

# Evolution of the Arbitration System in Algerian Legislation

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## Abstract

Arbitration represents one of the most significant alternative dispute resolution mechanisms globally, distinguished by its procedural efficiency, cost-effectiveness, party autonomy in selecting the arbitral tribunal, and preservation of confidentiality—contrasting sharply with traditional judicial processes. Arbitration may be domestic or international. The arbitral tribunal, comprising one or more arbitrators (with an odd number preferred to reflect its quasi-judicial nature), issues a final and binding award after examining the dispute's merits. For such an award to integrate into a national legal system and be enforceable, it requires recognition by domestic courts through the issuance of an *exequatur*. In Algeria, legislative recognition of arbitration was initially hesitant, first incorporated into the Code of Civil Procedure and later the Code of Civil and Administrative Procedure. Rapid economic developments, investment acceleration, and encouragement of private—particularly foreign—investments have propelled legislative adoption of arbitration as a dispute resolution tool. This study addresses key questions: What is the Algerian legislature's stance on arbitration as an alternative for resolving commercial disputes? What evolutionary stages has this system undergone in Algerian legislation? What effects arise from an arbitral award? Employing analytical and comparative methodologies, we analyze relevant legal texts and compare Algerian provisions with other jurisdictions. The research is divided into three sections: the first defines arbitration and examines the Algerian legislative position; the second addresses the issuance of arbitral awards and their consequences; the third explores avenues for challenging arbitral awards.

**Keywords:** Algerian legislation; Alternative dispute resolution; Appeal; Arbitral award; Arbitration; Enforcement.

## Introduction

Arbitration stands as a paramount alternative dispute resolution (ADR) mechanism worldwide, characterized by expeditious proceedings, reduced costs, party involvement in

appointing the arbitral tribunal, and safeguarding litigants' confidentiality—distinct from conventional litigation. It manifests as either domestic or international arbitration.

The arbitral tribunal, potentially composed of a sole arbitrator or multiple arbitrators (preferably an odd number to underscore its judicial essence), renders a final, binding award upon scrutinizing the dispute's facts. For integration into a national legal framework and subsequent enforcement, the award necessitates judicial recognition via an *exequatur* order.

In Algeria, legislative endorsement of arbitration was protracted and ambivalent, initially embedded in the Code of Civil Procedure and subsequently in the Code of Civil and Administrative Procedure. Factors such as accelerated economic globalization, investment promotion, and attraction of foreign capital have catalyzed legislative embrace of arbitration for dispute settlement. This inquiry posits: What is the Algerian legislature's position on arbitration as an ADR for commercial disputes? What developmental phases has this regime traversed in Algerian law? What ramifications ensue from an arbitral award? Utilizing analytical methodology to dissect pertinent legal provisions and comparative methodology to juxtapose Algerian norms with international counterparts, this study is structured into three parts: the first delineates arbitration and the Algerian legislative stance; the second examines award issuance and resultant effects; the third investigates challenge mechanisms for arbitral awards.

## **1. Definition of Arbitration and the Algerian Legislature's Stance**

Arbitration is not an innovation but the origin of adjudication, evolving through human justice history. The arbitrator, as a private judge, upholds objectivity, impartiality, and independence vis-à-vis parties and third parties, cognizant that their justice inspires faith in adjudication.

### **1.1. Definition of International Commercial Arbitration**

#### **1.1.1. Linguistic Definition of Arbitration**

Etymologically, "arbitration" derives from "hakama" (to authorize judgment), implying delegation of adjudicative authority (Al-Fayruzabadi, 1952, p. 98). It denotes entrusting judgment to an individual, with parties consenting to the decision (Ibn Manzur, 1956, p. 14). Quranic references include: "No, by your Lord, they will not [truly] believe until they make you, [O Muhammad], judge concerning that over which they dispute among themselves and then find within themselves no discomfort from what you have judged and submit in [full, willing] submission" (Surah An-Nisa, Verse 65). The arbitrator ("muhakam" or "hakam") is the chosen adjudicator for disputes (Salama, 2006, p. 11), also a divine attribute: "Then is it other than Allah I should seek as judge?" (Surah Al-An'am, Verse 114).

