



On arbitrage

Unofficial translation

The Law of the Republic of Kazakhstan dated 8 April 2016 № 488-V.

Unofficial translation!

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This Law governs public relations arising in the process of arbitration in the Republic of Kazakhstan, as well as the procedure and conditions for recognition and enforcement of arbitral awards in Kazakhstan.

Chapter 1. GENERAL PROVISIONS

Article 1. Sphere of application

This Law applies to disputes arising out of civil law relations with the participation of natural and (or) legal persons, irrespective of the place of residence or whereabouts of subjects of a dispute inside or outside the state, resolved by an arbitration tribunal, unless otherwise provided for by legislative acts of the Republic of Kazakhstan.

Article 2. Basic definitions used in this Law

The following basic definitions are used in this Law:

- 1) public order of the Republic of Kazakhstan – fundamental principles of the rule of law enshrined in legislative acts of the Republic of Kazakhstan;
- 2) court - a court of the judicial system of the Republic of Kazakhstan that, according to the civil procedural legislation of the Republic of Kazakhstan, is authorized to review cases of disputes arising from civil law relations at the first instance;
- 3) arbitration tribunal – an ad hoc arbitration court set up to deal with a specific dispute or a permanent arbitration tribunal;
- 4) arbitration agreement - a written agreement of the parties to refer a dispute that arose or may arise out of civil law relations to arbitration;
- 5) arbitration rules - procedure for organizing activities of a permanent arbitration tribunal and rules of arbitration;
- 6) arbitration - process of consideration of a dispute;
- 7) parties to arbitration (hereinafter referred to as the parties) - the plaintiff and the defendant, between whom an arbitration agreement is concluded;
- 8) arbitral award - a decision rendered by an arbitration tribunal;

9) arbitrator - an individual selected by the parties or appointed in accordance with this Law and (or) rules of a relevant arbitration tribunal to resolve a dispute;

10) business customs - rules of conduct that are customary for and widely used in the field of civil law relations, which do not contradict the applicable law irrespective of whether or not they documented.

Footnote. Article 2 as amended by Law of the Republic of Kazakhstan № 217-VI as of 21.01.2019 (shall be enforced ten calendar days after its first official publication).

Article 3. Legislation of the Republic of Kazakhstan on arbitration

1. Legislation of the Republic of Kazakhstan on arbitration is based on the Constitution of the Republic of Kazakhstan and consists of this Law and other regulatory legal acts of the Republic of Kazakhstan.

2. If an international treaty ratified by the Republic of Kazakhstan establishes rules other than those contained in this Law, the rules of the international treaty shall apply.

Article 4. Types of arbitration

1. Arbitration tribunals in the Republic of Kazakhstan can be set up in the form of permanent arbitration tribunals or an ad hoc arbitration court for the settlement of a particular dispute.

2. A permanent arbitration tribunal can be formed by natural and (or) legal persons in accordance with the legislation of the Republic of Kazakhstan.

A permanent arbitration tribunal shall approve the rules of arbitration, the register of arbitrators carrying out activities in this arbitration tribunal.

3. An ad hoc arbitration tribunal for the consideration of a particular dispute shall be set up by the parties to resolve the dispute and shall remain in force until the settlement of this dispute or until the parties' decision to refer the dispute to court.

4. Arbitration tribunals in the Republic of Kazakhstan may not be formed by state bodies, state enterprises, as well as by subjects of natural monopolies and entities holding a dominant position in the market of goods and services, by legal entities, whose fifty or more percent of voting shares (stakes in the authorized capital) directly or indirectly belong to the state, their subsidiaries and affiliates, as well as second-tier banks, institutions performing certain types of banking operations.

Article 5. Principles of arbitration

Arbitration is carried out in accordance with the following principles:

1) autonomy of the will of the parties, which means that the parties, by prior agreement, have the right to independently decide on the arrangements and conditions for arbitration proceedings on a dispute that has arisen or may arise;

2) legality, which means that decisions made by arbitrators and arbitration tribunals are guided only by the rules of a law applicable by agreement of the parties;

3) independence, which means that arbitrators and arbitration tribunals are independent in resolving disputes submitted to them, make decisions under conditions that exclude any influence on them;

4) competitiveness and equality of the parties, meaning that the parties to arbitration choose their position, ways and means of defending it independently and without reference to anyone, and also enjoy equal rights and have equal duties;

5) fairness, meaning that arbitrators and arbitration tribunals in resolving disputes referred to them and the parties to the arbitration must act in good faith, observing the established requirements, moral principles of the society and the rules of business customs;

6) confidentiality, meaning that arbitrators and participants of arbitration proceedings may not disclose information that has become known during an arbitration hearing without consent of the parties or their successors and may not be questioned as witnesses about information they have learnt during arbitration proceedings, except for cases stipulated by the laws of the Republic of Kazakhstan;

7) autonomy of an arbitration agreement, which means that cancellation, modification or invalidation of an arbitration clause does not lead to the termination, modification or invalidation of a basic agreement. Accordingly, cancellation, modification or invalidation of a basic agreement does not lead to the termination, modification or invalidation of an arbitration clause.

Footnote. Article 5 as amended by Law of the Republic of Kazakhstan № 217-VI as of 21.01.2019 (shall be enforced ten calendar days after its first official publication).

Article 6. Waiver of right to object

A party knowing that any provision of this Law or any claim of an arbitration agreement has not been complied with, but nevertheless continuing to participate in arbitration proceedings without having raised objections to such non-compliance within the time limit specified by arbitration rules for this purpose, is considered to have waived his/her right to object.

Article 7. Inadmissibility of interference in the activities of an arbitration tribunal

Resolving disputes submitted to them, arbitrators and arbitration tribunals shall be independent, make decisions under conditions excluding any interference in their activities by state bodies and other organizations, except for cases established by this Law.

Article 8. Referral of dispute to arbitration

1. A dispute may be referred to arbitration, if the parties concluded an arbitration agreement.

2. An arbitration agreement may be concluded by the parties in respect of disputes that have arisen or may arise between the parties on any particular civil law relationship.

