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The Maglis Al Dawla (State Council) nominates judge Yehia El Dakroury as its next head in breach of the Judicial Authority Act that requires it to put forward three nominations. The dispute is part of broader concerns about judicial independence under President Abdel Fattah Al-Sisi (2014-present). The house of representatives approves the Investment Guarantees and Incentives Act, which provides for tax breaks of up to 70% for investors in strategic sectors or underdeveloped regions. The finance ministry publishes its 2017/2018 budget proposal, targeting gross domestic product (GDP) growth of 4.6% and a budget deficit of 9% of GDP.

Judiciary pushes back in dispute over appointments

The **Maglis Al Dawla** (State Council) nominated judge **Yehia El Dakroury** as its next head on 15 May, exacerbating an ongoing dispute with President **Abdel Fattah Al-Sisi** (2014-present) over the amended **Judicial Authority Act**.¹ The dispute is part of broader concerns about increased authoritarianism under Sisi. The government gazetted the amended Judicial Authority Act on 27 April after the house of representatives (parliament) passed it without significant scrutiny or debate, despite the constitution upholding the independence of the judiciary.² The lead proponent of the amended Judicial Authority Act was **Ahmed Helmy el-Sharif**, head of the parliamentary legislative and constitutional affairs committee and a member of the pro-Sisi **Support Egypt** parliamentary bloc.³

"It is worrying that [the Sisi administration] is moving toward stamping out even minor displays of independence, though not unsurprising considering their recent trajectory towards greater authoritarianism, supported by a pathetic, rubber-stamp parliament that doesn't ask questions."⁴

The amendments relate to the appointment of the heads of four judicial bodies: the State Council, the **Administrative Prosecution Authority**, the **State Lawsuits Authority**, and the **Court of Cassation**.⁵ Under the old system, each judicial body's appointment committee would submit to the president the name of a deputy head to the president who would typically ratify the appointment automatically.⁶ Traditionally, the appointment committee would put forward the name of the longest serving deputy head, the so-called principle of seniority.⁷ Dakroury is the longest serving deputy head of the State Council. Under the amended system, however, the appointment committee should put forward three candidates from its deputy heads.⁸ The president will then appoint one of the three nominated candidates.⁹ The amended legislation does not provide the criteria by which the president selects its candidate. If the appointment committee does not submit three names at least two months before the

¹ Al Shorouk, 15 May 2017.

² www.riad-riad.com

³ Al Shorouk, 15 May 2017.

⁴ Source, policy expert, Cairo

⁵ www.riad-riad.com

⁶ www.riad-riad.com

⁷ www.riad-riad.com

⁸ www.riad-riad.com

⁹ www.riad-riad.com

serving head is due to stand down, the president can directly appoint the new head from amongst the judicial body's deputy-heads.¹⁰

Sisi approved the law despite the opposition of the influential **Judges Club of Egypt**.¹¹ Critics argue the amended Judicial Authority Act will curb judicial independence.¹² They cite, in particular, risks around increased presidential power over the appointment of the head of the State Council.¹³ The head of the State Council is president of the **Supreme Administrative Court** which reviews and rules on all challenges against government and presidential decrees. They also head the judicial panel which hears challenges against election results, and adjudicates over impeachment proceedings against the president.

The Administrative Prosecution Authority and the State Lawsuits Authority have both complied with the Judicial Authority Act, but the State Council and the Court of Cassation appear to have disregarded it.¹⁴ While any State Council nomination in breach of the amended Judicial Authority Act would be controversial, the appointment of Dakroury is likely to aggravate relations with the presidency. It was Dakroury who ruled against Sisi's transfer of the **Tiran and Sanafir islands in the Red Sea to Saudi Arabia** (see *ARC Briefing Egypt May 2016*).¹⁵ The islands appear to be behind the government's efforts to exert increased influence over the judiciary.

*"Even before this law there have existed spheres of interest and a pull and push between independence and dependence on the government for survival. What this latest law seems to be is another way to consolidate power by the government after their displeasure over the outcomes of recent court battles regarding the Tiran and Sanafir Islands."*¹⁶

A source within the legal profession also cited the Tiran and Sanafir dispute as central to government efforts to control judicial appointments.

