

THE JUDICIAL REVIEW AGAINST THE MARITIME ARBITRATION SWORD IN EGYPT

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How will the Judicial Review against the maritime arbitration awards be performed ?

The Egyptian arbitration law, 1994, decides one way for Review against the maritime arbitration award issued in Egypt, that is presenting a case for the award nullity (Art. 52). This case is presented by the party of the arbitration process who has the interest before Cairo court of appeal or any other court of appeal the parties agree upon , within the ninety days following the service of the award to judgment debtor ; and the waiver of the one who presented the nullity action of his right to present it will not hinder its acceptance (Art . 54) .

What are the Reasons of Review in this case ?

The Egyptian arbitration law, article 53 defined the reasons of Review in this case as follows :

- 1. If there is no arbitration agreement , or the agreement is void or voidable or lapsed by the end of its period .**

2. If one of the parties of the arbitration agreement was incapacitated or of a diminished liability at the time of concluding it according to the law that defines his liability .
3. If one of the parties of arbitration did not present his defense because of misinforming him of assigning an arbitrator or the procedures of arbitration or any other reason beyond his reach
4. If the arbitration award did not apply the law the parties agreed upon in the conflict subject matter .
5. If the formation of the arbitration board or the assignment of the arbitrators contradicts the law or the parties agreement .
6. If the arbitration award settles problems not cited in the arbitration award or exceeds the limits of this agreement. But if it is possible to separate the special parts of the award concerning the problems that are subject to arbitration from its parts concerning the problems that are not subjects to it, the nullity falls only on the latter parts .
7. If nullity falls on the arbitration award or its procedures are nullified in a way that affects the award .
8. If the award includes what is against the Egyptian public discipline .

This is the only reason that allows the Egyptian court to hear the dispute by itself and decide the nullity of the award . These reasons listed in detail in the Egyptian arbitration law are nearly analogous to their equivalent in Article five of New York convention 1958 , concerning the acknowledgement of the international arbitration awards and their application in cases of refusal to acknowledge and apply .

Will the presentation of Nullity Action stop the Application of the Arbitration Award ?

Article 57 of the Egyptian Arbitration law 1994 notes that the presentation of nullity action will not stop the execution of the arbitration award, except when the plaintiff claims that in the notice of action and the claim is based on serious causes. The court has to decide stopping the execution within sixty days from the date of the first session of hearing it.

If the court ordered stopping the application, it may order the presentation of a surety or financial warranty. It has to settle the nullity action within six months from the date of ordering stopping the execution.

This article provides for a general overview only and must not be relied upon as constituting advice in any specific case. Advice should always be sought before taking steps in proceedings- For Further information pls. Contact Mr. U. Soliman