

# Laws

## Title Two In Arbitration

### Chapter One In Arbitration Agreements

**Article 1006:** Every person can resort to arbitration in the rights he can absolutely dispose of.

It is not possible to resort to arbitration in issues related to Public Order or to the status and capacity of persons.

Public legal persons cannot request arbitration, unless in their international commercial relations or in the framework of public transactions.

#### Section One

##### In the Arbitration Clause

**Article 1007:** The arbitration clause is the agreement by virtue of which the parties to a contract pertaining to rights granted by Article 1006 above agree on referring the disputes arising by cause thereof to arbitration.

**Article 1008:** The arbitration clause shall be confirmed, subject to setting aside, in writing in the original agreement or in the document on which the agreement is based.

The arbitration clause shall include, subject to setting aside, the appointment of the arbitrator or arbitrators, or the method of appointing them.

**Article 1009:** In case difficulties might arise during the constitution of the arbitration court due to the act of one of the parties or due to the execution of the procedures

of appointing the arbitrator or arbitrators, the latter shall be appointed by the President of the Court within the jurisdiction of which the place of conclusion or execution of the contract falls.

In case the arbitration clause is null and void or not sufficient to constitute the arbitration court, then the President of the Court shall examine this and declare the methods for appointing.

**Article 1010:** The dispute shall be referred to the Arbitration Court by both parties or by the most diligent party.

## Section Two

### In the Arbitration Agreement

**Article 1011:** The arbitration agreement is the agreement by virtue of which the parties accept to refer to arbitration a dispute that arose in the past.

**Article 1012:** The arbitration is agreed upon in writing.

The arbitration agreement shall include, subject to setting aside, the subject matter of the dispute and the names of the arbitrators or the method of their appointment.

If the appointed arbitrator refuses to carry out the mission entrusted to him, he shall be replaced by another upon an order from the president of the competent court.

**Article 1013:** Parties may agree on arbitration even when the litigation is in progress before the judicial authority.

## Section Three

### Common Provisions

**Article 1014:** The mission of arbitration shall not be entrusted to a natural person, unless such person enjoys his civil rights.

In the event where the arbitration agreement appoints a legal person, the latter shall appoint one or several members from among its members as arbitrators.

**Article 1015:** The constitution of the arbitration court shall not be considered valid unless the arbitrator or arbitrators accept the mission entrusted to them.

If the arbitrator is aware that he can be challenged, he should notify the parties thereof. The arbitrator may not perform the mission unless after the approval of the parties.

**Article 1016:** The arbitrator can be challenged in the following cases:

- 1- When he does not meet the qualifications agreed upon by the parties.
- 2- When there is a cause for challenge stipulated in the Arbitration Law approved by the parties.
- 3- When a serious doubt about his impartiality appears from the circumstances, mainly because of the existence of an economic or family interest or relation with one of the parties, whether directly or through a mediator.

The challenge of the arbitrator may not be requested by the party who had appointed him or participated in his appointment, unless for a reason he knew after the appointment.

The arbitration court and the other party shall be notified of the reason of the challenge without delay.

In case of a dispute and in the event where the arbitration law does not include the methods of settling it or the parties did not seek to settle the challenge procedures, then the judge shall settle it upon the request of the most diligent party.

This issue is not subject to any challenge.

**Article 1017:** The arbitration court shall be constituted of one or several arbitrators in an odd number.

**Article 1018:** The arbitration agreement shall be valid even if its time-limit was not specified. In this case, the arbitrators are bound to accomplish their mission within a period of four (4) months starting from the date of their appointment or from the date of notification of the arbitration court.

However, this period may be extended following consent of the parties, and in case it was not approved, the extension shall be according to the arbitration law; otherwise, it shall be done by the president of the competent court.

Arbitrators may not be removed from their office during this time limit unless by the mutual consent of all parties.

## **Chapter Two**

### **In the Arbitration Litigation**

**Article 1019:** Shall be applicable to the arbitration litigation the time limits and conditions determined before the judicial authorities, unless otherwise agreed upon by the parties.

**Article 1020:** Investigations and minutes shall be conducted and performed by all the arbitrators, unless the arbitration agreement authorized someone to perform the same.

**Article 1021:** Arbitrators may not abandon their mission if they already started it and may not be challenged unless in case of occurrence of one of the challenge causes after their appointment.

In case a civil action was submitted for forgery or in case of occurrence of a penal incident, the arbitrators shall refer the parties to the competent judicial authority and the period of arbitration shall be resumed from the date of rendering the judgment in this incident.

**Article 1022:** Every party shall submit its defense and documents at least fifteen (15) days prior to the end of the arbitration time limit, otherwise the arbitrator shall decide based on what was submitted to him during this time limit.

