Egyptian Supreme Court Enforces Italian Judgment: The Right Outcome despite Some Reservations

I. Introduction

The enforcement of foreign judgments depends on the legal regime applicable to the case. In common law jurisdictions, enforcement may proceed, depending on the circumstances, either by registration under a statutory regime (whether based on reciprocal arrangements or international conventions) or by an action on the foreign judgment at common law. In civil law jurisdictions, enforcement generally requires exequatur proceedings, which may be governed by domestic law or, where applicable, by an international convention. Where an international convention applies, its provisions should, in principle, govern the enforcement process, unless the convention itself provides otherwise or leaves a particular matter to be governed by domestic law.

Although this outline may appear self-evident, judicial practice in many countries, particularly in the MENA region, suggests otherwise. Even where an applicable

international convention exists, courts may either disregard it altogether or begin their analysis under domestic law, referring to the convention only as a subsidiary or residual basis. This state of affairs is illustrated by a recent decision of the Egyptian Court of Cassation concerning the enforcement in Egypt of an Italian judgment. Given the significance of this decision, it warrants closer examination, particularly with regard to the relationship between the applicable international convention and the domestic rules governing the recognition and enforcement of foreign judgments.

II. The Facts

The case concerns an application for the recognition and enforcement of an Italian judgment brought by X (appellant and original claimant, an individual employee) against Y (appellee and original defendant, an Egyptian press institution based in Cairo).

The decision provides limited factual background. It indicates that X sought recognition and enforcement in Egypt of an Italian labour judgment recognising an employment relationship between the parties and ordering Y to pay X salary arrears, together with an inflation adjustment calculated according to the Italian National Institute of Statistics and statutory interest. The Egyptian Court of First Instance granted enforcement, but the Court of Appeal overturned that decision and dismissed the application. The Court of Appeal considered that Y had no place of residence (*maḥal ʾiqāmah*—محل إقامة) in Italy when the proceedings were commenced. It also considered that the Italian judgment addressed X's work as a journalist-correspondent without examining the nature of Y's office (*maqarr*—مقر) in Italy or the applicability of the conditions laid down in the bilateral treaty between Egypt and Italy on the recognition of judicial decisions.

X subsequently appealed to the Court of Cassation, arguing that the Italian judgment satisfied the requirements for the enforcement of foreign judgments under Articles 296–298 of the Egyptian Code of Civil and Commercial Procedure (Law No. 13 of 1968 – hereafter CCCP). In particular, X argued that: (1) the Italian court had jurisdiction because the employment relationship was performed entirely in Italy in accordance with the employment contract; (2) Y had been duly served and had participated in the Italian proceedings by submitting a defence

memorandum and presenting its claims; (3) the Italian judgment had become final and res judicata, as evidenced by official certificates issued by the Italian judicial authorities and duly authenticated; and (4) the judgment did not violate Egyptian public policy or public morals. X also challenged the Court of Appeal's finding that Y had no office (*maqarr*—مقر) in Italy when the proceedings were commenced. He maintained that Y had a known office (*maqarr*—مقر) in Rome, used for collecting news and distributing the newspaper, and that official documents submitted to the lower courts established that Y had been duly served at that address.

> *(□) It should be noted that maqarr (مقر) in Arabic means "domicile". However, I believe that the reference here is to Y's office in Italy, rather than to its "domicile" in the technical sense.*

III. The Ruling

In its ruling of *11 February 2026*, the Court of Cassation upheld X's arguments and quashed the appealed decision. In doing so, the Court reasoned as follows.

The Court began, as it usually does, by setting out the general legal framework.

First, it recalled that, according to its established case law, where treaties govern the recognition and enforcement of foreign judgments between Egypt and another State, their provisions must be applied (Article 301 of the CCCP). It further noted that, under Article 298(1) of the CCCP, the foreign court that rendered the judgment must have had jurisdiction. This requirement concerns the foreign court's international jurisdiction, rather than its jurisdiction under the domestic rules of the State of origin, whether relating to subject matter or territorial jurisdiction. The Court then explained that, when assessing the foreign court's indirect jurisdiction under Article 298(1), it must be determined whether Egyptian courts lack jurisdiction over the dispute in respect of which the foreign judgment was rendered. In the Court's view, this requirement concerns whether Egyptian courts have exclusive jurisdiction over the dispute. Where their jurisdiction is merely concurrent with that of the foreign court, this does not preclude enforcement, provided that the foreign judgment does not conflict with a judgment or order previously rendered by the Egyptian courts.

The Court next addressed the principle of reciprocity under Article 296 of the CCCP, according to which foreign judgments may be enforced in Egypt on the basis of reciprocity with the State of origin. It explained that the reciprocity required by the legislature is legislative, rather than diplomatic, reciprocity established through a treaty. Egyptian courts must therefore examine, of their own motion (*sua sponte*), whether legislative reciprocity exists.

