Egypt’s Court of Cassation Affirms Jurisdiction over CAF

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Appeal No.3011 of Judicial Year 91
Court of Cassation
Judgment of 28 February 2022

On 28 February 2022, the Court of Cassation held that the Confederation of African Football (CAF) officials did not benefit from diplomatic immunities under the Headquarters Agreement. The decision was delivered in the context of reviewing a competition law case arising from criminal proceedings in Egypt against CAF’s President and Secretary-General, in their official capacities, for the alleged abuse of CAF’s dominant position in the commercial exploitation of live broadcasting rights. The proceedings concerned conduct alleged to have restricted competition in the Egyptian market through the direct and exclusive allocation of broadcasting rights under a twelve-year agreement, without a public and transparent tendering process, despite the existence of higher competing offers.

At first instance, the Economic Court (Misdemeanors Circuit) found the appellants criminally liable, imposed financial penalties, and ordered publication of the judgment. On appeal, the Appellate Circuit of the Economic Court upheld the convictions. Thereafter, the case proceeded through further appellate proceedings and ultimately came before the Court of Cassation.

Before the Court of Cassation, **the appellant contended, *inter alia*, that the President of the CAF and its Secretary-General enjoyed diplomatic immunity pursuant to the Headquarters Agreement,** relying on Article 1(2), which provides that the Confederation’s immovable and movable property, together with all assets in its possession, shall enjoy immunities equivalent to those accorded to the embassies of foreign States established in the Arab Republic of Egypt and that no measures of executive or legal attachment may be taken except pursuant to a final judicial judgment.

The Court of Cassation dismissed this plea, stating that

> **Whereas it is established under the Headquarters Agreement—concluded between the Government of the Arab Republic of Egypt and the Confederation of African Football (CAF), signed in Cairo on 7 November 2007, ratified by Parliament on 4 May 2008, and promulgated pursuant to Presidential Decree No. 34 of 2008—that the**

Confederation of African Football is a non-governmental international organization and does not have the status of diplomatic representation of any foreign State, it follows that the legal status of the appellant with respect to the issue under consideration is governed exclusively by the Headquarters Agreement, which provides under the second paragraph of Article (1) that no measures of executive or legal attachment may be taken except pursuant to a final judicial judgment and stipulates under the first paragraph of Article(2) that the Confederation shall conduct all its activities within the limits of the applicable Egyptian laws and shall comply with their provisions.

The effect of these provisions is that the Confederation of African Football and those responsible for managing its activities do not enjoy diplomatic immunity. Consequently, the exercise of jurisdiction by the officials of the Competition Protection and Anti-Monopoly Authority, the conduct of investigations by the Public Prosecution, and the ensuing trial proceedings are all free from any legal defect. **Accordingly, the argument raised by the appellant in this respect amounts to nothing more than a legal plea that is manifestly unfounded.**

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