In Islamic jurisprudence, arbitration is "the parties' appointment of an arbitrator to adjudicate their dispute, with consent to the ruling" (Al-Douri, 1985, p. 20). Quranic endorsement appears in: "O David, indeed We have made you a successor upon the earth, so judge between the people in truth and do not follow [your own] desire, as it will lead you astray from the way of Allah" (Surah Sad, Verse 26). A prophetic hadith states: "I am but a human being, and you bring your disputes to me. Perhaps some of you are more eloquent in presenting arguments than others, so I judge based on what I hear. Whoever I award something from his brother's right, let him not take it, for I am giving him a piece of fire" (Sabiq, 1983, p. 401).

#### **1.1.2. Definition of Arbitration in Positive Law**

Positive law definitions align closely with Islamic jurisprudence, viewing arbitration as an ADR method for peaceful dispute resolution via one or more arbitrators, pursuant to a party

agreement (clause or submission) (Bousnoubra, 2009, p. 14). Contemporary jurisprudence defines it as "a system whereby a third party resolves an existing dispute between parties, exercising judicial functions delegated by the disputants" (Al-Darasi, 2008, p. 21). Bedjaoui (1994, pp. 60-62) describes it as "private justice divesting national courts of jurisdiction, vesting it in private individuals selected by parties." Thus, arbitration is a legal technique for resolving disputes via an arbitrator empowered not by state authority but by party agreement.

Arbitrators—natural or legal persons, such as permanent arbitration institutions—adjudicate disputes outside national courts, per Articles 1006-1013 of Law 08/09 on the Code of Civil and Administrative Procedure (Ministry of Justice, 2008). Arbitrators derive jurisdiction from a specific agreement (arbitration clause or submission), appointed by parties rather than the state (Waly, 2007, p. 13). Arbitration constitutes private adjudication, legislatively sanctioned as an alternative to ordinary courts, yet interdependent with judiciary for tribunal formation, award recognition, and enforcement. It differs from expertise, conciliation, and mediation; the arbitral award mirrors a judicial judgment, binding with *res judicata* effect, though lacking nationality as it issues from the tribunal, not a state (Abu Al-Aynayn, 1998, p. 6).

This definition reveals two facets:

**Organic Aspect:** Arbitration is a legal system fulfilling adjudicative functions in disputes, grounded in (Bousnoubra, 2009, p. 16): (1) party will and agreement to arbitrate as a judicial alternative; (2) legislative endorsement and regulation in the Code of Civil and Administrative Procedure. Arbitration is voluntary; party intent alone suffices not for tribunal authority, which must align with procedural and substantive legal bounds.

**Functional Aspect:** Arbitration serves as a legal tool for settling actual or potential disputes. Absent a dispute, arbitration is inapplicable. The tribunal's role confines to resolution; deviation renders it non-arbitral (Bousnoubra, 2009, p. 17). If parties amicably settle, the tribunal must terminate proceedings, record the settlement, and issue an award incorporating its terms, carrying arbitral and judicial force.

Arbitral proceedings constitute jurisdictional acts, akin to judicial procedures: filing claims, paying fees, respecting defense rights, equality, confrontation, impartiality, and formal/substantive requirements in award drafting. Awards gain *res judicata*, concluding tribunal jurisdiction and enforceable compulsorily per the enforcement state's law, as per Article 458 bis 16 of the former Code of Civil Procedure and Article 1031 of the Code of Civil and Administrative Procedure.

## 1.2. Arbitration in Algerian Legislation

Post-independence, key texts include the 1962 Evian Accords. Pre-accords, concession contracts with foreign multinationals were governed by Saharan Petroleum Law No. 58/1111, Article 41 vesting initial and final jurisdiction in the French Council of State, classifying them as domestic administrative contracts ineligible for arbitration (Bencheneb, 1984, p. 297). The Evian Accords' Chapter V established an international arbitral tribunal for petroleum disputes, with each party appointing an arbitrator and a third selected jointly or by the International Court of Justice President. Awards were binding without *exequatur*, excluding challenges (Bouzana, 1985, p. 41).