The Court then referred to the bilateral convention between Egypt and Italy on the recognition and enforcement of judgments in civil, commercial and personal status matters. It noted that, under the Convention, the courts of the State in which enforcement is sought must, when examining the jurisdictional basis of the judgment, be bound by the findings of fact contained in it, unless the judgment was rendered in default. The Court also referred to Article 4(3) of the Convention, under which the court of the State of origin is considered to have jurisdiction where the contractual obligation forming the subject matter of the dispute was performed, and was due to be performed, in that State pursuant to an express or implied agreement between the claimant and the defendant.

Having clarified the applicable legal framework, the Court proceeded to apply it to the case at hand.

It found that the Italian court had jurisdiction, that its judgment had acquired the force of res judicata, that it did not violate Egyptian public policy or public morals, that it did not conflict with any judgment or order previously rendered by the Egyptian courts, and that the respondent institution had been duly represented in the proceedings. Accordingly, the Court concluded that the Italian judgment satisfied the conditions for enforcement in Egypt under the bilateral Convention, as required by Article 296 of the CCCP.

IV. Comments

While one can agree with the outcome of the decision, parts of the Court's reasoning raise questions, if not doubts. This concerns, in particular, the detour through domestic law, notably Articles 296 and 298 of the CCCP, which set out the requirements for the enforcement of foreign judgments in Egypt.

In my view, the Court correctly began by citing Article 301 of the CCCP, which

provides that where treaties govern the recognition and enforcement of foreign judgments between Egypt and another State, their provisions must be applied. From that point, the Court should have taken note of the bilateral Convention between Egypt and Italy and examined the enforceability of the Italian judgment by applying the provisions of that Convention. Accordingly, the references to the rules of domestic law governing the indirect jurisdiction of the foreign court under Article 298(1) and the principle of reciprocity under Article 296 appear unnecessary.

It should be noted, however, that the Court of Cassation's established practice frequently follows the same approach as in the present case: it refers to provisions of domestic law, either exclusively or in combination with the applicable international convention, in a manner that is, at the very least, difficult to reconcile with Article 301 of the CCCP.

That said, a few further comments deserve to be made.

First, in examining the question of indirect jurisdiction, the Court essentially reiterated its established position on this matter. The case therefore provides yet another example of how, under Article 298(1) of the CCCP, the indirect jurisdiction of the foreign court is subject to a twofold test or a double control:

1. First, the jurisdiction of the foreign court must be examined in light of its own rules of international jurisdiction. In this respect, Egyptian courts should not investigate whether the foreign court that rendered the judgment had jurisdiction under its own domestic rules governing subject-matter and territorial jurisdiction.
2. Second, Egyptian courts must consider whether the dispute falls within their own jurisdiction. It is well established that this inquiry concerns only whether Egyptian courts have exclusive jurisdiction over the dispute, and does not extend to cases in which their jurisdiction is merely concurrent with that of the foreign court.

In this respect, it is worth noting that, with a few exceptions, Egyptian law does not clearly specify the circumstances in which Egyptian courts have exclusive jurisdiction. This question is particularly relevant in employment disputes, in which a new law has recently been adopted that appears to give certain labour law provisions a mandatory character, raising the question of whether they should

be treated as *lois de police* (overriding mandatory rules). The present case, however, suggests that even the mandatory nature of such provisions does not, in itself, confer exclusive jurisdiction on Egyptian courts.

It is also noteworthy that, although the case concerned an employment contract, the Court treated it as an ordinary contractual dispute and applied the general rules governing contractual obligations. This approach contrasts with the broader development in comparative law, which has increasingly recognised the need for special protective rules to safeguard employees as the weaker party to the employment relationship. From a private international law perspective, Egyptian law still lacks such protective rules, both in relation to international jurisdiction and in the field of choice of law.

The second question concerns reciprocity. The Court recalled its general position on this issue, notably by explaining that the reciprocity required under Article 296 is legislative, rather than diplomatic, reciprocity, in the sense that it does not require the existence of a treaty between the State of origin and Egypt. Recent decisions, as reported on this blog (here and here), however, show that, despite reaffirming this well-established distinction, the Court has concluded that reciprocity was lacking after noting the absence of an applicable treaty. The Court's position in the present case is somewhat nuanced. Although it confirmed the long-established distinction between legislative and diplomatic reciprocity, it immediately referred to the bilateral Convention between Egypt and Italy, before concluding that the Italian judgment satisfied the conditions for enforcement in Egypt under that Convention, as required by Article 296 of the CCCP. This reference to Article 296 is problematic, as that provision concerns reciprocity, whereas the application of international conventions is addressed by Article 301. It is unclear whether the Court's reference was a mistake. In any event, it would have been more appropriate to rely on Article 301 as requiring the application of the Egyptian–Italian Convention in preference to domestic law.

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