3. An arbitration agreement in respect of a dispute that is pending before a court may be concluded before the said court makes a decision on the dispute. In this case, the court issues a ruling on leaving the application without consideration.

4. An arbitration agreement on the settlement of a dispute under a contract, the conditions of which were defined by one of the parties in set forms or other standard forms and could only be accepted by the other party by acceding to the proposed contract as a whole (agreement of accession), as well as under a loan agreement between a for-profit organization and a natural person that is not an individual entrepreneur, is valid, if such an agreement is concluded after the grounds for making a claim arose.

5. By agreement, the parties may refer disputes arising from civil law relations between natural and (or) legal persons to arbitration.

6. Unless otherwise agreed by the parties, if a dispute is referred to a permanent arbitration tribunal, permanent arbitration rules shall be considered as an integral part of an arbitration agreement.

7. An arbitration agreement may be terminated by agreement of the parties in the same manner as it was concluded.

8. Disputes involving the interests of minors, of persons legally recognized as incompetent or incapacitated, on rehabilitation and bankruptcy, between subjects of natural monopolies and their consumers, between state bodies, subjects of the quasi-public sector are not subject to arbitration.

9. An arbitration tribunal may not consider disputes arising from personal non-property relations that are not associated with property relations.

10. An arbitration tribunal is not entitled to consider disputes between natural and (or) legal persons of the Republic of Kazakhstan on the one hand and state bodies, state enterprises, as well as legal entities, whose fifty or more percent of voting shares (stakes in the authorized capital) directly or indirectly belong to the state, on the other, if there is no consent of the authorized body of a relevant industry (in respect of public property) or local executive body (in respect of communal property).

State bodies, state enterprises, as well as legal entities, whose fifty and more percent of voting shares (stakes in the authorized capital) directly or indirectly belong to the state, intending to enter into an arbitration agreement, shall submit to the authorized body of a relevant sector (in respect of public property) or local executive body (in respect of communal property) a request for their consent for the conclusion of such an agreement, specifying estimated amounts of expenditures for arbitration proceedings. The authorized body of the relevant branch or local executive body is obliged to consider the request within fifteen calendar days and send a written message about its consent or a reasoned refusal to give consent. When considering the request, the authorized body of the relevant branch or local executive body shall take into account economic security and interests of the state.

Footnote. Article 8 as amended by Law of the Republic of Kazakhstan № 217-VI as of 21.01.2019 (shall be enforced ten calendar days after its first official publication).

Article 9. Form and content of an arbitration agreement

1. An arbitration agreement shall be concluded in writing. An arbitration agreement shall be deemed to be concluded in writing, if it is contained in the form of an arbitration clause in a document signed by the parties or concluded by way of exchange of letters, telegrams, telephone messages, faxes, electronic documents or other documents identifying the subjects and content of their declaration of will.

2. An arbitration agreement shall also be deemed to be concluded in writing, if it is concluded by exchanging a statement of claim and statement of defense, in which one party confirms the existence of an agreement, and the other does not object to it.

3. A reference in a contract to a document containing an arbitration clause is an arbitration agreement provided that the contract is concluded in writing and this reference makes the arbitration agreement part of the contract.

4. In the case provided for in paragraph 10 of Article 8 of this Law, the arbitration agreement shall contain the consent of the authorized body of the relevant branch or local executive body.

Other conditions of the arbitration agreement may be determined by agreement of the parties.

5. Is excluded by the Law of the Republic of Kazakhstan dated 27.02.2017 № 49-VI (shall be enforced upon expiry of ten calendar days after the day its first official publication).

Footnote. Article 9 as amended by the Law of the Republic of Kazakhstan dated 27.02.2017 № 49-VI (shall be enforced upon expiry of ten calendar days after the day its first official publication); № 217-VI as of 21.01.2019 (shall be enforced ten calendar days after its first official publication).

Article 10. Arbitration agreement and making a court claim on the merits of a dispute

The court, to which a claim for the subject matter in arbitration dispute is filed, shall refer the parties to arbitration, if any of the parties requests thereof, not later than the first statement on the merits of the dispute has been submitted, if it does not find the arbitration agreement to be invalid, expired or impossible to execute.

Despite the filing of the claim referred to in part one of this article, arbitral proceedings may be initiated or continued, and an arbitral award may be made while the court considers its jurisdiction of the subject matter of the arbitral proceedings.

Footnote. Article 10 as amended by Law of the Republic of Kazakhstan № 217-VI as of 21.01.2019 (shall be enforced ten calendar days after its first official publication).

Chapter 2. THE ARBITRATION CHAMBER OF KAZAKHSTAN

Article 11. Establishment, reorganization and liquidation of the Arbitration Chamber of Kazakhstan

1. The Arbitration Chamber of Kazakhstan (hereinafter referred to as the Arbitration Chamber) is a non-profit organization formed as an association of permanent arbitration tribunals and arbitrators established to ensure favorable conditions for implementation,

promotion and support of arbitration activity in the Republic of Kazakhstan in accordance with the procedure established by the legislative acts of the Republic of Kazakhstan.

2. The reorganization and liquidation of the Arbitration Chamber shall be carried out in accordance with the laws of the Republic of Kazakhstan.

Article 12. Powers of the Arbitration Chamber

1. The powers of the Arbitration Chamber include:

1) representation and protection of interests of arbitrators and permanent arbitration tribunals in the state bodies of the Republic of Kazakhstan, in foreign and international organizations;

2) monitoring of the situation with the arbitration activity in the Republic of Kazakhstan;

3) training and professional development of arbitrators;

4) maintaining the register of arbitrators of permanent arbitration tribunals, as well as arbitrators, who are members of the Arbitration Chamber;

5) approval of rules for case keeping by permanent arbitration tribunals;

6) the appointment of arbitrators (arbitrator) from persons included in registers of the Arbitration Chamber or a permanent arbitration tribunal in cases stipulated in paragraph 6 of article 14 of this Law;

7) deciding on the termination of powers of an arbitrator appointed to resolve a particular dispute;

7-1) presentation of expert opinions on certain issues of the legislation of the Republic of Kazakhstan on arbitration and its practical application, which are advisory in nature;

8) other powers provided for by the constituent documents of the Arbitration Chamber in keeping with the laws of the Republic of Kazakhstan.