*"The judiciary has slammed the new law as interference in the sanctity of the judiciary. Judges are aware of the government's distaste for dissenting voices, and some see the law as punishment for the decision to uphold the sovereignty of Tiran and Sanafir, which did not aid the government's standing with Saudi Arabia."*¹⁷

If Sisi ratifies the appointment, Dakroury is set to become head of the State Council in July. The next Court of Cassation head is equally likely to cause tension with the presidency as **Anas Omara** is next in line, under the principle of seniority, to head the court.¹⁸ Omara has previously revoked death sentences against **Muslim Brotherhood** leaders.¹⁹

The future of the amended Judicial Authority Act is uncertain. The **Supreme Constitutional Court**, should it view the legislation as a threat to judicial independence, may declare the law unconstitutional. It is unclear how Sisi would respond if the judiciary attempted to block the law, though sources indicate he may try to reach a compromise solution with the judiciary prior to the Supreme Constitutional Court case.

"This will be an interesting test for the government – the diplomatic, medical and legal fraternities have all backed down on fights with the government. But the Judges Club and the solidarity that exists within the profession as a whole will be difficult to break. Judges also have significant clout and standing in the community so it will also be difficult to discredit a sitting

¹⁰ www.riad-riad.com

¹¹ www.riad-riad.com

¹² www.riad-riad.com

¹³ www.riad-riad.com

¹⁴ Al Masry Al Youm, 29 Apr 2017.

¹⁵ Egyptian Independent, 21 Jun 2016.

¹⁶ Source, journalist, Cairo

¹⁷ Source, lawyer, Cairo

¹⁸ Al Shorouk, 15 May 2017.

¹⁹ The Economist, 20 May 2017.

judge, much more difficult than say a politician. I'm curious to see how this plays out, and if the government re-approaches the judges before the case begins.”²⁰

Regardless of the future of the law, the dispute may have damaged Sisi’s standing:

“It’s likely a great mistake of strategy to pull the carpet from under one of the key branches of state administration in Egypt. It’s a confidence killer because it makes you look bad internally and abroad, and removes any pretense of respect for the separation of powers. It cements the view that Sisi side steps state institutions and plays by his own rules. People are literally afraid of the government, both those who work within it and those looking in from the outside. He is making the wrong enemies in my opinion, and at a crucial time for the country.”²¹

The dispute with the judiciary is part of broader concerns about the independence and effectiveness of Egypt’s state institutions under Sisi. Overly concentrated power in the presidency does not bode well for Egypt’s political stability. Judicial appointments are especially important as they will issue rulings during the 2018 presidential election. Legislation currently under consideration, including a draft bill that imposes sanctions for any criticism of the president, will strengthen Sisi’s hand ahead of the election. If passed, it will be the judiciary that interprets and in effect enacts these provisions that threaten to curb opposition activities.

Parliament approves Investment Guarantees and Incentives Act

The house of representatives approved the **Investment Guarantees and Incentives Act** on 7 May.²² The Investment Act provides a broad overview of the government’s investment policy framework, with subsequent executive regulations providing more specific details about its implementation. The act is more streamlined than the original draft, containing only 92 Articles compared to 114 articles. The act contains investment incentives including tax breaks of up to 70% for investors in strategic sectors or underdeveloped regions, rebates on land acquisition costs for factories that begin operations within two years, and infrastructure subsidies to connect investments to utility grids.²³ The act caps investment incentives at 80% of the total capital invested in any one project.²⁴

Investment Act provisions include:

- a proscription on the nationalisation of private investments and projects;
- a cap on foreign labour at 20% in the majority of cases;
- the establishment of the **Investor Service Centre**, under the **General Authority for Free Zones and Investment (GAFI)**, to expedite the process of obtaining requisite permits and land;
- an independent **Egyptian Centre for Arbitration and Mediation** to settle commercial disputes within definite timeframe;
- incentives including free land and value-added tax (VAT) and customs rebates for certain types of investment in strategic locations including **Upper Egypt, Fayoum, Marsa Matrouh** and the **Suez Canal Economic Zone**;
- incentives for investments completed or companies incorporated up to 30 months before the law’s passage.²⁵

The act will also restore privately owned free zones, an issue that had previously delayed approval of the act.²⁶ There was disagreement between the parliamentary finance committee and the finance and investment ministries over the return of privately owned free zones.²⁷ The government ministries

²⁰ Source, businessman, Cairo

²¹ Source, international journalist, Cairo

²² Al Borsa, 7 May 2017.

