

ENFORCING THE MARITIME ARBITRATION AWARD IN EGYPT

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How is the maritime Arbitration award enforced in Egypt?

The maritime Arbitration Award is enforced in Egypt through a writ of execution issued by the judge of execution at the authorized Egyptian court, who is, according to Article 56 of the Egyptian Arbitration law, 1994, the chief I justice of the court of appeal in Cairo, or the judge whom he delegates, or the chief justice of any other Egyptian court of appeal the two parties agree on, or anyone of its judges he delegates for performing this mission.

What are the Documents the petitioner of Execution has to present?

The documents that the petitioner of execution has to present are the same as Article 4 of New York convention, 1958 depicts. They are: the original award or a signed copy there of, a copy of the arbitration agreement, an Arabic translation of the arbitration award , ratified by an authorized body if it is not issued in Arabic, a copy of the minutes implying that the award is submitted to the archive office of the court of Appeal, Cairo, or any other Egyptian

court of appeal the parties agreed upon, according to Article 56 of the law .

Consequently, the petitioner of execution of the maritime arbitration award in Egypt has to supply the deposit stated in article 47 of the Egyptian. Maritime law, whether the arbitration award has been issued in Egypt or outside, and whether the law of the country wherein the arbitration award is issued demands this deposit or not.

Does the writ of Execution Need the passage of the period of objection to the award?

If the petitioner of execution in Egypt presents to the judge of execution at the Egyptian court of appeal the above mentioned documents requesting the execution of the award, the time for objection to the award through an action of invalidity has passed or still open:

If the time for objection to the award for invalidity is still open, the Egyptian judge will not accept the petition for executing the arbitration award, according to article 58/1 of the Egyptian arbitration law, as the fifth condition of the New York convention, 1958 decides. In this case, the arbitration award is not obligatory to the parties, and consequently, the petition for executing it will be refused, according to the convention and the Egyptian arbitration law.

If the time for presenting an action of invalidity passes, the petition for executing the award will be accepted in preparation for its cognizance.

How does the judge cognize the petition for the stay of Execution?

If the petition for executing the award presented to the judge of execution at an Egyptian court of appeal is accepted, the Egyptian judge will cognize the petition on the basis only of examining the documents and testimonies, not on the basis of the in presence cognizance of both parties, I. e. the judge apparently and externally examines the documents to certify the existence of the three conditions stated in article 58 / 2 of the Egyptian law, namely:

- 1.** There is no contradiction between the arbitration award and any previous award issued by the Egyptian courts concerning the same conflict.
- 2.** The arbitration award does not violate the public Discipline in Egypt.
- 3.** The award service has been declared in a right manner.

What are the options the Judge of Execution Exercises towards the petition of Execution?

If the Egyptian judge ascertains the existence of these conditions, he may decide the execution or refuse it:

If the Egyptian judge decides the execution of the arbitration award, his decision will be final, as article 58/3 of the Egyptian law states that there is no complaint of this decision. Consequently, the Egyptian law establishes only one way for whom needs to execute the decision to object against it. This is the direct method for objection, and the indirect objection against the decision of the Egyptian judge through bringing a complaint against it is not allowed.

If the Egyptian judge refuses the execution of the award, article 58/3 of the Egyptian law, of course, allows the petitioner of execution to bring a complaint against the decision of refusing the execution to Cairo court of appeal or any other Egyptian court of appeal , both parties agree on , within thirty days from the date of issuing the decision of refusing the execution .

It is worth noting that the commencement of complaining here is a logical order; the petitioner of execution can ascertain that the award is not contradicting the causes of refusing to identify and execute it, as is evident in New York convention, 1958.

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