

## **Enforcement of Awards**

### **Under Inter-Arab Conventions**

Enforcement of arbitral awards amongst Arab States is governed by the Riyadh Convention of 1983 for Judicial Co-operation which replaces, in respect of States ratifying it, the 1952 Arab Convention for the Enforcement of Judgements (and arbitral awards). Also, Amman Arab Convention of 1987 for Commercial Arbitration contains certain provisions regarding this matter <sup>(1)</sup>.

As to Amman Convention, article 34 provides that an award is final and may not be revoked except where:

- 1- the tribunal clearly exceeds its jurisdiction.
- 2- It was proved by a judgement that a new fact existed which would substantially affect the award had it been known to the party concerned in due course, provided that such fact was not known to him for reasons not due to his negligence.
- 3- there had been illegal influence on the arbitrator, which had effect on the award.

If one of these events exists, a party seeking the revocation of the award must apply to the Arab Arbitration Center established by the Convention (articles 4 and 12). He should submit the application within sixty days starting, with respect to the first situation, as from the date of receiving the award or, as regards the other two situations, from the date of being aware of the relevant fact. In all cases, the application may not be accepted after one year of issuing the award. Upon receiving the application, the Center shall form a committee of three members from the List of Arbitrators <sup>(2)</sup> to give a decision on the application. None of the arbitrators who were members of the tribunal could be a member of the committee. The committee's decision on this matter is final whether it revokes the award or confirms it (article 34).

The (final) award is executable in the Contracting States unless it is against public order in the State in which the execution is sought (article 35). The Convention does not contain any other provision for the

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(1) See, generally Hamzeh Haddad, Inter Arab Convention on Commercial Arbitration, LAC, 1989, Amman, Jordan.

(2) This List is provided for in article 14 of Amman Convention.

recognition, enforcement or execution of the award, which matter will be, thus, subject to other rules including the Riyadh Convention. Article 37 of this Convention provides that a Contracting State is bound to recognize and enforce any award issued in another State except where <sup>(3)</sup>:

- 1- the law of the State in which execution is sought does not allow the settlement of the relevant dispute by arbitration, or the award is against public order in that State.
  - 2- the agreement to arbitrate, according to which the award was issued, is null and void.
  - 3- the award is not final but, rather, is still subject to challenge whether by an appeal or otherwise.
  - 4- the tribunal, which issued the award, had not jurisdiction.
  - 5- the parties had not been dully notified to attend the hearing and, accordingly, the judgement was issued in absenti.
- 6- the award is against Shari'a (Islamic Law).

If the requirements for enforcing an award are met, a party seeking the enforcement must comply with the domestic proceedings applied in the relevant State. He must submit with his request any documents necessary for the enforcement such as a document proving that the award is enforceable in the State in which it was made, and a copy of the arbitration agreement (article 37).

However, one of the above grounds for refusing the enforcement may relate to a part of the award only while other parts are safe. In such a case, the court before which enforcement is sought may order partial enforcement of the award. For instance, the arbitrator may, in excess of the authority granted to him by the parties' agreement, give the claimant more than he claimed; or part of the award may be against public order while other parts are not. If, in these circumstances, the award can be divided, enforcement may take place with respect to that enforceable part only (article 32 of Riyadh Convention <sup>(4)</sup>).

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<sup>(3)</sup> CF., article 5 of New York Convention of 1958 on the Recognition and Enforcement of Foreign Arbitral Awards; article 9 of the European Convention of 1961 on International Commercial Arbitration; and article 36 of the UNCITRAL Model Law.

<sup>(4)</sup> CF., articles 5.1/c, 9.1/c and 36.1/a: ii of the New York Convention, the European Convention and the Model Law respectively.