2. The Register of the Arbitration Chamber - a database of arbitrators of permanent arbitration tribunals, as well as arbitrators, who are members of the Arbitration Chamber.

The register of arbitrators shall be posted on the Internet resource of the Arbitration Chamber in Kazakh and Russian.

3. Is excluded by Law of the Republic of Kazakhstan № 217-VI as of 21.01.2019 (shall be enforced ten calendar days after its first official publication).

4. The management bodies of the Arbitration Chamber are:

1) supreme governing body - general meeting of members;

2) permanent executive governing body - the board headed by chairman;

3) is excluded by Law of the Republic of Kazakhstan № 217-VI as of 21.01.2019 (shall be enforced ten calendar days after its first official publication);

4) the body of internal control over financial and economic activity of the Arbitration Chamber - the audit commission (auditor).

Footnote. Article 12 as amended by Law of the Republic of Kazakhstan № 217-VI as of 21.01.2019 (shall be enforced ten calendar days after its first official publication).

Chapter 3. COMPOSITION OF ARBITRATION TRIBUNAL

Article 13. Arbitrators

1. An individual, who is directly or indirectly not interested in the outcome of a case, who is independent of the parties and consents to perform duties of an arbitrator, who has reached the age of thirty, has a higher education and no less than five years' work experience in his/her profession, is selected (appointed) an arbitrator.

An arbitrator resolving a dispute solely must have a higher legal education. In the event of a collegial resolution of a dispute, the chairman of the arbitration tribunal must have a higher legal education.

By agreement of the parties, a citizen of the Republic of Kazakhstan, a foreigner or a person without nationality may be selected an arbitrator.

2. Additional requirements to prospective arbitrators may be agreed by the parties directly or determined by rules of a permanent arbitration tribunal.

3. An arbitrator shall not be a person:

1) selected or appointed by a judge in accordance with the procedure established by the law of the Republic of Kazakhstan;

2) recognized incompetent or partially incapacitated by the court in the manner established by the law of the Republic of Kazakhstan;

3) with an unexpunged or outstanding conviction;

4) who is a civil servant, a deputy of the Parliament of the Republic of Kazakhstan, a deputy of a maslikhat operating on a permanent or full-time basis, whose activity is paid for from the state budget, and who is a military serviceman.

Footnote. Article 13 as amended by Law of the Republic of Kazakhstan № 217-VI as of 21.01.2019 (shall be enforced ten calendar days after its first official publication).

Article 14. Composition of an arbitration tribunal

1. An arbitration tribunal may be single-member or collegial.

An arbitration tribunal shall be set up through the selection (appointment) of arbitrators (arbitrator) by agreement of the parties or in the manner prescribed by the rules of the permanent arbitration tribunal.

2. The parties are entitled to determine the number of arbitrators, which shall be uneven.

Unless the parties agree otherwise, three arbitrators shall be selected (appointed) to arbitrate a dispute.

3. In a permanent arbitration tribunal, the composition of an arbitration tribunal shall be formed in accordance with the procedure established by the rules of the permanent arbitration tribunal and arbitration agreement.

4. To settle a particular dispute in an arbitration tribunal, its composition shall be formed in the manner agreed by the parties.

5. When forming an arbitration tribunal of three arbitrators, unless the parties have agreed otherwise or a dispute is considered by a permanent arbitration tribunal, each party appoints one arbitrator and the two thus appointed arbitrators select the third presiding arbitrator.

6. If the parties have not come to an agreement and unless otherwise established by the rules, the head of a permanent arbitration tribunal or the Arbitration Chamber, in case of the dispute's consideration by an ad hoc arbitration tribunal, may, within thirty calendar days, at the request of one of the parties to the dispute, appoint arbitrators (arbitrator) from among those enlisted in the registers of the Arbitration Chamber or a permanent arbitration tribunal, in cases where:

1) a party has not appointed an arbitrator within thirty calendar days from the receipt of such request from the other party, unless a different time period is established by the rules or agreement of the parties;

2) two arbitrators have not agreed on the selection of the third arbitrator within thirty calendar days from the moment of their appointment, unless another time period is established by the rules or agreement of the parties;

3) the parties have not agreed on the selection of a sole arbitrator within thirty calendar days, unless otherwise specified by the rules or agreement of the parties.

The decision of the head of a permanent arbitration tribunal on the appointment of arbitrators is not subject to cancellation.

Footnote. Article 14 as amended by Law of the Republic of Kazakhstan № 217-VI as of 21.01.2019 (shall be enforced ten calendar days after its first official publication).

Article 15. Register of arbitrators

1. The Register of Arbitrators is a database containing information on permanent arbitrators, as well as on those arbitrators who are members of the Arbitration Chamber.

The register of arbitrators shall include the last name, first name, patronymic (if it is specified in the identity document) of an arbitrator, work experience with indication of the place of work, position and period of work, academic degree and academic title (if any), number of cases considered.

2. Information on arbitrators is provided at the request of interested persons.

3. The rules of keeping and using the register of arbitrators shall be approved by the Arbitration Chamber.

Footnote. Article 15 as amended by Law of the Republic of Kazakhstan № 217-VI as of 21.01.2019 (shall be enforced ten calendar days after its first official publication).

Article 16. Requirements to activity of a permanent arbitration tribunal

1. A permanent arbitration tribunal shall maintain a register of its arbitrators. Information on the permanent arbitration tribunal, including its registered address and rules of procedure, as well as the register of arbitrators shall be publicized in the mass media, including the Internet resources, for free information of natural and legal persons. Information on arbitral awards is placed with the consent of the parties to a dispute.