This excluded national courts, favoring international arbitration over French Council of State jurisdiction, reclassifying contracts as international (Maachou, 1989, pp. 121-122). Acceptance stemmed from Algeria's historical ties to France and desire to escape French dominance, despite

theoretical rejection. Some jurists viewed this as sovereignty infringement (Maachou, 1989, p. 122). The 1963 Algerian-French Cooperation Agreement reinforced this, with the 1965 agreement mandating conciliation before arbitration. President Boumediene's 1971 speech critiqued these as formal independence (Bouzana, 1985, p. 41).

Algeria's theoretical hostility shifted via the 1983 Algerian-French Agreement, marking international commercial arbitration's entrenchment, followed by Legislative Decree 93/09 (Ministry of Justice, 1993) amending the Code of Civil Procedure, and Law 08/09 (effective 2009) per Article 1062 (Ministry of Justice, 2008).

Parties primarily determine arbitral procedures via the agreement, referencing rules or procedural codes (e.g., Algerian, French, Swiss). Absent specification, the tribunal sets procedures per Article 1043 of the Code of Civil and Administrative Procedure (mirroring Article 458 bis 6 of the former code), as in the 1968 Getty Petroleum agreement (Ministry of Justice, 1968).

Upon arbitration commencement, national judicial intervention ceases, reflecting liberal Algerian norms, though Article 1046 permits intervention if necessary (mirroring Articles 458 bis 8-9 of the former code; Ministry of Justice, 1963). Tribunals apply agreed rules; absent agreement, substantive rules most appropriate, excluding conflict-of-laws unless specified (Article 1050, akin to Article 458 bis 14). Algerian law enshrines party freedom in law selection; absent choice, arbitrators select fitting rules, non-contradictory to public policy.

### **1.3. Formation of the Arbitral Tribunal**

Article 1041 permits the most diligent party to seek national judicial assistance if tribunal formation stalls (e.g., refusal to appoint). For international arbitration, jurisdiction vests in:

If conducted in Algeria: President of the court within whose territorial jurisdiction arbitration occurs (Bousnoubra, 2006, p. 128).

If abroad with Algerian law chosen: President of Algiers Court (Bousnoubra, 2006, p. 129).

Judicial involvement aligns with arbitration's practical objectives, avoiding jurisdictional conflicts (Barten, 1982, p. 331). Absent agreement on arbitrators or selection method, courts appoint upon request (Article 1042).

Algerian law aligns with international norms, empowering courts beyond formation to resolve subsequent issues, essential if proceedings halt without party agreement. Article 1048 allows tribunal or parties (with consent) to petition competent judges, applying the judge's national law; decisions are final, unappealable (Issad, 1988, p. 39). Replacement arbitrators follow identical procedures if the original's mandate ends pre-award (Cami, 1990, p. 176).

### **1.4. Rules Governing Judicial Intervention**

Articles 1014 and 1016 mandate courts respect law and party agreements, issuing expeditious orders on petition. No fixed timeline exists, though urgency implies hours to days. Orders are unappealable for procedural efficiency (Article 1016).

Judicial intervention during proceedings (Article 1046) includes enforcing tribunal conservatory measures or directly ordering them pre- or during arbitration, absent contrary agreement. Algerian law assigns this to the urgent matters judge, aligning with ICC Rules Article 8(5), preserving arbitration agreement integrity.

#### **1.4.1. Appointment of Arbitrators**

Domestic arbitration requires arbitration clauses specify arbitrators or appointment modalities, under nullity penalty (Article 1008). Party autonomy prevails; obstacles prompt appointment by the court where the contract was concluded or executed (Article 1009). International arbitration leaves appointment, recusal, and replacement to party will (Article 1041). Absent specification in Algeria, the diligent party petitions the relevant court president; abroad with Algerian law, Algiers Court president, unless otherwise agreed (Articles 1041-1042). Notably, prior requirements for neutral nationality in third-arbitrator appointments are abolished.

