

## PARTICULARITY OF EGYPTIAN ARBITRATION SYSTEM: COMPARISON WITH THE JUDICIARY SYSTEM AND IMPACT ON INVESTMENT DISPUTE SETTLEMENT

Mohamed Salah Adawi Ahmed  
Muhammad Zeeshan Ajmal  
Amina AL Houssine Talbi  
Basel Khaled Alsaeed

### ABSTRACT

*Egypt has encountered obstacles in the establishment and enforcement of protectionist measures of dispute settlement. The dominance of the Egyptian judiciary system in dispute settlement has resulted in severe overburdening. This paper conducts a comprehensive exploration of arbitration in Egypt, encompassing its historical evolution, legal definitions, mechanisms, and its indispensable function in settling disputes, both domestically and in the context of international investments. It offers a detailed examination of the parallels and distinctions between arbitration and the judicial system, elucidating their respective advantages and constraints, scrutinizes the intricate process of enforcing arbitral awards within Egypt, moreover provides valuable insights into the evolving legal frameworks governing the resolution of investment disputes.*

*Keywords:* Arbitration, judiciary, Egyptian law, Enforcement of Arbitral Awards, Investment Law, Restrictions

### INTRODUCTION

Arbitration, in its contemporary form, may not be a novel concept for Arab societies. The Arabs were familiar with arbitration as an evolution of individual justice that prevailed in ancient societies when there was no political and legislative authority to regulate affairs. In the absence of a centralized governing body, tribes took matters and resolved grievances on their own. Over time, this practice developed into a mechanism for settling disputes, incorporating methods such as conciliation and arbitration.<sup>1</sup>

The traditional judicial system of the state serves as the primary means to settle national disputes. However, the limitations and restrictions of national laws in resolving disputes led legal scholars to seek specialized tools outside the state's judiciary system. International commercial arbitration emerged as a suitable alternative, particularly due to the unique demands of international trade. The flexibility and speed required in resolving commercial disputes made arbitration an attractive option by its advantages over traditional judiciary systems.<sup>2</sup>

The dilemma of commercial disputes has followed the growth of the global economy among individuals and states. It is only natural that international commercial arbitration has become the paramount method for settling disputes in international trade. Most contracts now stipulate that any disputes arising between parties regarding the interpretation or implementation of the contract must be resolved through arbitration.<sup>3</sup>

Arbitration is considered a form of private judiciary, and its foundation is rooted in the agreement between the parties involved. It is the result of their freedom to choose this method of dispute resolution. The arbitrator's role closely resembles that of a judge and the awards issued by arbitrators are akin to those handed down by the state's judiciary. The essence of the decision-making process in arbitration mirrors that of the traditional legal system despite its private nature.

### Egyptian Judicial and Arbitration Disputes Settlement

The Egyptian legal system is considered a hierarchical system, with the constitution at the top. The Egyptian legal systems' primary sources are the Civil Code, Penal Code, and Law of Procedure. It sets out the sources of law in Article 2 of the Egyptian Civil Code, promulgated by Law No. 131/1948.<sup>4</sup> According to the law, if no applicable law provision is available, the judge will decide according to custom; if there is no custom, he will decide according to sharia (Islamic law); if there are no such principles, natural law and justice shall apply.

The Egyptian Judicial System is considered the primary settlement of legal disputes. Over the past few decades, the country's judicial system has become overburdened and procedurally complex. It has slowly approached dispute settlement, which is considered inconvenient to keep up with the rapid pace of Economic transactions. Additionally, the judges in Egypt may lack the

<sup>1</sup> Muhammad Hassan Jassim Al-Mamari, "Commercial Arbitration and Interventions of the National Judiciary", Modern University Office, Alexandria, (2014), p. 24. (Original in the Arabic language)

<sup>2</sup> Ahmed Ibrahim Moselhi, "The reciprocal relationship between arbitration and the judiciary in International agreements and national laws", PhD thesis, Ain Shams University, Egypt, (2014), p.93

<sup>3</sup> Fathi Wali, "Arbitration Law in Theory and Practice." (2007).

<sup>4</sup> Article 1 of the Egyptian Civil Code Law No. 131/1948 Available at: <http://hrlibrary.umn.edu/research/Egypt/Civil%20Law.pdf>

experience relevant to the disputed matters, particularly regarding commercial disputes. The evolution of arbitration as an alternative mechanism for dispute settlement was, therefore, eminent for stability and attracted investment.<sup>5</sup>

Despite not being widely acknowledged, arbitration has a long history in Egypt. Before codification, Arbitration was governed by Islamic law.<sup>6</sup> In 1883, the Ottoman Empire passed the first civil procedure code in Egypt, which included a chapter on arbitration. This was the first arbitration law in Egypt and the Arab world. Due to the need for a neutral and efficient way to resolve disputes that occur between investors and public or private sectors and the adoption of a more liberal economic policy, it was eminent to have an arbitration law for regulating domestic and international arbitration in civil and commercial matters was enacted by the parliament in 1994.

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#### **Definition of arbitration in jurisprudence and Egyptian legislation:**

The Egyptian legislator, the arbitration agreement was defined in the Egyptian Arbitration Law No. 27 of 1994 AD, amended by Law No. 9 of 1997, and Law No. 8 of 2000 AD, in the first paragraph of Article 10 as the agreement of the two parties to resort to arbitration to settle all or some of the disputes that arise between them on the occasion of a specific legal relationship, whether contractual or non-contractual.

In Egyptian jurisprudence, arbitration is subject to varying interpretations among legal scholars. One definition characterizes arbitration as "an agreement based on a dispute, wherein specific individuals, chosen by the involved parties, make decisions without the court's jurisdiction over the matter." Also, in another definition, "arbitration is a voluntary agreement between parties in a legal relationship, where disputes are resolved by individuals chosen by the parties or through other agreed-upon means." This definition emphasizes the voluntary nature of the process, where disputing parties agree to submit their conflict to the judgment of selected individuals rather than relying on the traditional court system. This definition underscores the arbitration process's flexibility, consensually in the Egyptian legal context.<sup>8</sup>

The Egyptian Court of Cassation defined arbitration as follows: "Arbitration is an exceptional way to settle disputes, deviating from the usual litigation methods. It is also defined as the request of the two opponents to choose another arbitrator, with their consent and agreement."<sup>9</sup>

Arbitration is understood as "an agreement between parties engaged in a contractual or non-contractual legal relationship. Under this agreement, any disputes that have arisen or may arise in the future are resolved by arbitrators chosen by the parties."<sup>10</sup> This definition emphasizes the contractual aspect of arbitration. Parties in legal relationships, whether bound by a formal contract or not, can enter into an agreement stipulating that any potential or existing disputes will be resolved through arbitration. This contractual foundation underlines the consensual nature of arbitration, where parties willingly opt for this method of dispute settlement.

