling within the scope of the arbitration agreement or exceeding the limits of this agreement – however, in the case where matters falling within the scope of the arbitration can be separated from the part of the award which contains matters not included within the scope of the arbitration, the nullity affects the latter parts only; or
- if the arbitral award itself or the arbitration procedures affecting the award contain a legal violation that causes nullity.

Furthermore, Article 53 (2) grants the court adjudicating the nullity action the right to decide ipso jure the nullity of the award if it conflicts with Egyptian public policy.

In a recent case, the court of appeal determined that pre-arbitration conditions – such as efforts towards an amicable settlement – do not constitute grounds for setting aside an arbitral award. These conditions are considered issues of admissibility that may be raised before the arbitral tribunal and do not impact its jurisdiction. The court emphasised that annulment proceedings are not concerned with breaches of every mandatory rule, but specifically with those rules intended to uphold public policy.

On a related note, the mere filing of an annulment action against an arbitral award does not stay the enforcement of that arbitral award. The party against whom enforcement is sought may request suspension of the enforcement pending the court's judgment on the annulment action itself. This request should be accompanied by an explanation of the (serious) reasons that justify the requested suspension. Therefore, the decision that suspends enforcement, if granted, is a temporary decision. It will lapse once a judgment on the annulment action is rendered.

Other legal challenges, as explained in **2.5 Challenging Enforcement of Domestic Judgments**, are also applicable to the enforcement of arbitral awards.