#### **1.4.2. Odd Number of Arbitrators**

Article 1017 mandates an odd number for domestic tribunals, favoring judicial nature and deadlock avoidance. International arbitration imposes no such restriction, deferring to party autonomy.

#### **1.4.3. Arbitrators as Natural or Legal Persons**

Domestic law (Article 1014(2)) allows legal persons to appoint members as arbitrators, differing from French law by limiting to appointment, not organization (e.g., bar associations appoint from members). International law defers to party will.

#### **1.4.4. Acceptance of Mandate**

Article 1015 mandates explicit acceptance; refusal prompts replacement by court order (Article 1012), rendering acceptance imperative for valid formation. International law leaves this to party agreement.

#### **1.4.5 Recusal or Removal**

Domestic arbitrators are irremovable during proceedings except by unanimous consent (Article 1018). Recusal grounds (Article 1015) include lacking agreed qualifications, rule-specified causes, or impartiality doubts (e.g., economic ties). Appointing parties cannot recuse except for post-appointment discoveries. Notification to tribunal and opposing party is required (Article 1016). Absent resolution mechanism, urgent matters judge decides unappealably. Grounds are not public policy, waivable by agreement. International recusal mirrors domestic.

### **2. Issuance of the Arbitral Award and Its Effects**

Tribunals follow prescribed procedures for award issuance, ensuring legal effects.

#### **2.1. Manner of Award Issuance**

Awards resolve disputes per agreed rules, but how are they prepared and formalized?

##### **2.1.1. Preparation of the Arbitral Award**

Awards are drafted post-deliberation (Article 1050), applying chosen law or appropriate rules/usages. Deliberation entails discussion, legal qualification, and voting (Article 1025, secret; modern tools permissible). Awards issue by majority (Article 1026), then drafted and pronounced. Sole-arbitrator awards are straightforward; multi-arbitrator require majority signatures, with chairpersons pivotal under unanimity norms (Terki, 1999, p. 116; Al-Fazayri, 1998, pp. 91-93). Some view deliberation as public policy for defense rights, though sole-arbitrator cases challenge this (Terki, 1999, pp. 90-91, 115-116).

##### **2.1.2. Formal Requirements of the Arbitral Award**

Awards must be written, reasoned, specify venue, summarize claims/defenses, dated, and signed (Articles 1028-1029). Refusals to sign are noted, with awards effective as fully signed.

**A. Written Form:** Essential for deposit and enforcement (Terki, 1999, p. 120). Language queries arise for Algerian parties; while judicial awards require Arabic (Article 8), international arbitration defers to agreements or rules (e.g., UNCITRAL Article 22, ICC Article 17).

**B. Essential Particulars:** Include parties' details, arbitrators' information, agreement copy, claims summary, operative part, date, and venue (Murad, 1998, pp. 125-150).

**C. Reasoning:** Mandatory (Article 1027), ensuring logical basis (Abdul Sadiq, 2020, p. 294). Absence may nullify, though party choice of non-reasoning regimes (e.g., English) prioritizes autonomy per *pacta sunt servanda* (Terki, 1999, p. 121; UNCITRAL Article 32(3); CIRDI Article 48(3)). Contradictory reasoning enables appeal (Article 1056(5)).

**D. Signature:** Required by all or majority; dissent noted (Abdul Sadiq, 2020, p. 297; Terki, 1999, pp. 117-122; French Code Article 1473; Egyptian Law Article 43(1); UNCITRAL Article 31(1); CIRDI Article 48(2)).

Venue determines challenge jurisdiction; some contracts specify (e.g., 1983 Algerian-French Agreement Article 10(2)). Deadlines are rare, often extendable (Bouzana, 1985, pp. 369-386; Achouche, n.d., pp. 90-91; Terki, 1999, p. 122).

## **2.2. Effects of the Arbitral Award**

Awards terminate tribunal mandate, confer *res judicata*, and enable recognition/enforcement.