From those definitions above, we can define Arbitration as: "Arbitration means establishing a particular justice in which disputes are withdrawn from the hands of the judiciary system to be resolved through Arbitrators empowered with the task of adjudicating where a person from a third party undertakes the settlement of a dispute that arises between two or more parties and exercising the judicial mission entrusted to him by the contracting parties to adjudicate the dispute."

<sup>5</sup> Abdulsattar majed, "Distinguishing Commercial Arbitration from Judiciary and its Legal Nature", Journal of College of Law for Legal and Political Sciences, Vol 10, issue 38 part 2, Aug (2021).

<sup>6</sup> Luo and J. El-Ahdab, "Arbitration in Egypt", in *Arbitration with the Arab Countries* (2001).

<sup>7</sup> *Supra* note 5

<sup>8</sup> Ahmed Abu Al-Wafa, "Optional and compulsory Arbitration", University Press House, Alexandria, (2007), p. 31 (original in the Arabic language)

<sup>9</sup> Egyptian Court of Cassation, Case No. 1004 of 61 Judicial Session 12/27/1997, (Arbitration is an exceptional method for resolving disputes differing from the usual litigation methods. Although it was initially born of the will of the litigants, the arbitrators' rulings, like court rulings, possess the authority of the thing awarded as soon as it is issued. This authority remains as long as the ruling remains valid and has not been ruled invalid). This was confirmed by the text of Article 55 of Law No. 27 of 1994, promulgating a law regarding arbitration in civil and commercial matters, which canceled Articles 501 to 513 of the Civil Procedure Code.

<sup>10</sup> Abu Zaid Radwan, "General Foundations of International Commercial Arbitration", Dar Al-Fikr Al-Arabi, (1981), p. 39. (Original in the Arabic language)

### Distinguishing arbitration from Egypt's traditional judicial system

The right of individuals to resort to the judiciary is the first legitimate means to restore rights guaranteed under the Egyptian constitution and law. With the development of international trade, it has become necessary to find alternative measures to settle disputes, including international investment contracts.<sup>11</sup> There are discrepancies between arbitration and the judiciary in some fundamental differences. The judiciary is one of the powers of the state, and the judge is considered a public servant and receives his wages from the state and not from others. At the same time, arbitration is born in the agreement of the litigants, and the arbitral tribunal receives its wages from the litigants. In addition, the judiciary has permanent jurisdiction, while arbitration has particular and temporary jurisdiction.<sup>12</sup>

Despite that fact Arbitration and the judiciary are considered mechanisms for settling disputes. They differ in that arbitration is not bound by the borders of a country, while the country of the judge binds the judiciary, and arbitration, in most cases, maintains affection between the two opponents after the ruling, in contrast to the judge's decision that often generates animosity between the opponents.<sup>13</sup>

### Judiciary and arbitration: similarities and differences

There are several aspects of consensus between arbitration and the judiciary, which may present as the following:

- The availability of legal capacity for the judge and the arbitrator, so puberty and reason must be available.<sup>14</sup>
- The principle of equality between the opponents applies to the judiciary and arbitration, and this is done by creating equal opportunities for each party to present its claim.
- Arbitration and judiciary are similar in that they are two means of resolving disputes, and they are similar in that their decisions are binding on the conflicting parties.
- The judiciary and arbitration agree that they are two means of dispute settlement, so the judgment in the matter of the court or the arbitral tribunal is considered like the judge's judgment.
- Resorting to the judiciary is a constitutional right for every individual to whom the legally prescribed controls apply, and resorting to the arbitration system is also a right permitted by law.
- One of the most essential principles and controls for the judicial organization is the principle of equality before the judiciary, which is achieved in the judiciary and arbitration.

### While arbitration and the judiciary have similarities, there are also differences, which can be summarized as follows:

- Arbitration differs from the judiciary in the arbitrator's selection, as the state chooses the judge in the judicial process, and individuals have no power to choose, whereas in arbitration, the parties choose the arbitrator, and the arbitration agreement determines this choice.<sup>15</sup>
- The sessions are public and not confidential,<sup>16</sup> which is considered the essential principle of the judicial system, except for cases where the court orders the sessions to be confidential, this means that the hearings are public in front of the public, and rulings are allowed to be published, and these procedures provide reassurance to the litigants, while the arbitration system is not public, and thus it guarantees the preservation of the secrets of the parties to the dispute, and its rulings are not published except with the consent of its parties, and the purpose of that is to maintain trust in commercial relations.<sup>17</sup>
- Court oversight of the litigation is essential since the court has effective authority to direct the case, and this obligation is derived from the law. The arbitrators derive their power from the parties' agreement, so their will determines this agreement.
- There are two levels of litigation in Egypt's judicial system, as in many other countries. In the first instance, a case is filed with the Court of First Instance, and the convict has the right to appeal that ruling to a higher court called the Court of Second Instance or The Court of Appeal, where the case is reintroduced for final judgment. At that point, either the parties accept the ruling, or it is appealed to the Court of Cassation. An invalidity claim is the only way to challenge an arbitral award in arbitration. In arbitration, there is no concept of two-tier litigation, such as eliminating one level of the litigation.<sup>18</sup>

<sup>11</sup> Muhammad Al-Maamari, "Commercial Arbitration and National Judiciary Interventions", University Office, Al-Hadith, Alexandria, (2014).

<sup>12</sup> Abdulsattar majed, "Distinguishing Commercial Arbitration from Judiciary and its Legal Nature", Journal of College of Law for Legal and Political Sciences, Vol 10, issue 38 part 2, Aug (2021).

<sup>13</sup> Mahmoud Mukhtar Ahmed Bariri, "International Commercial Arbitration", Arab Renaissance House, second edition, (1999) (original in Arabic language)

<sup>14</sup> Jamal Ahmed Heikal, "Agreement on arbitration between the party and the subject", Dar Al-Fikr Al-Jamii, Alexandria, (2016).

<sup>15</sup> Abdulsattar majed, "Distinguishing Commercial Arbitration from Judiciary and its Legal Nature", Journal of College of Law for Legal and Political Sciences, Vol 10, issue 38 part 2, Aug (2021).