2. A permanent arbitration tribunal shall keep cases on disputes considered as required by the procedure established by its regulations.

Footnote. Article 16 as amended by Law of the Republic of Kazakhstan № 217-VI as of 21.01.2019 (shall be enforced ten calendar days after its first official publication).

Article 17. Challenging an arbitrator

1. The parties challenge an arbitrator in case of his/her non-compliance with the requirements of article 13 of this Law.

2. Grounds for challenging an arbitrator also include the following circumstances, which cast doubt on his/her impartiality and (or) competence, if:

1) a person closely related to the arbitrator is a party to the dispute or the arbitrator can otherwise expect a significant benefit or damage for himself/herself depending on the outcome of the dispute;

2) the arbitrator or a person closely related to him/her is the head of a legal entity, its branch or representative office that is a party to the dispute or otherwise represents a party or any other person who can expect significant benefit or damage depending on the outcome of the dispute;

3) the arbitrator has either acted as an expert or in any other way identified his/her position in the dispute in advance or has assisted a party to the dispute in the preparation or presentation of his/her position;

4) the arbitrator received or demanded remuneration in connection with the consideration of this case, which is not provided for by this Law;

5) the arbitrator unreasonably fails to meet time limits for arbitration proceedings.

For the purposes of this Law, a closely related person is a person who is either the spouse of an arbitrator or his/her close relative, in-law relative or employee of a permanent arbitration tribunal, who is in labor or other contractual relations with the arbitrator or has other connections evidencing his/her dependence on the arbitrator.

3. If a natural person was addressed in connection with his/her possible selection (appointment) as an arbitrator, the said person must report circumstances that are grounds for his/her challenge in accordance with article 13 of this Law. If these circumstances arose in the course of arbitration proceedings, the arbitrator must immediately notify the parties of this and withdraw.

4. A party may challenge an arbitrator selected by it in accordance with this article only in case the circumstances giving grounds for the challenge have become known to the party after the arbitration tribunal has been set up to consider the case.

5. In a permanent arbitration court, the procedure for challenging an arbitrator may be determined by its rules of procedure.

6. In an arbitration tribunal set up to resolve a particular dispute, the procedure for challenging an arbitrator may be agreed by the parties.

7. If the procedure for challenging an arbitrator has not been agreed by the parties or is not determined by the rules of the permanent arbitration tribunal, a party shall submit to the arbitration tribunal a written reasoned statement of challenge of the arbitrator within thirty calendar days after the party has become aware of the circumstances giving grounds for the challenge.

If a challenged arbitrator refuses to withdraw or one of the parties does not agree with the challenge of the arbitrator, the issue of the challenge shall be resolved by arbitrators who are members of the arbitration tribunal within ten calendar days from the receipt of the written reasoned statement from a party.

The issue of the challenge of a sole arbitrator shall be resolved by this arbitrator.

If a sole arbitrator refuses to satisfy the petition of either or both parties to withdraw or one of the parties does not agree with the challenge of the arbitrator, then the issue of challenge shall be resolved by the parties' coming to an agreement to terminate arbitration proceedings by this composition of the arbitration tribunal.

Article 18. Termination of the powers of an arbitrator

1. The powers of an arbitrator may be terminated by agreement of the parties on the grounds provided for in article 17 of this Law, as well as in the event of failure to perform his/her powers during a fixed time period for consideration of a dispute or inability to perform his/her duties due to illness, in connection with death or renunciation of his/her powers to consider a dispute.

In the event of disagreement regarding any of the grounds specified in part one of this paragraph, either party may apply to the head of a permanent arbitration tribunal with a request to make a decision to terminate the powers of an arbitrator.

The decision to terminate the powers of an arbitrator is not subject to cancellation.

2. In the event of termination of the powers of an arbitration tribunal, proceedings on a pending dispute are suspended until the selection (appointment) of another arbitration tribunal

3. The powers of an arbitrator shall terminate after the entry into force of the arbitral award for a particular case or in the event the parties have agreed on such termination. In cases stipulated by articles 50 and 51 of this Law, the powers of an arbitrator shall be resumed and then terminated after the completion of the proceedings provided for by the said articles.

Article 19. Replacement of an arbitrator

In case of termination of the powers of an arbitrator, another arbitrator shall be selected (appointed) in accordance with the rules that were applied to the selection (appointment) of the arbitrator to be replaced.

The arbitrator selected (appointed) as an alternative is entitled to schedule a rehearing of the case.

Chapter 4. CONDUCT OF ARBITRATION PROCEEDINGS

Article 20. The right of an arbitration tribunal to issue a decision on its competence and an order for provisional remedies

1. An arbitration tribunal shall independently decide whether to assume or deny jurisdiction (whether it is entitled or not) to consider a dispute referred to it, including cases where one of the parties objects to arbitration proceedings because of invalidity of the arbitration agreement. To this end, an arbitration clause, which is part of the contract, shall be construed as an agreement independent of other contractual terms. Rendering an arbitration award on the invalidity of a contract does not entail the invalidity of the arbitration clause.

2. Prior to submitting its first statement on the merits of the dispute, a party has the right to declare that the arbitration tribunal shall not assume jurisdiction to consider the dispute referred to it for resolution.

3. A party has the right to declare the excess of power by an arbitration tribunal, if in the course of arbitration it will deal with the matter, the consideration of which is not covered by the arbitration agreement, or which may not be the matter of arbitration in accordance with the rules of law applied in this proceeding or the rules of arbitration.

4. An arbitration tribunal shall consider an application submitted in accordance with paragraphs 2 and 3 of this article within ten calendar days, unless otherwise established by the rules or agreement of the parties. Pursuant to the application's consideration, a ruling shall be rendered.

5. If considering the issues of its competence, an arbitration tribunal decides that it has no authority to consider the dispute, the arbitration tribunal may not consider the dispute on its merits.

