

Egypt: New Committee for Investment Contract disputes

Hassane Hassan
h.hassan@tamimi.com

November 2015

Following the amendments executed recently in the Investment Law and the Companies' Law, which have had a positive impact in terms of reassuring investors and attracting more investment to the Egyptian market, the Egyptian government has formed a new committee to help quickly settle investment disputes before reaching the courts.

As part of its former efforts to simplify the investment process and avoid potential disputes, the Egyptian government formed a ministerial committee to settle disputes related to investment contracts. However, this committee lacked sufficient legal powers to make effective decisions for the amicable settlement of such disputes. This has led to the issuing of a new decree to restructure the committee and provide it with more effective powers.

The Egyptian cabinet of ministers issued Decree Number 2432 on 8 September 2015 (the "Decree"), establishing the ministerial committee for the settlement of disputes of investment contracts. The committee is formed from a selection of senior state officials, ministers and representatives of sovereign entities. The committee is led by the Prime Minister and ministers of the economic group, the minister of international cooperation, the minister of justice, as well as representatives of the Egyptian armed forces and the administrative supervision authority. The Decree also allows for additional state officials to become members of the committee to observe and supervise topics, if so needed.

The committee is empowered to consider and settle disputes referred to it arising from investment contracts to which the state or governmental agencies are a party. The committee will attempt to reach an amicable settlement between the parties of those agreements in a manner that achieves economic equilibrium between the parties, on the basis of applicable laws and the preservation of public funds.

The Decree has granted the committee certain important new powers to resolve disputes on investment contracts, provided that the parties to those contracts consent to the settlement. These powers include the rescheduling of financial dues, the correction of the procedures taken to execute the relevant contract, as well as extending maturities, durations and deadlines stipulated in the contract. In fulfilling its purpose, the committee will hold sessions with the conflicting parties to discuss the subject of the dispute and the options acceptable to the parties, and will also consult technical experts specialised in the relevant matters at dispute.

The particular strength of the committee is its power to suggest amendments to the administrative contracts, thus providing the parties with the opportunity to avoid potential disputes and make acceptable amendments.

The Decree was enacted after the issuance of a number of decrees and regulations intended to reform the legislative system in Egypt and to assist in overcoming investment hurdles. This is another step in demonstrating the serious intentions of the Egyptian government to improve the investment climate in Egypt. This initiative should provide investors with a means of resolving potential disputes in an amicable manner while avoiding the costly and time-consuming involvement of the judiciary. Assisted by the

important fact that some of Egypt's most senior government decision makers are on the committee, the Decree is able to assist investors by allowing the committee to make appropriate amendments to investment contracts which need resolution of ambiguities or obstacles resulting from the way they were drawn up.

This article first appeared in the October 2015 edition of IFLR Magazine – International Briefing Egypt.