<sup>16</sup> Sayed Ahmed Mahmoud, "The Concept of Arbitration According to the Egyptian Arbitration Law and Kuwaiti Pleadings law", (2006). (Original in the Arabic language)

<sup>17</sup> Fathi Wali, "Arbitration Law in Theory and Practice." (2007). P.52

<sup>18</sup> Ahmed Ibrahim Moselhi, "The Interrelationship between Arbitration and the Judiciary in International Conventions and National Laws", Ain Shams University Faculty of Law, Ph.D. thesis. (2014).

## The Judicial Nature of Arbitration

In cases where the parties agree to use arbitration to settle their disputes, arbitration is considered a compulsory judiciary for the parties.<sup>19</sup> It is a compulsory judiciary, and the arbitration award has the same effect as a judicial ruling since it replaces the state's judiciary. Arbitration serves the same function as the state's judiciary.<sup>20</sup> The settling disputes arising from contracts or their implementation, so the parties agree to refer them to arbitration rather than to courts. In addition, the arbitrator performs the same procedure as a judge, and the arbitrator then issues a ruling similar to a judge.<sup>21</sup>

There are differences between the arbitration and the court ruling; the first is not included in the implementation process without resorting to the courts.<sup>22</sup> This does not mean that the results of each of them are different. That opinion raises several problems, perhaps the most important of which is that one of the litigants may adhere to the agreement of the arbitration award before the courts because the arbitration agreement has a positive and negative effect. The positive effect is to end the dispute by resorting to arbitration, relying on the arbitral award, and considering it as if the judiciary issued it. As for the negative effect, it is evident in depriving one of the litigants of resorting to the court in connection with the dispute in which they agreed on the arbitration system by their own free will and choice.<sup>23</sup> In other condition, if a party refers a dispute to the Egyptian courts despite the existence of a valid arbitration agreement, the defendant, to maintain its right to arbitrate the dispute, must make a preliminary submission to the court of the existence of a valid arbitration agreement before addressing the merits of the dispute.<sup>24</sup>

## Types of Arbitration in Egyptian Legislation: Compulsory and Voluntary Arbitrations Mechanism

The Egyptian legislator approved two types of arbitration, including voluntary arbitration in its specific and internationally recognized form and another form that is completely different from the first form, which we explain as follows:

### Compulsory Arbitration:

Compulsory arbitration comes in two forms. In the first form, the law allows the disputing parties the freedom to choose the arbitrator and set the arbitration procedures.<sup>25</sup> The second form occurs when the legislature imposes specific regulations for arbitration procedures, and the parties involved have no say in the matter. In compulsory arbitration, the law mandates that certain disputes must be resolved through arbitration, often after specified negotiation processes have failed. The arbitration panel, whose composition is defined by law, issues legally binding rulings akin to decisions made by a specialized court. This type of arbitration is akin to the exceptional judiciary, where the legislator deems it appropriate for resolving particular types of disputes, such as labor disputes, tax matters, and customs issues. Notably, the arbitration panel in compulsory arbitration includes members representing both the parties in dispute and administrative authorities.<sup>26</sup>

The Egyptian legislator has introduced compulsory arbitration in specific legal contexts, including Customs Law No. 66 of 1963 (amended by Law No. 88 of 1976), Law No. 75 of 1980, Law No. 48 of 1977 establishing Faisal Islamic Bank,<sup>27</sup> Law No. 11 of 1991 regarding general sales tax, and Law No. 95 of 1992 concerning the capital market.<sup>28</sup> However, it's important to note that these forms of compulsory arbitration have been deemed unconstitutional in Egypt. Remarkably, these laws have been criticized for violating Article 68 of the Egyptian Constitution issued in 1971, which guarantees the right to litigation and every citizen to resort to their natural judge, emphasizing the state's responsibility to ensure access to justice and speedy resolution of cases.<sup>29</sup>

### Voluntary Arbitration:

On the other hand, voluntary arbitration occurs entirely based on the parties' consent. It refers to arbitration willingly agreed upon by the disputing parties before or after the dispute arises. The Arbitration Law No. 27 of 1994 in Egypt defines arbitration as a

<sup>19</sup> Ahmed Abu Al-Wafa, "Optional and compulsory Arbitration", University Press House, Alexandria, (2007), p. 31 (original in the Arabic language)

<sup>20</sup> Ahmed Ibrahim Moselhi, "The Interrelationship between Arbitration and the Judiciary in International Conventions and National Laws", Ain Shams University Faculty of Law, Ph.D. thesis, (2014), p. 93.

<sup>21</sup> Muhammad Saeed Al-Shiba Al-Marri, "The Privacy of the Arbitration Litigation a Comparative Study", Ain Shams University Faculty of Law, Ph.D. thesis. (2016)

<sup>22</sup> Sayed Ahmed Mahmoud, "The Concept of Arbitration According to the Egyptian Arbitration Law and Kuwaiti Pleadings law", (2006). (Original in the Arabic language)

<sup>23</sup> Ahmed Mohamed Ahmed Hashish, "The Executive Force of the Arbitration Rule," Dar Al-Nahda Al-Arabiya, Cairo. (2013). p.12 (Original in Arabic language)

<sup>24</sup> Khaled El Shalakanym, "Arbitration Guide IBA Arbitration Committee EGYPT", (2018).

<sup>25</sup> Ahmed Mohamed AbdelBadie Sheta, "Explanation of the Egyptian Arbitration Law," Dar Al-Nahda Al-Arabiya, (2004).

<sup>26</sup> Mohsen Shafiq: "International Commercial Arbitration", Dar Al Nahda Al Arabiya, (1997).

<sup>27</sup> Bahaa El-Din Ramadan Mohamed Batikh, "Arbitration in Bank Disputes", PhD thesis, Ain Shams Faculty of Law, (2011). (Original in Arabic language)

<sup>28</sup> Walid Muhammad Abbas Youssef: "Arbitration in administrative disputes of a contractual nature, a comparative study", PhD thesis, Ain Shams Faculty of Law, (2009). (Original in Arabic language)

<sup>29</sup> Article 68 of the Egyptian Constitution issued in 1971, "The right to litigation is inalienable for all, and every citizen has the right to refer to his competent judge. The State shall guarantee the accessibility of the judicature organs to litigants and the rapidity of statute on cases. Any provision in the law stipulating the immunity of any act or administrative decision from the control of the judicature shall be prohibited".

process agreed upon voluntarily by the parties involved. In this type of arbitration, the disputing parties have complete freedom to present their issues before the courts or an arbitration panel. They have the flexibility to determine the arbitration procedures, the selection of arbitrators, and how the arbitration will be conducted.<sup>30</sup>

In summary, while compulsory arbitration in Egypt involves legal mandates for specific dispute resolutions with predetermined procedures, voluntary arbitration operates on the parties' consent, providing them with the freedom to choose arbitration as an alternative means of resolving their disputes.

