Egypt Faced with Second Water Management ICSID claim

By:

Munia El Harti Alonso

November 13, 2020

Egypt is facing its second dispute related to its water management sector[1]. The claimant - Gesenu SPA (where the municipality of Perugia, owns 45% of the shares)[2] filed a request for arbitration on 30 October 2020. The Claimant invoked the 1989 Egypt-Italy Bilateral Investment Treaty, one of the 115 BITs signed by Egypt. The Egypt-Italy BIT instrument was notably invoked twice in the *ASA*[3] and *Waghui* ICSID cases.[4]

It was reported that the ICSID claim arose from a series of contracts in the water management of Cairo won by Gesenu back in 2002. It appears that up until 2018, Gesenu - through the local purpose vehicle Ama Arab Environment Company - was managing two water waste contracts of an annual value of US$ 14 million.[5] It is worth noting that Cairo is the most populous African city bordering the Nile,[6] with a dire need for infrastructural improvement of its water and sanitation management sector.

Egypt is already defending a claim in the water management sector. [7] The case was brought in 2019 by Future Pipe regarding the building of a water and sewage distribution network in New Cairo, pursuant to a contract with the state. The hearing is expected in the upcoming months, as the tribunal issued a Procedural Order on 19 October 2020.

Egypt is represented by the Egyptian State Lawsuits Authority, which has been appearing for the state since the late nineties *Wena Hotels* case.[8] Egypt has gained significant experience in ISDS, as it remarkably settled the most cases at ICSID. Up to date, Egypt has settled 17 out of 25 ICSID cases it has been involved in; 9 of them according to article 43(1) of the ICSID Arbitration Rules based on the request of both parties.[9]

---

[1] *Gesenu S.p.A. v. Arab Republic of Egypt*, ICSID Case No. ARB/20/45.

[2] Gesenu website describing the enterprise as "an enterprise with mixed public/private capital" accessible at : https://www.gesenu.it/pagine/gesenu-chi-siamo-gruppo-gesenu-gesenu-spa-la-societa.

[3] *ASA International S.p.A. v. Arab Republic of Egypt*, ICSID Case No. ARB/13/23.

[4] *Waguih Elie George Siag and Clorinda Vecchi v. Arab Republic of Egypt*, ICSID Case No. ARB/05/15.

[5] Gesenu presentation "State of the art on PPP in Italy: the successful case of Perugia for MSW management" December 2010, p. 30. Accessible at : https://www.iswa.org/uploads/tx_iswaknowledgebase/P22-Canovai.pdf.

[6] Economic and Social Commission for Western Asia (2004), The Optimization of Water Resource Management in the ESCWA countries. Accessible at : https://www.uncclearn.org/wp-content/uploads/library/e_escwa_sdpd_15_2_e_0.pdf.

[7] *Future Pipe International B.V. v. Arab Republic of Egypt*, ICSID Case No. ARB/17/31; *see, Veolia Propreté v. Arab Republic of Egypt*, ICSID Case No. ARB/12/15 regarding waste management Egypt won a dismissal of the case brought by Veolia, the dispute regarded labor wages accessible at :

https://www.iareporter.com/articles/french-company-veolia-launches-claim-against-egypt-over-terminated-waste-contract-and-labor-wage-stabilization-promises/.

[8] The Authority appeared for the first time in *Wena Hotels Limited v. Arab Republic of Egyp*t, ICSID Case No. ARB/98/4.

[9] *See also,* Bakry, A. (2020) After 48 Years at ICSID (1972-2020): An Overview of the Status of Egypt in ICSID Arbitrations: “To avoid significant potential financial awards, Egypt successfully concluded 14 settlements during the period 1992–2020 (i.e. 56% of the total concluded cases). It is worth noting that Egypt concluded 11 of the settlements (i.e. 78%) during the period 2014–2020, following the establishment of the Committee for the Settlement of Investment Contracts Disputes as an alternative out-of-court forum to amicably settle investment disputes. Interestingly, 9 of the cases (i.e. 69%) were discontinued according to article 43(1) ICSID Arbitration Rules, based on the request of both parties”. Accessible at : http://arbitrationblog.kluwerarbitration.com/2020/03/15/after-48-years-at-icsid-1972-2020-an-overview-of-the-status-of-egypt-in-icsid-arbitrations/#:~:text=Since%20the%202011%20Egyptian%20revolution,since%20joining%

View online: Egypt Faced with Second Water Management ICSID claim

Provided by Afronomicslaw