

Public-Private Dialogue

Egypt Alternative Dispute Resolution - Consultation Meetings for Draft Mediation Law

by

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1- Background and Context

Country: Egypt

Name of Initiative: Mediation Law Consultation Meetings (2013)

Area of Impact: Civil and Commercial Disputes Resolution.

Project Clients: The Egyptian Ministry of Justice (MoJ), the Egyptian Ministry of Investment, represented by the Investors Dispute Resolution Center affiliated to the General Authority for Investment and Free Zones (“GAFI”), and the Cairo Regional Centre for International Commercial Arbitration (“CRCICA”).

Development Partner Sponsor: SECO – State Secretariat for Economic Affairs.

Background: Resolution of commercial disputes through courts in Egypt takes an average of 1010 days (Doing Business 2014 report). Alternatives to the court system were sought by the private sector and the government. This culminated in a strong arbitration practice, mainly exercised through CRCICA and supported by a first-class arbitration law. Given the high cost of arbitration, and the continuous lengthy court proceedings, the government of Egypt has worked over the past five years towards implementing mediation as an alternative to courts. In 2008, the MoJ established the Economic Courts where judges offer and assist parties towards reaching settlement at the pre-trial stage. The Ministry of Investment established in 2009 a center for the resolution of investors’ disputes that falls under GAFI.

In late 2009, IFC started a project to promote the use of commercial mediation with CRCICA, the MoJ and GAFI as clients. The objective of the project is to train and accredit mediators to an international standard, train trainers to ensure sustainability of the training, raise the clients’ capacity to attract and manage mediation cases, and raise

public recognition of the use of mediation as an alternative method of dispute resolution. By December 2013, the project had facilitated the accreditation of 74 mediators (private professionals and judges) out of whom 18 were trained as trainers. As a result, 312 commercial cases were resolved through mediation, leading to the release of over \$ 130 million in funds and private sector savings of more than \$21 million.

Context: In late 2012, the MoJ decided to draft a Mediation Law to further enhance the use of alternative dispute resolution by creating a legal framework for mediation, and requested IFC's assistance to finalize the law within 4 months. As part of IFC's technical assistance, IFC provided support in the establishment and conduct of an inclusive dialogue through the establishment of a PPD as a Dialogue Forum. The IFC MENA PPD specialist worked with the project team and the MoJ towards explaining and establishing the foundations of proper consultation meetings, as well as to provide corrective feedback throughout the process.

2- Partnership, Structure and Processes

Partnership: IFC suggested the creation of a partnership between the MoJ, GAFI and CRCICA for the consultation process, which was well received by the three entities.

Process/Structure: IFC prepared a plan that outlined the long term/short term objectives of the mediation law through consultation with the government , private sector and judiciary, the interested entities to be consulted, invitation templates and follow-up activities. The choice of private sector representatives was mainly made by GAFI and CRCICA with input from the MoJ. The invitations were sent using a template letter that gives a background to the project and the role of the three parties towards achieving a proper consultative process. In total, and during the course of three months, 12 consultation sessions were conducted: 3 with commercial banks, 1 with lawyers and mediators, 4 with business representatives, 1 with judges, 1 with university professors, and a final meeting grouping representatives from these different groups. Each of these consultation meetings was followed by a set of recommendations that was largely incorporated into the next version of the draft law.

3- Expected Results

- The issuance of the mediation law either through presidential decree or through parliament.
- Creating another public-private dialogue mechanism for the executive regulations.

4- Successes so far

- The draft mediation law was finalized in March 2013. The finalization of the law was celebrated in a large ceremony organized by the Ministry of Justice and attended by the Ministry of Investment and representatives from the private sector and the media. Representatives from banks, lawyers and business associations spoke at the event to acknowledge the quality of the law, as well as the inclusiveness of the dialogue leading to it. The event was widely covered in print media (twelve press clippings) and TV (*See interview with the chairperson of the Arab Women Investors at <http://www.youtube.com/watch?v=4qeZfea9vK0>*)
- The partnership with MoJ, GAFI and CRCICA has been maintained in the course of developing the framework of the executive regulations of the mediation law.

5- Expected Results

- The Law was submitted to cabinet's review shortly after the ceremony. Given the fall of the regime in June 2013, the law was re-submitted again for cabinet review in November 2013.
- Assuring that the momentum established continue to assure that the proposed reforms will be implemented

Biography of Author:

Fatma I. Khalil is an Operations Officer with the World Bank Group, MENA. Fatma is managing alternative dispute resolution and insolvency projects in Egypt. She has also designed a regional integration component between the Egypt, Lebanon and Morocco alternative dispute resolution Projects. She is an accredited mediator and trainer from the Centre for Effective Dispute Resolution (London). Prior to joining IFC, Fatma has practiced corporate law, international and investment arbitration in two leading laws firms in Egypt. She holds an LLM in international and comparative law from the American University in Cairo, an MIBA from the Ecole Supérieure Libre des Sciences Commerciales Appliquées, and a bachelor of laws from the University of Paris I Panthéon Sorbonne with conversion from Cairo University.