### **Arbitration agreement Conditions in Egypt form an objective perspective.**

Egyptian law describes the arbitration condition as independent of other contract conditions.<sup>31</sup> As long as the arbitration clause is valid inherently, it will not be affected by the nullification or termination of the contract. Consequently, the nullity and termination of the contract will not affect the arbitration. Egypt's legislation stipulates some provisions regarding the form and objective perspective requirements that an agreement must comply with to be arbitrable.<sup>32</sup>

#### **First: Validity of the arbitration agreement from a form perspective**

The Egyptian courts have confirmed that neither a witness statement nor an acknowledgment can be used as evidence of an arbitration agreement.<sup>33</sup> This approach resulted from old arbitration provisions that require arbitration agreements to be in written form. Consequently, Article 12 of the EAL stipulates that "the arbitration agreement shall be in writing." However, the EAL has reduced the stringency of the writing requirement. The second part of Article 12 stipulates that contract parties must sign a written agreement via an addendum to the primary contract or other written communication between the parties. Therefore, arbitration agreements concluded orally are not valid under the EAL.<sup>34</sup>

#### **Second: Validity of the arbitration agreement from an objective perspective**

The Egyptian Civil law recognized the validity of arbitration clauses before adopting the arbitration law, provided the clause contained the arbitrator's name.<sup>35</sup> In this regard, EAL recognizes arbitration agreements as valid regardless of whether the names of arbitrators have been specified in advance, which is considered one of the provisions of the most significant amendment related to the appointment of arbitrators.<sup>36</sup>

Underneath Egyptian Civil Law, the arbitration agreement must be for a valid contract it is essentially a contract, and the law requires the validity of a contract with three elements:

1. The contract's terms must be arbitrable
2. The party's agreement to use arbitration must be lawful and not fraudulent.
3. The parties' consent must be void of defects.

#### **The mechanism for concluding an arbitration agreement following Egyptian legislation**

There are many forms of arbitration agreement, and it has three conditions according to the law: first, the arbitration condition; second, conditional arbitration after the dispute; and third, arbitration by referral. And we will discuss each of them as follows:

##### **1. Arbitration Clause:**

An arbitration clause is a condition established before a dispute arises, either as an integral part of the contract or as an independent agreement. Both hold equal legal weight, even if the decision for arbitration occurs after some time from the contract's signing.

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<sup>30</sup> Ahmed Abu Al-Wafa, "Optional and compulsory Arbitration", University Press House, Alexandria, (2007), p. 31 (original in the Arabic language)

<sup>31</sup> Article 23, Law No. 27/1994 Promulgating the Law Concerning Arbitration in Civil and Commercial Matters,

<sup>32</sup> Mahmoud Mukhtar Ahmed Bariri, "International Commercial Arbitration", Arab Renaissance House, second edition, (1999) (original in Arabic language)

<sup>33</sup> Sayed Ahmed Mahmoud, "The Concept of Arbitration According to the Egyptian Arbitration Law and Kuwaiti Pleadings law", (2006). (Original in the Arabic language)

<sup>34</sup> Article 12, Law No. 27/1994 Promulgating the Law Concerning Arbitration in Civil and Commercial Matters,

"The arbitration agreement must be in writing, on penalty of nullity. An agreement is in writing if it is

Contained in a document signed by both parties or in an exchange of letters, telegrams, or other means of written communication".

<sup>35</sup> Shehata, Ibrahim. "Arbitration in Egypt: A Practitioner's Guide". Alphen aan den Rijn, The Netherlands: Kluwer Law International BV, (2021).

<sup>36</sup> Ahmed Abu Al-Wafa, "Optional and compulsory Arbitration", University Press House, Alexandria, (2007), p. 31 (original in the Arabic language)

The crucial aspect here is that the agreement for arbitration must precede any actual dispute. This clause signifies a harmonious agreement between the parties involved.<sup>37</sup>

Article 2/10 of the Egyptian Arbitration Law validates this, emphasizing that an arbitration agreement can predate any dispute, either as an independent arrangement or as part of a specific contract that covers potential disagreements between the parties. This agreement must explicitly outline the subject matter of the potential dispute, adhering to the guidelines specified in Article 30 of the law.<sup>38</sup>

## 2. Post-Dispute Arbitration Clause:

When a dispute has already emerged, the parties involved in the contract can still opt for arbitration, deciding the terms and conditions that best serve their interests. This post-dispute arbitration clause stands distinct from its pre-dispute counterpart. Here, the parties can reach an agreement on arbitration at any stage before the matter goes to court. Crucially, this agreement must clearly define the issues subject to arbitration. If this specification is lacking, the agreement becomes void, as per Article 2/10 of the Egyptian Arbitration Law.<sup>39</sup>

## 3. Referral Arbitration Condition:

In some cases, the original contract might not explicitly contain an arbitration clause. Instead, the contract could refer to another document where the arbitration clause is stated. In such instances, the presence of the arbitration clause in the referenced document applies to the original contract. This referral, in legal terms, constitutes a mutual agreement to arbitration, indicating the parties' commitment to this condition.<sup>40</sup>

Egyptian legislation recognizes three forms of arbitration agreements which concluding the arbitration clause, which anticipates disputes and is either part of the contract or a separate agreement; the post-dispute arbitration clause, allowing parties to agree on arbitration terms after a dispute has arisen; and the referral arbitration condition, where the original contract refers to another document containing the arbitration clause, making it a binding agreement between the parties involved. These mechanisms provide flexibility for parties to resolve disputes amicably and within the bounds of the law.<sup>41</sup>

## Reform and Key Features of the Egyptian Arbitration Law No. 27 of 1994

The Egyptian Arbitration Law, established through Law No. 27 of 1994, reflects Egypt's dedication to arbitration as a dispute settlement method for economic contracts, including investments. This comprehensive law, comprised of 58 articles in seven sections, defines commercial arbitration explicitly. It encompasses a wide array of commercial disputes arising from economic relationships, emphasizing the voluntary nature of arbitration.<sup>42</sup>

One of the distinctive aspects of this law is its allowance for parties to select the governing law for arbitration agreements, irrespective of its connection to the main legal context of the dispute. Aligned with the 1958 New York Convention principles, the law underscores the necessity of written arbitration agreements, emphasizing its pivotal role in consent.<sup>43</sup>