²³ Al Borsa, 7 May 2017.

²⁴ Al Borsa, 7 May 2017.

²⁵ Al Mal, 2 May 2017.

²⁶ Al Mal, 2 May 2017.

²⁷ Al Mal, 2 May 2017.

oppose the finance committee's move on 30 April to reintroduce private free zones.²⁸ Amendments to the 2015 **Investment Law** prohibit the establishment of new private free zones.²⁹ The government had allowed existing private free zones to continue to operate until the end of their contracts. The Egyptian private sector, including the **Federation of Egyptian Chambers of Commerce**, lobbied the government to lift the proscription on new private free zones.³⁰ Parliamentary finance committee chairman **Amr Ghallab** also backed new private free zones, saying they are key to securing greater investment.³¹ Parliamentary speaker **Ali Abdel Aal** negotiated a compromise with investment minister **Sahar Nasr** and finance minister **Amr El Garhy**.³² Under the act, companies in new zones will have to pay a 2% levy on revenues that the finance and investment ministries will divide between themselves.³³

Nasr said on 7 May that she is preparing the draft executive regulations required to enact the Investment Act's provisions, for Ismail to review as quickly as possible.³⁴ The house of representatives must approve the executive regulations which Nasr pledged to introduce within one month.³⁵ There is speculation that Nasr has fallen out with other government ministers over the issue of the private sector-owned free zones.³⁶ Ismail had reportedly agreed with parliamentary speaker Aal that he, not Nasr, will coordinate the executive regulations.³⁷

Investors will welcome the Investment Guarantees and Incentives Act, which appears to address their specific concerns, notably about independent resolution to commercial disputes. However, as always, the devil is in the detail and they will wait for the specific terms of executive regulations before advancing investment decisions.

Parliament begins to discuss budget

The finance ministry published its 2017/2018 budget proposal on 25 May.³⁸ The feasibility of the budget proposal depends on a recovery in investor and business confidence next year. The government is targeting gross domestic product (GDP) growth of 4.6% in 2017/2018.³⁹ The finance ministry projects this will be sufficient to lower unemployment to between 11% and 12% during the next financial year, and to below 10% in the medium term.⁴⁰ The government is targeting revenues of 835 billion Egyptian pounds (EGP) (\$46.1 billion).⁴¹ The revenue target is approximately 29.6% higher than the current financial year.⁴² This would be on the back of increased tax revenues, which the government forecasts will increase from EGP 458 billion (\$25.3 billion) in the current financial year to EGP 604 billion (\$33.4 billion).⁴³ The government aims to increase its revenue through increased tax collection, with tax revenues projected to increase between 0.2% and 0.3% in the next financial year.⁴⁴ Notably, the base value added tax (VAT) will rise from 13% currently to 14%.⁴⁵

²⁸ Al Mal, 2 May 2017.

²⁹ Al Borsa, 1 May 2017.

³⁰ Al Borsa, 1 May 2017.

³¹ Al Borsa, 1 May 2017.

³² Al Borsa, 1 May 2017.

³³ Enterprise, 7 May 2017.

³⁴ Al Hayah Al Youm, 7 May 2017.

³⁵ Al Hayah Al Youm, 7 May 2017.

³⁶ Enterprise, 7 May 2017.

³⁷ Enterprise, 7 May 2017.

³⁸ www.mof.gov.eg

³⁹ www.mof.gov.eg

⁴⁰ www.mof.gov.eg

⁴¹ Al Ahram, 10 May 2017.

⁴² Al Ahram, 10 May 2017.

⁴³ Al Ahram, 10 May 2017.

⁴⁴ www.mof.gov.eg

⁴⁵ www.mof.gov.eg

As a proportion of gross domestic product (GDP), government projects tax revenue will increase from 13.4% this year to 14.7% next year.⁴⁶ Further improvements to fiscal and tax policies will result in tax revenue's proportion of GDP increasing to 18.5% by 2021/2022.⁴⁷ The government expects four sectors in particular to drive growth and revenue generation: construction and real estate, wholesale trade, manufacturing, and agriculture.⁴⁸