**Article 1023:** The arbitrators shall settle according to the rules of the law.

**Article 1024:** The arbitration shall end:

- 1- By the death of one of the arbitrators or his refusal to carry out his mission following justification, his withdrawal or the occurrence of an impediment, unless in case of a contrary condition, or if the parties agree on replacing him or if the other arbitrator or arbitrators replace him. In the event where the agreement does not exist, the provisions of article 1009 above shall be applied.
- 2- By the end of the determined arbitration time limit, and in case the period was not stipulated, then by the end of four (4) months.
- 3- By the loss of the subject matter of the conflict, or the payment of the debt subject of litigation.
- 4- By the death of one of the parties to the contract.

### **Chapter Three In Arbitral Awards**

**Article 1025:** The deliberations of the arbitrators shall be confidential.

**Article 1026:** Arbitral awards shall be issued by the majority of the votes.

**Article 1027:** Arbitral awards shall include a brief summary submission of the parties' claims and defenses.

Arbitral awards shall be justified.

**Article 1028:** The arbitral award contains the following data:

- 1- The name and surname of the arbitrator or arbitrators,
- 2- The date of issuance of the award,
- 3- The place of its issuance,
- 4- The names and surnames of the parties, the domicile of each of them and the nomination of the legal persons and their headquarters.
- 5- The names and surnames of the lawyers or those who represented or assisted the parties when needed.

**Article 1029:** Arbitral awards shall be signed by all the arbitrators.

In case the minority refuses to sign, the other arbitrators shall indicate this and the award shall have the same effect as if it was signed by all the arbitrators.

**Article 1030:** The arbitrator shall abandon the dispute as soon as he settles it.

However, the arbitrator can interpret the award or correct the materials errors and omissions vitiating it pursuant to the provisions stipulated herein.

**Article 1031:** Arbitral awards acquire the res judicata by their mere issuance as for the conflict subject of settlement.

#### **Chapter Four**

##### **Methods of challenging arbitral awards**

**Article 1032:** Arbitral awards cannot be objected.

They may be challenged through the objection of third persons outside the litigation before the competent court prior to the referral of the dispute to arbitration.

**Article 1033:** Appeal against arbitral awards shall be submitted within a period of one (1) month from the date of their issuance before the judicial council within the jurisdiction of which the arbitral award was issued, unless the parties waive their right of appeal in the arbitration agreement.

**Article 1034:** Final awards rendered in appeal shall be the only awards that can be subject to objection for cassation pursuant to the provisions stipulated herein.

#### **Chapter Five**

##### **In the enforcement of arbitral awards**

**Article 1035:** The final, partial or preliminary arbitral award shall be enforceable by virtue of an order issued by the president of the court within the jurisdiction of which the award was issued. The original award shall be deposited at the Court's Registry by the most diligent party.

The parties shall bear the costs of depositing the pleadings, documents and original arbitral award.

The litigants can appeal the order refusing the enforcement within a period of fifteen (15) days from the date of refusal before the judicial council.

**Article 1036:** The head of the Registry shall submit an official copy of the arbitral award stamped with the leave for enforcement to the party who requests it.

**Article 1037:** Rules related to summarily self-executing judgments shall apply to summarily self-executing arbitral awards.

**Article 1038:** Arbitral awards shall not be invoked against third parties.

## **Chapter Six**

### **In awards related to International Commercial Arbitration**

#### **Section One**

##### **General Provisions**

**Article 1039:** Pursuant to this law, shall be considered an international arbitration the arbitration relating to disputes pertaining to economic interests of at least two States.

**Article 1040:** The arbitration agreement shall be applicable to existing and future disputes.

The arbitration agreement shall be concluded, in the form and subject to setting aside, in writing or by any other means of communication allowing the proof in writing.

The arbitration agreement shall be valid in its subject if it meets the conditions set up either by the law that the parties agreed to choose, the law governing the subject matter of the dispute or the law that the arbitrator deems appropriate.

It is not possible to use as pretext the invalidity of the arbitration agreement because of the invalidity of the original contract.

#### **Section Two**

##### **Organizing International Arbitration**

#### **Part One**

##### **In Appointing Arbitrators**

**Article 1041:** The parties can, either directly or by referring to an arbitration law, appoint the arbitrator or arbitrators or determine the conditions of their appointment, removal from office or replacement.

In the absence of appointment and in the case of a difficulty in appointing, removing from office or replacing the arbitrators, the most diligent party can do the following:

- 1- Refer the issue before the president of the court within the jurisdiction of which the arbitration falls in case the arbitration is taking place in Algeria.
- 2- Refer the issue to the President of the Court of Algeria in case the arbitration is taking place abroad and the parties choose to apply the rules of proceedings in force in Algeria.

**Article 1042:** In the event where the competent judicial authority was not determined in the arbitration agreement, the court within the jurisdiction of which the place of conclusion or execution of the contract falls shall have the jurisdiction.

## Part Two

### In Arbitral Litigation

**Article 1043:** Proceedings that should be followed in the litigation either directly or pursuant to arbitration rules can be determined in the arbitration agreement. These proceedings can be subjected to the Code of Procedure determined by the parties in the arbitration agreement.

If the latter is not stipulated in the agreement, the arbitration court shall determine the proceedings when necessary, either directly or pursuant to arbitration law or rules.