The legislation outlines criteria for international arbitration and establishes specific conditions for arbitration agreements. Notably, these agreements must be in writing, and only individuals or legal entities with disposal rights over their claims can enter into arbitration pacts. The law emphasizes the autonomy of arbitration clauses, safeguarding them from contract nullification or termination. Furthermore, the law dedicates a section to the arbitral tribunal, granting disputing parties the liberty to choose one or more arbitrators, subject to fixed numbers and specific qualifications. It delineates the selection process and addresses potential disagreements concerning arbitrator appointments.<sup>44</sup>

The law clarifies the court's role and jurisdiction in matters referred to the Egyptian judiciary. It also empowers the court concerning international disputes, whether the arbitration occurs within or outside Egypt, granting extensive powers throughout the arbitration process and even after the issuance of the award. Crucially, the law upholds the parties' intentions, starting from their agreement

<sup>37</sup> Hisham Mohamed Ibrahim Al-Sayed Al-Rafawy, "The Law Applicable to the Arbitration Agreement," PhD thesis, Ain Shams Law, (2009) p. 29 (original in Arabic language)

<sup>38</sup> Ibrahim Abdel Tawab, "The Arbitration Agreement and Related Defenses," Dar Al-Nahda Al-Arabi, (2008). (Original in Arabic language)

<sup>39</sup> Walid Muhammad Abbas Youssef: "Arbitration in administrative disputes of a contractual nature, a comparative study", PhD thesis, Ain Shams Faculty of Law, (2009). (Original in Arabic language)

<sup>40</sup> Bahaa El-Din Ramadan Mohamed Batikh, "Arbitration in Bank Disputes", Ph.D. thesis, Ain Shams Faculty of Law, (2011). (Original in Arabic language)

<sup>41</sup> Jamal Ahmed Heikal, "Agreement on arbitration between the party and the subject", Dar Al-Fikr Al-Jamii, Alexandria, (2016).

<sup>42</sup> Sayed Ahmed Mahmoud, "The Concept of Arbitration According to the Egyptian Arbitration Law and Kuwaiti Pleadings law", (2006). (Original in the Arabic language)

<sup>43</sup> Sabah Ahmed Farag, "International arbitration in investment disputes" case study of Egypt", Review of Economics and Political Science Emerald Publishing Limited, Feb12 (2020). Available at: <https://www.emerald.com/insight/content/doi/10.1108/REPS-11-2018-0027/full/pdf>

<sup>44</sup> Ahmed Makhoulouf, "Arbitration Agreement as a Method of Resolving Disputes in International Trade Contracts", Dar Al Nahda Al arabic, Cairo, (2005).

to arbitrate, the selection of the arbitral tribunal, procedural matters, applicable laws, and the arbitration venue, including the choice of language.<sup>45</sup>

While the law prohibits appeals against arbitration rulings through mechanisms specified in the Civil and Commercial Procedures Law, it allows actions to annul awards under specific legal circumstances. Additionally, the law provides a detailed framework (Chapter VII) for the validity and enforcement of arbitral awards, outlining enforceability conditions.

### **Advantages of Arbitration in Egypt: A Cost-Effective, Efficient, and Private Dispute Settlement Solution**

Arbitration in Egypt offers several advantages over traditional litigation, making it an increasingly popular choice for dispute settlement. This alternative method provides cost-effectiveness, efficiency, flexibility, confidentiality, and the ability to maintain neutrality, thus ensuring a fair settlement process for all parties involved.<sup>46</sup>

**Efficiency:** Arbitration proceedings are typically faster than court cases, which is crucial when delays could significantly impact related matters. Arbitration rules impose timelines, and arbitrators are expected to adhere to them, ensuring a timely settlement.<sup>47</sup>

**Flexible Approach:** Parties engaging in arbitration can design procedural rules, including language, time limits, and applicable laws. This flexibility allows them to focus on the issues that matter most to them rather than strict legal obligations.<sup>48</sup>

**Affordability and Accessibility:** Arbitration is generally more cost-effective than litigation, especially for complex cases. It has become popular in employment, sports, intellectual property, and finance, making justice more accessible to parties deterred by high litigation costs.<sup>49</sup>

**Privacy and Confidentiality:** Arbitration offers a more private and confidential environment compared to public court proceedings. While court judgments are often public and can attract media attention, arbitral decisions are typically more discreet, protecting sensitive information and reputations.

**Control over the Process:** Parties in arbitration have more control over the outcome and are actively involved in shaping settlement terms. This collaborative approach often leads to greater satisfaction with the settlement and helps maintain existing relationships.

**Neutrality:** Arbitration minimizes perceptions of bias or favoritism that can arise in national courts. Parties can choose a neutral arbitration seat, reducing concerns about a 'home court advantage' and ensuring a fair dispute settlement process.<sup>50</sup>

Unlike traditional litigation, arbitration is a private, effective, and efficient alternative in Egypt. The flexibility, confidentiality, and emphasis on maintaining neutrality make it a good choice for parties seeking a fair and satisfactory settlement. Arbitration will remain a preferred method of dispute resolution in Egypt and elsewhere as businesses and individuals continue to recognize these advantages via these advantages arbitration is an attractive option for resolving disputes in Egypt.<sup>51</sup>

### **Challenges and Limitations of Arbitration in the Egyptian Legal Landscape**

Arbitration, often seen as a more efficient alternative to traditional litigation in Egypt,<sup>52</sup> has drawbacks. Despite its speed and flexibility, critics argue that arbitration may not always prioritize legal intricacies and protecting parties' rights. The process's potential inadequacy becomes apparent when it might be unsuitable, leading to the preference for court proceedings, especially when public interest or essential legal points are at stake.<sup>53</sup>

#### **Potential inadequacies of arbitration:**

One significant concern revolves around the justice delivered through arbitration, the parties have been accused of manipulating awards to evade thorough analysis, raising questions about the fairness of the process.<sup>54</sup> Additionally, the expertise of arbitrators, while skilled in avoiding conflicts and facilitating agreements, might not match the depth of legal proficiency found in judges. Furthermore, the absence of an appeal process in arbitration decisions can lead to irregularities persisting without correction.<sup>55</sup>

<sup>45</sup> Abdulsattar majed, "Distinguishing Commercial Arbitration from Judiciary and its Legal Nature", Journal of College of Law for Legal and Political Sciences, Vol 10, issue 38 part 2, Aug (2021).

<sup>46</sup> Fathi Wali, "Arbitration Law in Theory and Practice." (2007).

<sup>47</sup> Jalal El Ahdab, Ruth Stackpool–Moore, "Arab Arbitration v. International Arbitration? The Case for a Reconciliation", Journal of International Arbitration, Vol 25, Issue 2 (2008).

<sup>48</sup> Mounir Abdel Majeed, Arbitration Judiciary in International Trade Disputes, University Press House, Alexandria, (2010).