Government expenditure will increase 21.3% from EGP 994 billion (\$54.7 billion) to EGP 1.2 trillion (\$66.1 billion) next year.⁴⁹ The budget is predicated on a deficit of EGP 370 billion (\$20.4 billion), approximately 9% of GDP.⁵⁰ This compares to a budget deficit of 10% of GDP in the current financial year, and 12.5% in the last financial year.⁵¹ The medium term target is 5-6%.⁵² Spending on infrastructure projects will increase from EGP 91 billion (\$5.0 billion) to EGP 135.4 billion (\$7.5 billion).⁵³ Of total infrastructure financing, the government will fund 65 billion (\$3.6 billion) from its own reserves, and draw on a mixture of grants and loans for the remainder.⁵⁴

El Garhy pledged that the government will carefully manage its spending. The government will implement the **Civil Service Act** to reform its payment structure, and reform the subsidies framework.⁵⁵ Petroleum subsidies will account for 33% of the total subsidy bill in 2017/2018 and electricity 9%.⁵⁶ The total cost of energy subsidies will be EGP 140 billion (\$7.6 billion).⁵⁷ The provision of basic goods and services will account for 42.7% of the subsidy bill.⁵⁸ Spending on food subsidies will increase 29.5% to EGP 64.2 billion (\$3.5 billion), as the number of beneficiaries reaches 71 million people.⁵⁹ Subsidy reform will involve a shift in focus from subsidised commodities to cash transfers. Spending on subsidies will increase 19.5% year-on-year in 2017/2018, with the government channelling additional spending into subsidising the electricity sector.⁶⁰ The government says it remains committed to meeting the constitutional requirement that it spend 10% on education and healthcare.⁶¹

The budget targets a deficit of 9% of GDP next year, compared to between 10.5% and 10.8% in 2016.⁶² Presenting the budget proposal, the finance ministry noted that the budget deficit for the first nine months of the year decreased to 8% of GDP compared to 9.4% during the corresponding period in the last financial year.⁶³

According to the budget proposal, the government is targeting a primary surplus of 0.3% of GDP in 2017/2018.⁶⁴ The government expects that the primary surplus will increase to between 1.7% and 2.0% in the next financial year.⁶⁵ The government aims to decrease the ratio of gross debt to GDP from 102% in the current financial year to 95%.⁶⁶

⁴⁶ Al Ahram, 10 May 2017.

⁴⁷ Al Ahram, 10 May 2017.

⁴⁸ Al Ahram, 10 May 2017.

⁴⁹ Al Ahram, 10 May 2017.

⁵⁰ Al Ahram, 10 May 2017.

⁵¹ Al Ahram, 10 May 2017.

⁵² Al Ahram, 10 May 2017.

⁵³ Al Ahram, 10 May 2017.

⁵⁴ Al Ahram, 10 May 2017.

⁵⁵ www.mof.gov.eg

⁵⁶ Al Ahram, 10 May 2017.

⁵⁷ Al Ahram, 10 May 2017.

⁵⁸ Al Ahram, 10 May 2017.

⁵⁹ Al Ahram, 10 May 2017.

⁶⁰ www.mof.gov.eg

⁶¹ www.mof.gov.eg

⁶² www.mof.gov.eg

⁶³ www.mof.gov.eg

⁶⁴ www.mof.gov.eg

⁶⁵ www.mof.gov.eg

⁶⁶ www.mof.gov.eg

International Monetary Fund (IMF) Egypt mission chief **Chris Jarvis** praised the budget as “*very strong... [it] will place public debt on a clearly declining path to sustainable levels.*”⁶⁷ Jarvis’ comment came as the IMF reached a staff-level agreement with the Egyptian government over the release of the second tranche of the \$12 billion extended fund facility (EFF) on 12 May.⁶⁸ The staff-level agreement is indicative of broader IMF confidence in the government’s economic reform progress. The second tranche is worth \$1.25 billion, and is expected in June.⁶⁹ Jarvis additionally praised the government’s floatation of the currency, implementation of VAT, and reform of subsidies.⁷⁰ Jarvis also said he was optimistic about the impact of the Investment Act.

The budget’s target depends upon increased business and economic activity. The Investment Act is likely to encourage that activity. However, ahead of the 2018 election, it is unclear whether the government will have the political commitment to demonstrate continued fiscal restraint.

⁶⁷ Reuters, 12 May 2017.

⁶⁸ Reuters, 12 May 2017.

⁶⁹ Reuters, 12 May 2017.

⁷⁰ Reuters, 12 May 2017.

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