6. Unless otherwise agreed by the parties, an arbitration tribunal may order, at the request of any party, that any party take measures for provisional remedies in respect of the matter of the dispute, which it considers necessary, and renders a relevant ruling on this.

Footnote. Article 20 as amended by Law of the Republic of Kazakhstan № 217-VI as of 21.01.2019 (shall be enforced ten calendar days after its first official publication).

Article 21. Definition of arbitration rules

1. A permanent arbitration tribunal shall conduct arbitration proceedings in accordance with its own rules and an arbitration agreement.

2. To resolve a particular dispute, an arbitration tribunal shall conduct arbitration proceedings in accordance with the rules agreed upon by the parties.

2-1. The rules of arbitration proceedings, not defined by the rules of a permanent arbitration tribunal, and also by the provisions of this Law and not agreed upon by the parties, are determined by the arbitration tribunal.

3. Powers granted to an arbitration tribunal include those to define the admissibility, relevance, materiality and significance of any evidence.

Footnote. Article 21 as amended by Law of the Republic of Kazakhstan № 217-VI as of 21.01.2019 (shall be enforced ten calendar days after its first official publication).

Article 22. Place of arbitration

Parties may determine the place of an arbitration hearing at their discretion. In the absence of such an agreement, the place of an arbitration hearing shall be determined by an arbitration tribunal with account of circumstances of the case, including its convenience to the parties.

Footnote. Article 22 in the wording of Law of the Republic of Kazakhstan № 217-VI as of 21.01.2019 (shall be enforced ten calendar days after its first official publication).

Article 23. Statement of claim

1. The plaintiff sets out his/her claims in a statement of claim, which is referred to arbitration in writing. A copy of the statement of claim shall be forwarded to the defendant.

2. The statement of claim shall include:

- 1) the date of submission of the statement of claim;
- 2) names of the parties, their postal addresses and bank details;
- 3) reasons for resorting to arbitration;
- 4) claims of the plaintiff;
- 5) facts, on which the plaintiff relies in his/her claims;
- 6) evidence supporting the grounds of the claim;
- 7) value of the claim, if the claim is to be assessed;
- 8) the list of documents attached to the statement of claim and other materials.

The statement of claim shall be signed by the plaintiff or his/her representative and the original power of attorney or other document certifying the representative's authority shall be attached.

3. The arbitration rules may provide for additional requirements to the content of the statement of claim.

4. In the course of arbitral proceedings, a party has the right to amend or supplement its claims.

Footnote. Article 23 as amended by Law of the Republic of Kazakhstan № 217-VI as of 21.01.2019 (shall be enforced ten calendar days after its first official publication).

Article 24. Statement of defense

1. The defendant may submit a statement of defense with his/her objections to the claim to the plaintiff and arbitration tribunal. The statement of defense shall be submitted to the plaintiff and arbitration tribunal in the manner and terms provided for by arbitration rules or by agreement of the parties.

If arbitration rules do not lay down the time limit for submitting a statement of defense, the said statement shall be submitted not later than ten calendar days before the first meeting of the arbitration tribunal.

2. In the course of arbitral proceedings, a party has the right to amend and (or) supplement its objections to the claim.

3. A failure to submit a statement of defense by the defendant shall not serve as an obstacle to the dispute's consideration.

Footnote. Article 24 as amended by Law of the Republic of Kazakhstan № 217-VI as of 21.01.2019 (shall be enforced ten calendar days after its first official publication).

Article 25. Initiation of arbitration proceedings

Footnote. Article 25 is excluded by Law of the Republic of Kazakhstan № 217-VI as of 21.01.2019 (shall be enforced ten calendar days after its first official publication).

Article 26. Commencement of arbitration proceedings

1. Unless otherwise established by agreement of the parties or the rules, an arbitration tribunal, having accepted the statement of claim, within ten calendar days makes a decision on the initiation of arbitration in accordance with the rules of arbitration or the rules agreed upon by the parties, notifies the parties of the place for its consideration, invites the defendant to submit a written statement of defense.

2. Unless otherwise agreed by the parties, arbitral proceedings in respect of a particular dispute shall commence on the date, on which the request for the referral of this dispute to arbitration was received by the defendant.

3. The arbitration tribunal shall serve a notice of the time and seat of the arbitration meeting to the parties in a timely and appropriate manner, unless otherwise agreed upon the parties.

4. Unless otherwise agreed by the parties, copies of all documents, materials and information that are provided to an arbitration tribunal by one of the parties shall be delivered to the other party by the arbitration tribunal within seven calendar days from the date of their receipt by the arbitration tribunal. The arbitration tribunal shall deliver expert opinions to the parties before the commencement of the arbitration proceeding.

5. Unless otherwise established by agreement of the parties, an arbitration tribunal decides whether to hold an oral hearing for presenting evidence or for oral arguments or to proceed only on the basis of documents and other materials. If the parties have not agreed to hold an oral hearing, the arbitration tribunal shall hold such a hearing at an appropriate stage of the proceedings at the request of either party.

Footnote. Article 26 as amended by Law of the Republic of Kazakhstan № 217-VI as of 21.01.2019 (shall be enforced ten calendar days after its first official publication).

Article 27. Return of a statement of claim

1. An arbitration tribunal shall return a statement of claim, if:
 - 1) the parties have not concluded an arbitration agreement;
 - 2) the claim is submitted to an arbitration tribunal, not specified in the arbitration agreement;
 - 3) the subject matter of the claim is beyond the scope of the arbitration agreement;
 - 4) interests of third parties, that are not parties to the arbitration agreement, are affected;
 - 5) the statement of claim was signed by a person not having the authority to do it;
 - 6) the plaintiff submitted an application for the return of the statement of claim;

7) the same or another arbitration tribunal is considering a dispute between the same parties, on the same subject matter and on the same grounds.

2. Returning a statement of claim, the arbitration tribunal shall issue a reasoned ruling.

3. The return of the statement does not prevent the plaintiff from re-applying to arbitration with the same statement of claim to the same defendant, on the same subject matter and on the same grounds, in compliance with the requirements established by the legislative acts of the Republic of Kazakhstan, regulations of the relevant permanent arbitration tribunal or the agreement of the parties.