<sup>49</sup> Ibrahim Ahmed Ibrahim, "International Commercial Arbitration," Dar Al Nahda Al Arabiya, (2000). p.103 (original in Arabic language)

<sup>50</sup> Fathi Wali, supra note.

<sup>51</sup> Hatem Reda Al-Sayed, Arbitration in Corporate Disputes, Dar Al-Nahda Al-Arabiya, Cairo, (2016).

<sup>52</sup> Jamal Ahmed Heikal, "Agreement on arbitration between the party and the subject," Dar Al-Fikr Al-Jamii, Alexandria, (2016).

<sup>53</sup> Zeinali, Atoosa, "The Effect of Culture and Religion on Enforcement of International Arbitration Awards in Iran" (2018).

<sup>54</sup> Ismail Selim, "Arbitration in Egypt in the Realm of the Arab Spring", Journal of Arbitration Studies, Vol. 23 No.3, Sep (2013).

<sup>55</sup> Mounir Abdel Majeed, Arbitration Judiciary in International Trade Disputes, University Press House, Alexandria, (2010).

### Limited arbitral remedies:

Another limitation lies in the remedies offered by arbitration. While arbitrators can address civil and monetary disputes, obtaining interim remedies requires court intervention, adding to the overall costs. Despite widespread support for arbitral decisions in legal systems, enforcing these decisions in court can entail additional expenses, limiting the practicality of the process.<sup>56</sup>

### Inadequacy of arbitration as a dispute settlement method:

While arbitration offers a more efficient alternative to the lengthy and complex litigation procedures in Egypt, it is not without its disadvantages. One significant drawback is the potential inadequacy of arbitration in addressing legal issues and protecting parties' rights, as arbitrators may lack the same level of legal proficiency as judges. Furthermore, the arbitration process may sometimes lead to concerns about the fairness of the outcome, especially when parties are perceived to be dividing awards artificially to avoid detailed analysis. Additionally, the limited scope of remedies available through arbitration and the requirement for court assistance for certain aspects can result in added costs and complications. Moreover, the absence of an appeal process in arbitration decisions means that irregularities cannot be corrected without retrial, potentially leading to unjust outcomes.<sup>57</sup>

### Challenges of Enforcement Arbitrations Awards Procedures under Egypt's EAL:

Under the Egyptian Arbitration Law (EAL), awards can be challenged if there are formal or procedural errors, and breaches of public order or morality can also nullify an award. Challenges must be made within 90 days of formal notification of the award, and the process involves court action. Challenges don't automatically stop the enforcement of an award unless a court grants a stay of enforcement. In international commercial arbitrations, nullity actions are brought before the Cairo Court of Appeal, taking 9 to 18 months to complete.<sup>58</sup>

To enforce an award in Egypt, the enforcing party must notify the other party of the award (with an Arabic translation if necessary) and wait for 90 days before submitting the award to the relevant court. If the other party opposes enforcement, it must file a nullity action within 90 days of the award notification. Nullity actions do not automatically prevent enforcement, although parties can seek stay orders or raise objections to enforcement based on new events.<sup>59</sup>

### Evolving Legal Frameworks: The Journey of Egypt's Investment Dispute Settlement and Arbitration Laws

Establishing a well-regulated legal infrastructure for investments in any nation is pivotal in fostering an environment conducive to foreign investors. National laws ensure investments yield adequate returns and safeguard foreign capital against potential damages. Additionally, these laws guarantee impartiality and fairness in resolving disputes that might arise between a country like Egypt and foreign investors.<sup>60</sup>

### Historical Evolution of Egypt's Investment Laws:

Over the years, Egypt has actively shaped its legislative landscape to facilitate international arbitration for foreign investors, offering an alternative to potentially cumbersome domestic litigation processes.

Egypt's evolution in investment laws can be traced through key moments in its legal history. Before 1959, Egypt lacked arbitration mechanisms in its investment laws, as illustrated by Laws No. 55 of 1952 and No. 156 of 1953. 1971 Law No. 65 introduced arbitration provisions, marking the country's initial step towards international arbitration.<sup>61</sup> The pivotal year of 1974 saw the enactment of Law No. 43, which explicitly allowed investment disputes to be taken to the International Center for the Settlement of Investment Disputes, underlining Egypt's adherence to international agreements. Egypt's dedication to international arbitration continued with Law No. 230 of 1989, solidifying its commitment to resolving investment disputes through arbitration. Subsequent laws, such as Law No. 8 of 1997, upheld this commitment, allowing disputes to be settled through arbitration or the Cairo Center Regional Center for International Commercial Arbitration. In 2017, Egypt's Investment Law No. 72 emphasized the importance of amicable dispute settlement, encouraging negotiations between investors and governmental bodies before litigation. These pivotal moments demonstrate Egypt's progression towards more comprehensive and internationally aligned investment laws.<sup>62</sup>

<sup>56</sup> Ahmed Ibrahim Moselhi, "The Interrelationship between Arbitration and the Judiciary in International Conventions and National Laws", Ain Shams University Faculty of Law, Ph.D. thesis. (2014).

<sup>57</sup> Ibrahim Abdel Tawab, "The Arbitration Agreement and Related Defenses," Dar Al-Nahda Al-Arabi, (2008). (Original in Arabic language)

<sup>58</sup> Ahmed Ibrahim Moselhi, "The Interrelationship between Arbitration and the Judiciary in International Conventions and National Laws", Ain Shams University Faculty of Law, Ph.D. thesis. (2014).

<sup>59</sup> Jamal Ahmed Heikal, "Agreement on arbitration between the party and the subject," Dar Al-Fikr Al-Jamii, Alexandria, (2016).

<sup>60</sup> Walid Muhammad Abbas Youssef: "Arbitration in administrative disputes of a contractual nature, a comparative study", Ph.D. thesis, Ain Shams Faculty of Law, (2009). (Original in Arabic language)

<sup>61</sup> Sabah Ahmd Farag, "International arbitration in investment disputes" case study of Egypt", Review of Economics and Political Science Emerald Publishing Limited, Feb12 (2020).

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<sup>62</sup> Shehata, Ibrahim. "Arbitration in Egypt: A Practitioner's Guide". Alphen aan den Rijn, The Netherlands: Kluwer Law International BV, (2021).