### **2.2.1. Termination of Tribunal Mandate**

Awards end jurisdiction (former Article 458 bis 16(1)); re-examination is precluded. Law 08/09 clarifies interpretation/correction (Article 1030(2)), addressing prior ambiguities (Terki, 1999, p. 32; French Code Article 1475; Egyptian Law Articles 48-49; Galvada & Lucas de Leysac, 2001, pp. 83-84).

### **2.2.2. Res Judicata Effect**

Awards acquire *res judicata* immediately (Article 1031), final yet challengeable, preventing contradictory rulings and presuming validity (Khair, 1995, pp. 41-42). Effect is relative, not extending to third parties (Article 1038; French Code Article 476; Galvada & Lucas de Leysac, 2001, p. 83). International conventions affirm this (New York Convention Article 3(1); Maghreb Investment Convention; CIRDI Article 54(1)).

### **2.2.3. Recognition and Enforcement**

Awards, lacking state issuance, require formalities for enforcement. Voluntary execution is normative (over 90% cases; Bouzana, 1985, pp. 395-397), as in Sonatrach contracts and 1983 Algerian-French Agreement Article 17(7) (Issad, 2008, p. 1). Compulsory enforcement follows voluntary failure (former Article 458 bis 16(2); Articles 1035-1038).

Algeria, acceding to New York Convention (1988), recognizes foreign awards, distinguishing recognition (defensive, invoking *res judicata*) from enforcement (*exequatur*) (Saraghni, 2017, pp. 215-216). Article 1035 enables enforcement of final/partial/preparatory awards via court president order; Article 1051 governs international awards.

**A. Notifying the Enforcement Judge:** For Algerian-issued awards, petition the issuing court's president; foreign, the execution venue's (Article 1051; French Code Article 1477(1); Article 1054 cross-references Articles 1035-1038).

**B. Required Conditions:** Prove existence and non-contravention of international public policy (Article 1051; Saraghni, 2017, pp. 215-216).

**Material Condition:** Submit original award and agreement or authenticated copies (Article 1052; deposit per Article 1053; Terki, 1999, p. 129). Translations by official translators if not in Arabic (New York Convention Article 4(2)).

**Legal Condition:** No international public policy violation (Abdul Sadiq, 2020, pp. 934-941).

Judges verify existence and policy compliance, issuing exequatur orders (likely on petition; Article 1035), bridging private and public adjudication (Zerouti, 1998, pp. 151-152). Clerks provide copies (Article 1036).

### 3. Challenges to Arbitral Awards

Post-award phase distinguishes domestic (third-party opposition, appeal) from international (appeal, nullity) awards (Bousnoubra, 2009, pp. 212, 222, 239).

#### 3.1. Challenges to Domestic Arbitral Awards

##### 3.1.1. Third-Party Opposition

Non-parties with standing/interest may oppose via petition to the originally competent court (Article 1032), applying general rules (e.g., commercial chamber for trade disputes). No fixed timeline; prescription periods apply.

##### 3.1.2. Appeal

Parties appeal to the judicial council where award issued, within one month of pronouncement (Article 1033), absent waiver in agreement. Territorial jurisdiction: issuing council; subject-matter: relevant chamber (civil, commercial, real estate).

Conditions: Valid award, timely filing, no waiver.

#### 3.2. Challenges to International Arbitral Awards

##### 3.2.1. Appeal

Appeal refusal of recognition/enforcement unconditionally (Article 1055); affirmative orders if grounds met (Article 1056: no agreement/null agreement, improper formation, ultra vires, non-confrontation, unreasoned/contradictory, public policy violation). File within one month of notification to competent council (Article 1057), suspending enforcement.

##### 3.2.2. Nullity

Nullity suits for Algerian-issued international awards on Article 1056 grounds (Article 1058; French Code Article 1504; New York Convention Article 5(1)(e)). Nullity implies challenging enforcement orders (Terki, 1999, p. 133). Competent council: issuing venue's, within one month, suspending enforcement.

Timelines vary internationally (CIRDI: 120 days/3 years; UNCITRAL: 3 months; Oman Convention: 60 days). Effects: Awards enforceable post-challenge periods; rejected appeals confer finality; nullity suspends execution (Terki, 1999, pp. 141-142).