Article 28. Language of arbitration proceedings

1. The parties may, at their discretion, agree on the language or languages to be used in the course of arbitration proceedings. In the absence of such an agreement, the language of the arbitration shall be determined by the arbitration tribunal's decision depending on the language, in which the claim has been filed for arbitration, or shall be the language of the arbitration agreement.

If, preparing for consideration of the case by an arbitration tribunal, it turned out that the plaintiff does not speak the language in which his/her representative filed a statement of claim, the arbitration tribunal shall issue a ruling to change the language of arbitration upon a written request of the plaintiff.

Persons who participate in the case and don't speak the language, in which the arbitration proceedings are conducted, shall be guaranteed the right to familiarize themselves with the case materials, to participate in arbitration proceedings through an interpreter, and have the right to speak their native language before the arbitration tribunal. At the same time, the participation of an interpreter in arbitration proceedings shall be provided by a party on its own.

2. A party submitting documents and other materials in the language (s) other than that of the arbitration proceedings shall provide their translation; in this case, additional requirements may be specified either by arbitration rules or by agreement of the parties.

3. The arbitration tribunal may require the parties to translate documents and other materials into the language (s) of arbitration proceedings.

4. Arbitration documents and other materials shall be handed to persons participating in the proceedings in the language of arbitration.

Article 29. Failure to produce documents or failure to appear before tribunal

1. Failure to produce documents and other materials, including failure to appear at an arbitration sitting, by either party or its representative, who were duly notified of the time and place of the arbitration meeting, shall not be an obstacle to arbitration proceedings on the basis of the materials and evidence provided and to making a decision by the arbitration tribunal, if the arbitration tribunal recognizes invalid the reason for the failure to produce documents and other materials or a party's failure to appear at the arbitration sitting.

2. The defendant's failure to object to the claim shall not be considered as recognition of the plaintiff's claims.

Article 30. Receipt of written communications by the parties

Unless otherwise agreed by the parties:

- 1) any written communication is deemed to have been received if it was delivered to the addressee at the place of his/her permanent residence or mailing address; if none of the above can be found after making a reasonable inquiry, a written communication is deemed to have been received if it is sent to the addressee's last-known location by registered mail with return receipt, in a message dictated over the telephone or in a telegram, via text message to the subscriber cellular communication number or electronic address, as well as using other means of communication ensuring the recording of this message;
- 2) the written communication is deemed to have been received on the day of such delivery

Footnote. Article 30 as amended by Law of the Republic of Kazakhstan № 217-VI as of 21.01.2019 (shall be enforced ten calendar days after its first official publication).

Article 31. Rights of the parties

Parties involved in arbitration proceedings have the right to:

- 1) familiarize themselves with case materials and make copies of these materials;
- 2) present evidence;
- 3) submit motions, challenge to arbitrators;
- 4) put questions to participants of the proceedings, give oral and written explanations;
- 5) present their arguments on all issues arising during the proceedings;
- 6) object to petitions and arguments of the other party;
- 7) familiarize themselves with the minutes of an arbitration sitting and submit written comments on it;
- 8) apply to the tribunal for the enforcement of an arbitral award in accordance with the legislative acts of the Republic of Kazakhstan;
- 9) file an application for the annulment of an arbitral award in the cases specified by this Law;
- 10) complete proceedings by signing a settlement agreement or an agreement to settle the dispute (conflict) through mediation.

Article 32. Participation of the parties in an arbitration tribunal's sitting

1. Both parties shall be given equal opportunities to present their position and protect their rights and interests.

2. Unless otherwise agreed by the parties, arbitration proceedings shall be conducted in a closed session of an arbitration tribunal with the participation of the parties and (or) their representatives.

Powers of representatives of the parties shall be formalized in compliance with the requirements provided for by the legislation of the Republic of Kazakhstan.

3. Upon the parties' request or the arbitration tribunal's initiative, the arbitration sitting (part thereof) may be conducted using videoconferencing and other programs, technical means

In this case, the venue of the sitting, of the decision making shall be the place of arbitration proceedings, which is determined in accordance with article 22 of this Law.

Article 33. Production and examination of evidence

1. Each party must prove the facts, which it refers to as justification of its claims and objections. The arbitrator has the right, if s/he considers the presented evidence to be insufficient, to invite the parties to submit additional evidence.

2. The arbitrators may refuse to accept the evidence submitted by the parties, if the evidence does not relate to the dispute or such refusal is justified in view of the time when such evidence was submitted.

3. The arbitrator shall immediately examine all the evidence available in the case.

Article 34. An expert appointed by an arbitration tribunal

1. Unless otherwise agreed by the parties to arbitration proceedings, an arbitration tribunal may:

1) appoint one or more experts for presenting him/her conclusions on specific issues defined by the arbitration tribunal;

2) require the party to provide an expert with any relevant information or present relevant documents, goods or other property for examination or provide him/her an opportunity to examine them;

3) resolve other issues related to the participation of an expert in arbitration proceedings, including the distribution of costs for expert examination and expert participation, unless these issues have been specifically agreed by the parties.

2. The expert opinion shall be submitted in writing.

3. Unless otherwise agreed by the parties, after presenting his/her opinion in writing, the expert, if a party so requests or if the arbitration tribunal deems it necessary, shall participate in a hearing, in which the parties are given the opportunity to ask questions and introduce specialists to testify on contentious issues .

Article 35. Timeline for preparing a case for arbitration proceedings, consideration and resolution of disputes

1. Cases shall be prepared for arbitration no later than fifteen calendar days from the date of acceptance of an application, unless another time period is established by the rules or agreement of the parties. In exceptional cases, this period may be extended to one month by a reasoned arbitration ruling in cases of special complexity.

2. Disputes are considered and resolved by an arbitration tribunal within a period of up to two months from the day of completing the preparation of a case for arbitration, unless another time period is established by the rules or agreement of the parties.