Egypt's journey in investment dispute arbitration underscores its adaptability and commitment to providing a secure environment for foreign investors. By integrating international arbitration mechanisms within its legal frameworks, Egypt has attracted foreign investments and ensured a fair and efficient settlement of disputes, contributing to its status as an investment-friendly destination.<sup>63</sup>

### **Egypt's Complex Investment Dispute Settlement Landscape: An Overview of Courts and Arbitration Mechanisms**

The Egyptian courts generally support international arbitration clauses in commercial contracts, especially those involving Egyptian and foreign parties, with the Court of Cassation often affirming their validity. The Government of Egypt has mechanisms to settle investment disputes outside the court system. The Ministerial Committee on Investment Contract Disputes handles disputes related to affiliated investment contracts, and a Complaint Committee addresses challenges to Egypt's Investment Law implementation. While these mechanisms are effective, they can be time-consuming, and businesses have faced challenges in receiving payments from the government after a monetary settlement.

In the past decade, there have been investment disputes involving foreign investors in Egypt, most of which have been resolved, although the exact number is unknown. Local courts in Egypt recognize and enforce foreign arbitral awards against the government. No extrajudicial actions against foreign investors have been reported.<sup>64</sup>

Egypt permits mediation as an alternative dispute settlement mechanism facilitated by the Investment Disputes Settlement Center. The Economic Court enforces arbitral awards, and foreign court judgments may be recognized and enforced locally under specific conditions. However, domestic courts often favor State-owned Enterprises in investment disputes, leading to complaints about delays and discrimination in the legal process.<sup>65</sup>

In January 2023, the Customs Authority established a specialized unit to collaborate with the Ministerial Committee for the Settlement of Investment Disputes. Many foreign investors include clauses in their contracts mandating international arbitration to resolve disputes, bypassing local legal channels.

### **Egypt on the map of investment disputes by the year 2023**

Analyzing Egypt's position on the map of investment disputes requires examining the country's history of investment disputes and its legal framework, which was mentioned previously. Investment dispute settlement by arbitration in Egypt involves a complex legal process for resolving conflicts between foreign investors and the Egyptian government or local entities, and the reason for this complexity is the implementation procedures for arbitration awards. Here's a more detailed explanation of how investment dispute settlement by arbitration works in Egypt:

**Arbitration Agreements:** Many investment agreements, including bilateral investment treaties (BITs) and investment contracts, often include clauses specifying that any disputes will be resolved through arbitration. These clauses typically outline the arbitration rules and the choice of arbitration institution. Egypt is a member of the International Centre for Settlement of Investment Disputes (ICSID), which is a common institution for resolving investment disputes through arbitration. Foreign investors can initiate arbitration proceedings against the Egyptian government or entities in accordance with the ICSID Convention.

**Domestic laws and Procedures:** Egypt also has its own domestic arbitration laws and institutions. The Egyptian Arbitration Law, Law No. 27 of 1994, governs domestic arbitration proceedings. This law is aligned with international arbitration standards, including the United Nations Commission on International Trade Law (UNCITRAL) Model Law.<sup>66</sup>

**Arbitral Tribunals:** In arbitration, parties typically appoint arbitrators or agree on a panel of arbitrators to hear the case. In ICSID cases, the tribunal usually consists of three arbitrators, one appointed by each party and a presiding arbitrator appointed jointly or by the ICSID Secretary-General.

**Arbitration Proceedings:** Arbitration proceedings in Egypt, whether under ICSID or domestic rules, follow established procedures. These include the submission of written pleadings, hearings, and the rendering of a final award by the tribunal.<sup>67</sup>

**Enforcement of Awards:** Once an arbitration tribunal issues an award, it becomes legally binding on the parties. In Egypt, as in most countries, the award can be enforced through local courts. Egypt is a party to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, facilitating the enforcement of foreign arbitration awards in the country.<sup>68</sup>

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<sup>63</sup> Karim A Youssef, "The Guide to Challenging and Enforcing Arbitration Awards" by J William Rowley, *Global Arbitration Review*, May (2019). pp. 254-266

<sup>64</sup> Sabah Ahmd Farag, "International arbitration in investment disputes" case study of Egypt", *Review of Economics and Political Science Emerald Publishing Limited*, Feb12 (2020).

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<sup>65</sup> Abdulsattar majed, "Distinguishing Commercial Arbitration from Judiciary and its Legal Nature", *Journal of College of Law for Legal and Political Sciences*, Vol 10, issue 38 part 2, Aug (2021).

<sup>66</sup> Burhan Atallah, " The 1994 Egyptian Arbitration Law Ten Years On", *ICC Bulletin*, Vol. 14/2. (2003).

<sup>67</sup> Mohamed Aboulenein, "Reflections on the New Egyptian Law on Arbitration", *Arbitration International*, Vol 11, (1995).

<sup>68</sup> Karim A Youssef, "The Guide to Challenging and Enforcing Arbitration Awards" by J William Rowley, *Global Arbitration Review*, May (2019). pp. 254-266

**Settlements and Negotiations:** Before or during the arbitration process, parties may choose to negotiate settlements to resolve their disputes amicably. Such settlements can include compensation, contract renegotiation, or other mutually agreed-upon solutions.

**Challenges and Concerns:** Challenges in investment disputes in Egypt can include delays in the proceedings, uncertainty regarding the enforcement of awards, and the potential for changes in domestic laws and regulations that may impact the outcome of cases.<sup>69</sup>

Investment dispute settlement by arbitration in Egypt involves a structured legal process that allows foreign investors to seek redress for disputes with the government or local entities. It offers a mechanism for resolving conflicts outside of domestic courts, often providing more predictability and neutrality in the dispute resolution process. However, the effectiveness of this process can depend on various factors, including the specific arbitration agreements, the chosen arbitration institution, and the willingness of both parties to cooperate in resolving the dispute.<sup>70</sup>

The International Center for Settlement of Investment Disputes (ICSID) has witnessed a significant rise in investment disputes involving Egypt.<sup>71</sup> In total, 46 investment treaty cases have been filed against Egypt as a respondent state (including 38 ICSID cases). 11 of these 46 cases are currently pending (including seven ICSID cases), 15 of these cases have been settled, 13 have been decided in Egypt's favor, five have been decided in investor's favor, and one case has been determined to be a liability case without damages being awarded.<sup>72</sup>

### **Navigating Arbitration Challenges in Egypt: Strategies for Effective Arbitration Dispute Settlement**

In Egypt, addressing the critical issues of arbitration and judicial conflict within the legal system demands a comprehensive strategy. The first key component involves the strengthening of arbitration laws, aligning them with international standards like the UNCITRAL Model Law, clarifying jurisdictional boundaries, and investing in training programs for legal professionals. These measures would enhance the credibility and enforceability of arbitration awards, reduce confusion surrounding when to resort to arbitration and foster a deeper understanding of arbitration principles among judges, lawyers, and arbitrators.<sup>73</sup>

Additionally, the establishment of specialized arbitration centers in Egypt is crucial, and these centers would offer expertise, efficient case management, and essential resources for resolving disputes, ultimately speeding up the process and relieving the burden on the judiciary. Moreover, promoting mediation and alternative dispute resolution methods, backed by legislation and public awareness campaigns, could reduce the caseload in both arbitration and the courts. These comprehensive solutions would not only improve the fairness and efficiency of dispute resolution but also create a more attractive environment for domestic and international investments in Egypt.