#### **4. Conclusion**

This analysis yields key findings:

- Algerian arbitration evolved in two phases: initial denial post-independence to safeguard sovereignty, with reluctant use to escape French hegemony; subsequent embrace via accessions (e.g., New York Convention 1958) and laws (Decree 93/09, Law 08/09), bilateral/multilateral agreements affirming ADR utility.
- Legislation covers tribunal formation, acceptance/recusal, award issuance/formalities, challenges, and effects (recognition/enforcement).
- Terminology distinguishes "judgment" (domestic) from "decision" (international).
- Despite advantages (speed, autonomy, confidentiality, cost), drawbacks include arbitrator impartiality risks and favoritism toward multinationals, posing threats to developing states (Khaled, 2008, p. 30). Strategic recourse, via expert economic/legal teams, is advisable, learning from Sonatrach losses.

#### **5. Proposals**

- Incorporate revision as a challenge avenue, given its unique grounds.
- Extend 30-day nullity period, balancing interests with commercial exigency.
- Mandate national judicial jurisdiction post-nullity, unless parties agree otherwise.

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#### **References**

1. Abdul Sadiq, A. (2020). *Encyclopedia of international commercial arbitration*. State Lawsuits Authority.
2. Abu Al-Aynayn, M. (1998). *The role of arbitration in resolving international trade and investment disputes: Charters of the Union of Arab Lawyers* (Vol. 1). Dar Al-Nahda Al-Arabiya.
3. Achouche, A. (n.d.). *Arbitration as a means of dispute resolution in investment*. University Youth Foundation.
4. Al-Darasi, A. B. (2008). *The legal system of arbitration* (2nd ed.). Dar Al-Fath for Technical Binding.
5. Al-Douri, Q. A. (1985). *Arbitration contract in Islamic jurisprudence and positive law* (1st ed.). Al-Khulud Press.
6. Al-Fayruzabadi, M. A. Y. (1952). *Al-Qamus al-Muhit* (Vol. 4). Mustafa Al-Babi Al-Halabi Press.

7. Al-Fazayri, A. (1998). *The role of state judiciary in achieving arbitration effectiveness*. Maaref Establishment.
8. Barten, P. (1982). Judicial intervention in arbitration procedures. *French Arbitration Journal*.
9. Bedjaoui, M. (1994). The evolution of Algerian concepts and practices in international arbitration: Necessity or inevitability. *Revue Mutations*, 3, 60-62.
10. Bencheneb, A. (1984). *Legal mechanisms of Algeria's international commercial relations*. OPU.
11. Bousnoubra, K. (2006). Judicial intervention in international arbitration under Algerian legislation. *Supreme Court Journal*, 2, 119-147.
12. Bousnoubra, K. (2009). *The arbitral decision and methods of challenging it in Algerian law* [Doctoral dissertation, University of Mentouri Constantine].
13. Bouzana, B. (1985). *Petroleum disputes between Algeria and foreign companies*. Office of University Publications.
14. Cami. (1990). Paris Court of Appeal. *French Arbitration Journal*.
15. Galvada, C., & Lucas de Leyssac, C. (2001). *L'arbitrage*. DALOOZ.
16. Ibn Manzur, M. (1956). *Lisan al-Arab* (Vol. 12). Dar Beirut for Printing and Publishing.
17. Issad, M. (1988). *The Algerian legislative decree*. Office of University Publications.
18. Issad, M. (2008). The new Algerian law on international arbitration. *Revue de l'Arbitrage Arabe*, 3, 419-428.
19. Khair, A. (1995). *Authority and enforcement of arbitrators' awards and their issues locally and internationally* (1st ed.). Dar Al-Nahda Al-Arabiya.
20. Khaled, H. (2008). *Formation of the arbitral tribunal in international trade disputes* (Vol. 1). Maaref Establishment.
21. Maachou, A. (1989). *The legal system of turnkey contracts in Algeria*. Office of University Publications.
22. Ministry of Justice. (1963). Order No. 63/99 dated 04/12/1963 on the Code of Civil Procedure, as amended and supplemented.
23. Ministry of Justice. (1968). Order No. 68/591 dated 31/10/1968 approving the agreement and protocol with Getty Petroleum Company for hydrocarbon research and exploitation in Algeria.
24. Ministry of Justice. (1993). Legislative Decree 93/09 dated 25/04/1993 amending and supplementing the Code of Civil Procedure.
25. Ministry of Justice. (2008). Law No. 08/09 dated 25 February 2008 on the Code of Civil and Administrative Procedure.
26. Murad. (1998). *Drafting petitions and quasi-judicial documents*. Kahina Press.
27. Sabiq, A. (1983). *Fiqh al-Sunnah* (Vol. 3, 5th ed.). Dar Al-Kitab Al-Arabi.