3. The established timeline may be extended by an arbitration tribunal given the complexity of a dispute under consideration.

4. If an arbitrator unreasonably delays arbitration proceedings, the parties have the right to challenge him/her and apply for appointment of new arbitrator.

Article 36. Minutes of arbitration hearings

1. Unless otherwise agreed by the parties, minutes shall be kept at an arbitration hearing.

2. The minutes of an arbitration hearing shall reflect all the essential aspects of the proceedings.

The minutes of an arbitration hearing shall include:

- 1) the year, month, date and seat of the arbitration hearing;
- 2) time of the beginning and ending of the arbitration hearing;
- 3) the name of the arbitration tribunal hearing the case, last names and initials of the arbitrators, of the secretary of the arbitration hearing;
- 4) the case name;
- 5) information on the presence of persons participating in the case, representatives, witnesses, experts, specialists, translators;
- 6) instructions of the presiding arbitrator (sole arbitrator) and determinations rendered by the arbitration tribunal in the arbitration hearing room;
- 7) applications, petitions and explanations of the persons participating in the case and their representatives;
- 8) testimony of witnesses, experts' oral explanations of their conclusions, explanations of specialists;
- 9) information on the disclosure of documents, data on the examination of material evidence, listening to sound recordings, viewing video recordings, film materials;
- 10) information on the disclosure and clarification of the content of the decision and determinations, clarification of the procedure and term of their appeal;
- 11) information on explaining the rights to familiarize with the minutes and submit comments on them to persons participating in the case;
- 12) date of the minutes' keeping.

3. The minutes shall be drawn up by the secretary of the arbitration hearing, who is appointed by the arbitration tribunal by agreement of the parties to the arbitration proceedings or in accordance with the rules of the permanent arbitration tribunal.

4. The persons participating in the case and their representatives have the right to petition for the disclosure of any part of the minutes, for adding information on the facts deemed by them to be essential for the case in the minutes.

5. The minutes shall be drawn up and signed no later than three calendar days after the end of the arbitration hearing.

In complicated cases, the minutes of an arbitration hearing may be drawn up and signed within a longer time period, but no later than five calendar days after the end of the arbitration hearing.

6. The minutes shall be signed by the presiding arbitrator and the secretary. All the changes, amendments, additions shall be mentioned in the minutes and certified by their signatures.

Article 37. Comments on the minutes

Persons participating in arbitration proceedings and (or) their representatives have the right to familiarize themselves with the minutes of the arbitration hearing within five calendar days from the date of its drawing up and signing and within five calendar days from the moment of familiarization to submit comments on the minutes in writing, pointing to errors and (or) incompleteness of the committed actions and recording (reflection) of their results, unless other timeline is stipulated by the rules or by agreement of the parties.

Article 38. Consideration of comments on the minutes

1. Comments on the minutes are considered by the presiding (sole) arbitrator, who signed them, and who certifies their correctness, in case s/he agrees with the comments.

2. If the presiding (sole) arbitrator disagrees with the submitted comments, they are considered at an arbitration hearing and the persons that participated in the consideration of the case shall be notified of it. The failure of persons who participated in the consideration of the case to appear is not an obstacle to the consideration of comments on the minutes. Pursuant to the consideration of the comments, the presiding (sole) arbitrator renders a determination either on the certification of their correctness or on their complete or partial denial. All the comments are attached to the case.

3. Comments on the minutes shall be considered within five calendar days from the date of their submission.

4. If the presiding (sole) arbitrator conducting the case, for any objective reasons, cannot consider comments on the minutes, they are attached to the case file.

Article 39. Court assistance in granting provisional remedies and obtaining evidence

1. In the course of arbitration proceedings, the parties have the right to move the court for provisional remedies in the case provided for in paragraph 6 of article 20 of this Law. The court's decision on provisional remedies is not incompatible with the arbitration agreement.

2. A request for provisional remedies to be considered by an arbitration tribunal shall be submitted by a party to the court at the place where the arbitration proceedings are being conducted or at the location of the property in respect of which provisional remedies may be granted.

3. The court's consideration of the request for provisional remedies considered by an arbitration tribunal and its issuing of a ruling on provisional remedies or refusing to grant them are carried out in accordance with the procedure established by the civil procedure legislation of the Republic of Kazakhstan.

4. The ruling on provisional remedies considered by an arbitration tribunal may be revoked by the court that issued the ruling at the request of either party. An arbitral award on the refusal to satisfy claims is a ground for the court to cancel provisional remedies.

5. The arbitration tribunal or the party with the consent of the arbitration tribunal may apply to the court for assistance in obtaining evidence. The court considers this appeal in accordance with the civil procedure legislation of the Republic of Kazakhstan.

Article 40. Counterclaiming and set-off of counter-claims

1. The defendant has the right to make a counterclaim against the plaintiff provided that there is a reciprocal relationship between the counterclaim and the plaintiff's claims, and also given that a counterclaim may be considered by an arbitration tribunal in accordance with the arbitration agreement.

2. A counterclaim may be made in the course of the arbitration proceedings prior to the adoption of a decision by an arbitration tribunal, unless the parties have agreed upon another timeline for filing a counterclaim.

3. A counterclaim shall comply with the requirements of paragraph 2 of article 23 of this Law.

4. The plaintiff has the right to submit objections to the counterclaim in the manner and within the time limits stipulated in the arbitration regulations or rules.

5. Unless otherwise agreed by the parties, the defendant shall have the right to demand a set-off of the counterclaim in compliance with the requirements of the civil legislation of the Republic of Kazakhstan.

Chapter 5. COSTS OF ARBITRATING A DISPUTE

Article 41. Costs of arbitrating a dispute

1. Costs of arbitrating a dispute include:

1) arbitrator fees;

2) expenses incurred by arbitrators in connection with participation in arbitration proceedings, including expenses for payment of travel to the place of dispute consideration, accommodation and meals;

3) amounts payable to experts and translators;

4) expenses incurred by arbitrators in connection with the search and examination of written and material evidence at their location;

5) expenses incurred by witnesses;

6) costs of services of the representative by the party, in whose favor the arbitral award has been made;

7) expenses for organizational and material support of arbitration proceedings.