**Article 1044:** The arbitration court shall rule in its jurisdiction, and the plea to jurisdiction should be brought up before any defense in the merits.

The arbitration court shall rule in its jurisdiction by virtue of a preliminary award, unless the plea to jurisdiction was related to the subject matter of the dispute.

**Article 1045:** The judge shall not be competent to settle the subject matter of the dispute if the arbitral litigation exists or if he becomes aware of the existence of an arbitration agreement provided that the latter is brought up by one of the parties.

**Article 1046:** The arbitration court can order temporary or preventive measures upon the request of one of the parties, unless otherwise stipulated in the arbitration agreement.

In the event where the concerned party does not voluntarily execute this measure, the arbitration court may request the interference of the competent judge. The law of the country of the judge shall apply in this regard.

The arbitration court or the judge can subject the temporary or preventive measures to the submission of the appropriate guarantees by the party who requested this measure.

**Article 1047:** The arbitration court shall be in charge of looking for evidences.

**Article 1048:** If it is necessary to assist the judicial authority in submitting the evidences, extending the mission of the arbitrators, confirming the proceedings or other cases, the arbitration court or the parties, in agreement with this court, or the most diligent party after being given the authorization by the arbitration court, can request the interference of the competent judge by virtue of a petition. The law of the country of the judge shall apply in this regard.

**Article 1049:** The arbitration court may issue parties' agreement awards or partial awards, unless otherwise agreed upon between the parties.

**Article 1050:** The arbitration court shall settle the dispute pursuant to the rules of the law chosen by the parties. In the absence of such a choice, it settles according to the rules of the law and the usages it deems appropriate.

### Section Three

In the recognition of international arbitral awards,  
their compulsory enforcement and the methods of challenging them

#### Part One

In the recognition of international arbitral awards

**Article 1051:** International arbitral awards shall be recognized in Algeria if the person keeping to them proves their existence and if this recognition was not in violation of the International Public Order.

They are considered enforceable in Algeria in the same conditions by virtue of an order issued by the President of the Court within the jurisdiction of which the arbitral awards were issued or the court of the place of enforcement if the seat of the arbitration court is located outside the country.

**Article 1052:** The arbitral award shall be confirmed by submitting its original copy to which is attached the arbitration agreement or copies thereof that meet the conditions of its validity.

**Article 1053:** The documents mentioned in article 1052 above shall be deposited at the Registry of the competent judicial authority by the most diligent party.

#### Part Two

In the enforcement of international arbitral awards

**Article 1054:** The provisions of articles 1035 to 1038 above shall apply with regard to the enforcement of international arbitral awards.



## Part Three

## In the methods of challenging international arbitral awards

**Article 1055:** The order refusing the recognition or enforcement of the award can be subject to appeal.

**Article 1056:** The order recognizing or enforcing the award may not be appealed unless in the following cases:

- 1- If the arbitration court issued an award without an arbitration agreement or based on a void or expired arbitration agreement.
- 2- If the constitution of the arbitration court or the appointment of the sole arbitrator is in violation of the law.
- 3- If the arbitration court settled the dispute in such a manner breaching the mission it is entrusted with.
- 4- If the principle of due process was not observed.
- 5- If the arbitration court did not justify its award or in case of contradiction in the grounds.
- 6- If the arbitration award is in violation of the International Public Order.

**Article 1057:** The appeal shall be submitted before the Judicial Council within one (1) month from the date of the official notification of the order issued by the President of the Court.

**Article 1058:** The international arbitral award issued in Algeria can be subject to an objection for setting aside in the cases stipulated in article 1056 above.

The order ruling the enforcement of the abovementioned international arbitral award does not accept any challenge. However, the objection for setting aside entails, by the force of the law, the challenge of the enforcement order or the abandonment, by the court, of the settlement of the request for enforcement, if it was not settled.

**Article 1059:** The objection for setting aside the arbitral award stipulated in article 1058 above shall be submitted before the Judicial Council within the jurisdiction of which the arbitral award was issued. The challenge is accepted from the date of pronouncing the arbitral award.

This challenge shall not be accepted after one (1) month from the date of official notification of the enforcement order.

**Article 1060:** The submission of challenges provided for in articles 1055, 1056 and 1058 and the time limits to exercise them shall stay the enforcement of the arbitral awards.

**Article 1061:** Decisions rendered in implementation of articles 1055, 1056 and 1058 above shall be subject to objection for cassation.

### Provisional and Final Provisions

**Article 1062:** This law shall become operative one (1) year after its publication in the Official Gazette.

**Article 1063:** The rules of the jurisdiction of value and of the territorial jurisdiction stipulated in article 40 (3 and 4) of this law shall remain valid until the appointment of the competent authorities.

**Article 1064:** The provisions of Order No. 66-154 dated 18 Safar 1386, corresponding to June 08, 1966, which includes the amended and complementary Law of Civil Procedure shall be annulled once this law becomes operative.

**Article 1065:** This law shall be published in the Official Gazette of the People's Democratic Republic of Algeria.

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