28. Salama, A. A. (2006). *Law of international and domestic commercial arbitration: A comparative study*. Dar Al-Nahda Al-Arabiya.
29. Saraghni, B. (2017). Arbitration in Algerian law. *Journal of Studies and Research*, 29, 210-222.
30. Terki, N. (1999). *International commercial arbitration in Algeria*. OPU.
31. Waly, F. (2007). *Arbitration law in theory and practice* (1st ed.). Maaref Establishment.
32. Zerouti, T. (1998). *Drafting petitions and quasi-judicial documents*. Kahina Press.

### **International Conventions**

33. New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. (1958, June 10). United Nations.
34. Presidential Decree No. 88/233 dated 5 November 1988 on accession with reservations to the New York Convention of 10 June 1958.
35. Presidential Decree No. 90/420 dated 22/12/1990 ratifying the Maghreb Investment Promotion Convention signed in Algiers on 23/07/1990.
36. Decree No. 95/346 dated 30/10/1995 ratifying the Washington Convention of 18 March 1965 establishing the International Centre for Settlement of Investment Disputes.
37. Washington Convention on the Settlement of Investment Disputes between States and Nationals of Other States. (1965, March 18).

### **Povzetek**

Arbitraža predstavlja enega najpomembnejših alternativnih načinov reševanja sporov na svetu, za katerega so značilni procesna učinkovitost, stroškovna učinkovitost, avtonomija strank pri izbiri arbitražnega senata ter ohranjanje zaupnosti – kar je v ostrem nasprotju s tradicionalnimi sodnimi postopki. Arbitraža je lahko domača ali mednarodna. Arbitražni senat, ki ga sestavlja en ali več arbitrov (pri čemer je zaželeno liho število, kar odraža njegovo kvazisodno naravo), po preučitvi utemeljenosti spora izda dokončno in zavezujočo arbitražno odločbo. Da se lahko taka odločba vključi v nacionalni pravni sistem in postane izvršljiva, potrebuje priznanje s strani domačih sodišč z izdajo eksekvatur. V Alžiriji je bilo zakonodajno priznanje arbitraže sprva oklevajoče; najprej je bila vključena v Zakon o civilnem postopku, pozneje pa v Zakon o civilnem in upravnem postopku. Hitri gospodarski razvoj, pospeševanje naložb ter spodbujanje zasebnih, zlasti tujih naložb so privedli do zakonodajnega sprejetja arbitraže kot orodja za reševanje sporov. Ta študija obravnava ključna vprašanja: kakšno je stališče alžirskega zakonodajalca do arbitraže kot alternativnega načina reševanja gospodarskih sporov? Kakšne razvojne faze je ta sistem doživel v alžirski zakonodaji? Kakšni so učinki arbitražne odločbe? Z uporabo analitične in primerjalne metodologije analiziramo ustrezne pravne tekste ter primerjamo alžirske določbe z drugimi pravnimi redi. Raziskava je razdeljena na tri poglavja: prvo opredeljuje arbitražo in preučuje stališče alžirskega zakonodajalca; drugo obravnava izdajo arbitražnih odločb in njihove posledice; tretje raziskuje možnosti za izpodbijanje arbitražnih odločb.

**Ključne besede:** alžirska zakonodaja, alternativno reševanje sporov, pritožba, arbitražna odločba, arbitraža, izvrševanje.