Arbitration in Egypt, like in many other jurisdictions, presents several common dilemmas that parties involved in legal disputes must address.<sup>74</sup> One key issue is the enforceability of arbitration agreements. To resolve this, parties should ensure their arbitration agreements are properly drafted and compliant with Egyptian law while also referencing reputable arbitration rules and institutions such as the Cairo Regional Centre for International Commercial Arbitration (CRCICA) to bolster the enforceability of the agreement.<sup>75</sup>

Another challenge is the selection of arbitrators, which can lead to disputes and delays. To mitigate this, parties can include provisions in their arbitration agreements that outline a clear and fair process for selecting arbitrators, including utilizing reputable arbitral institutions or specifying qualifications and criteria for arbitrator selection.

Language barriers can pose difficulties in international arbitration involving Egyptian parties. Parties can address this by specifying the language of arbitration in their agreement and utilizing interpreters and translators as needed.

Enforcing arbitration awards in Egypt can be challenging, especially if the losing party refuses to comply. To improve enforcement, parties can opt for arbitration under the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, making it easier to enforce awards in Egypt.

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<sup>69</sup> Ibid

<sup>70</sup> Hatem Reda Al-Sayed, "Arbitration in Corporate Disputes", Dar Al-Nahda Al-Arabiya, Cairo, (2016).

<sup>71</sup> See the International Center for Settlement of Investment Disputes Report of Egyptian cases in ICSID

Available

at: [https://icsid.worldbank.org/search?f%5B0%5D=content\\_type%3Acase&f%5B1%5D=languages%3Aen&search=Egypt%20](https://icsid.worldbank.org/search?f%5B0%5D=content_type%3Acase&f%5B1%5D=languages%3Aen&search=Egypt%20)

<sup>72</sup> Sabah Ahmd Farag, "International arbitration in investment disputes" case study of Egypt", Review of Economics and Political Science Emerald Publishing Limited, Feb12 (2020).

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<sup>73</sup> Jamal Ahmed Heikal, "Agreement on arbitration between the party and the subject," Dar Al-Fikr Al-Jamii, Alexandria, (2016).

<sup>74</sup> Muhammad Ahmed Ibrahim Mahmoud, "The role of international commercial arbitration courts in creating legal rules for International trade", Arab Renaissance House, Cairo, (2013).

<sup>75</sup> Mounir Abdel Majeed, Arbitration Judiciary in International Trade Disputes, University Press House, Alexandria, (2010).

Additionally, Egypt's evolving legal system and lack of well-defined arbitration laws and infrastructure can present hurdles. Parties can navigate these challenges by working with experienced legal counsel knowledgeable about Egyptian arbitration laws and practices and choosing established arbitration institutions like (CRCICA)<sup>76</sup> for procedural support.

In conclusion, addressing common arbitration dilemmas in Egypt requires careful drafting of agreements, adherence to established arbitration rules and institutions, and cooperation among involved parties. Legal experts in international arbitration can play a pivotal role in successfully settling disputes through arbitration in Egypt.

## CONCLUSION

Arbitration offers several advantages over litigation. One key benefit is the expertise of arbitrators, who can possess specialized knowledge about the subject matter of the dispute, ensuring informed decisions. Additionally, arbitration provides flexibility in procedures, allowing parties to customize the process according to their needs, leading to a more efficient settlement. Arbitral awards are final and enforceable in most jurisdictions, offering closure and certainty to parties. Egypt is a signatory to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, which facilitates the recognition and enforcement of arbitral awards in Egypt. Egypt's legal system generally recognizes and enforces arbitration agreements and arbitral awards. The framework for arbitration in Egypt is primarily governed by Law No. 27 of 1994 on Arbitration in Civil and Commercial Matters.

The Investment Law No. 72 of 2017 is a significant milestone in arbitration in Egypt. The law provided guarantees and incentives to foreign investors and allowed dispute settlement through arbitration. However, there have been challenges and shortcomings in implementing these laws, leading to arbitration cases against Egypt. These cases involved vital sectors like tourism, agriculture, and infrastructure, leading to the suspension of crucial national projects. The Investment Law No. 72 of 2017 limited the settlement of investment disputes to specific committees and the judiciary, omitting reference to international arbitration. This move aimed to reduce reliance on international arbitration but overlooked bilateral agreements Egypt had signed with over 100 countries, guaranteeing investors the right to international arbitration. These agreements support the majority of cases brought before international arbitration bodies. Therefore, a comprehensive review of Egypt's legislative framework is needed.

Arbitration and traditional judiciary are dispute settlement mechanisms in Egypt, and both have their practical advantages and disadvantages in Egypt. Arbitration is a private, consensual process chosen by parties, allowing flexibility and international applicability, especially in investment disputes. It offers confidentiality, the ability to select arbitrators, and a streamlined process without multiple tiers of litigation. The decisions are binding, akin to judicial rulings. In contrast, Egypt's judiciary operates within the country, with public hearings, state-appointed judges, and multiple levels of appeal. While both uphold legal principles, their differences in origin, confidentiality, decision-maker selection, and litigation levels are crucial for individuals and businesses to consider when choosing the appropriate method for dispute settlement.

Despite the difficulties and intricacies linked to the arbitration and judicial system in Egypt, it continues to be an essential and expanding element of the country's legal framework. It plays a significant role in settling commercial disputes. Ensuring a balanced relationship between arbitration and the conventional judiciary is imperative to uphold fairness, effectiveness, and safeguard the rights and concerns of all parties engaged.

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Mohamed Salah Adawi Ahmed\*,  
PhD Candidate, International Law,  
Zhongnan University of Economics and Law,  
adawimohamed12111987@gmail.com

Muhammad Zeeshan Ajmal,  
PhD Candidate, International Law,  
Zhongnan University of Economics and Law,  
ajmalzeeshan10@gmail.com

Amina AL Houssine Talbi,  
Master Candidate, International Law,  
Zhongnan University of Economics and Law,  
Talbiamina34@gmail.com

Basel Khaled Alsaeed\*,  
PhD Candidate, International Law,  
Zhongnan University of Economics and Law,  
basboos@windowlive.com