2. In a permanent arbitration tribunal, the amount of the arbitrator's fee is determined in accordance with the scale of arbitrators' fees provided for by permanent arbitration rules.

If permanent arbitration rules do not indicate fixed arbitrators' fee, the arbitration tribunal may determine the arbitrator's fee in each particular dispute with account of the value of the claim, complexity of the dispute, time spent by the arbitrators on arbitration proceedings and any other relevant circumstances.

3. Arbitrators' fee shall be determined by agreement of the parties for arbitrating a particular dispute, and in the absence thereof - by an arbitration tribunal to resolve a particular dispute in the manner provided for a permanent arbitration tribunal.

Footnote. Article 41 as amended by Law of the Republic of Kazakhstan № 217-VI as of 21.01.2019 (shall be enforced ten calendar days after its first official publication).

Article 42. Distribution of costs related to arbitrating a dispute

1. The distribution of expenses related to the resolution of a dispute between the parties by an arbitration tribunal shall be made by an arbitration tribunal in accordance with the agreement of the parties, and in the absence thereof - in proportion to the satisfied and dismissed claims.

2. Costs of services of the representative by the party, in whose favor the arbitral award is made, as well as other costs related to arbitration proceedings, may be ordered to be paid by the other party by an arbitration decision, if a claim for reimbursement of the expenses incurred was made during the arbitration proceedings and was satisfied by the arbitration tribunal.

3. The distribution of costs related to arbitrating a dispute shall be indicated in the decision or determination of an arbitration tribunal.

4. If the plaintiff waives the claim, the defendant shall not reimburse costs incurred by the plaintiff.

Article 43. Security for costs related to arbitrating a dispute

1. Arbitrators shall have the right to demand the parties to provide security for expenses incurred by arbitrators in connection with the resolution of disputes by an arbitration tribunal. Arbitrators are entitled to determine individual security in respect of individual claims. If one of the parties does not provide its part of the required security in the timeline established by the arbitrators, the other party can make full provision. If the required security is not provided by both parties, the arbitrators may completely or partially terminate the proceedings.

Arbitrators have the right to use the provided security in the course of arbitration proceedings to cover expenses. After the arbitrators have resolved the issue of their compensation in the final decision and the decision in this respect may be enforced, the arbitrators are entitled to receive payment from the security, if the parties do not fulfill the payment obligations in accordance with the decision.

2. The agreement on compensation to be paid to arbitrators, in which the parties do not participate together, is invalid. A party that has provided full security has the right to agree on the arbitrators' use of it in full to compensate for the work done.

3. The arbitrators shall not have the right to make a decision conditional on the payment of compensation.

Chapter 6. RENDERING AN ARBITRAL AWARD AND TERMINATION OF PROCEEDINGS. ANNULMENT OF ARBITRAL AWARD

Article 44. Rules applicable to the merits of a dispute

1. An arbitration tribunal shall settle a dispute in accordance with the rules of law, which the parties have chosen as applicable for consideration of the dispute. Any reference to the law or the system of law of any state shall be construed as directly referring to the substantive law of that state, and not to its rules concerning conflict of laws.

When considering a dispute between natural and (or) legal persons of the Republic of Kazakhstan, the legislation of the Republic of Kazakhstan shall be applied.

2. In the absence of the parties' agreement on the applicable law, an arbitration tribunal decides on the applicable law in accordance with the rules of the conflict of laws, which it considers applicable in a given case.

3. In the absence of the rules of law governing a specific relationship, the arbitration tribunal makes a decision in accordance with the business customs applicable to the relationships in question.

4. In cases when disputed relationships are not directly regulated by the legislation or agreement of the parties, and in the absence of applicable business customs, the rules of law governing similar legal relations shall apply to such relationships, since it is not contrary to their merits, and in the absence of such rules, the dispute shall be resolved on the basis of general principles and meaning of the laws.

Footnote. Article 44 as amended by Law of the Republic of Kazakhstan № 217-VI as of 21.01.2019 (shall be enforced ten calendar days after its first official publication).

Article 45. Rendering an arbitral award

1. After examining the circumstances of a case, an arbitration tribunal makes an arbitral award by a majority vote of the arbitrators making up the arbitration tribunal.

An arbitral award is announced at an arbitration hearing, unless otherwise established by the rules. The arbitration tribunal may announce only the operative part of the judgment. In this case, the reasoned decision must be sent to the parties within ten calendar days from the date of announcing the operative part of the judgment, unless another time period is specified by the rules or agreement of the parties.

An arbitrator who disagrees with the decision of the majority of members of the arbitration tribunal has the right to state his/her dissenting opinion, which is attached to the decision. The parties have the right to familiarize themselves with the special opinion of the arbitrator.

2. The arbitration tribunal shall have the right, if it deems it necessary, to put back the adoption of a decision and summon the parties for additional meeting.

3. The arbitral award shall be deemed to be taken at the place of arbitration proceedings and shall enter into force on the date it is signed by the arbitrator (s).

Footnote. Article 45 as amended by Law of the Republic of Kazakhstan № 217-VI as of 21.01.2019 (shall be enforced ten calendar days after its first official publication).

Article 46. Settlement agreement and resolution of a dispute through mediation

1. If the parties settle a dispute during arbitration proceedings, including by way of mediation, except for cases provided for by the legislation of the Republic of Kazakhstan on mediation, the arbitration tribunal shall terminate the proceedings and, at the request of the parties, document this settlement in the form of an arbitral award on agreed terms.

2. The arbitral award on agreed terms shall be made in accordance with the provisions of article 45 of this Law. This award shall be enforceable in the same way as an arbitral award rendered on the merits of the dispute.

Article 47. Form and content of an arbitral award

1. An arbitral award is presented in writing and signed by arbitrators (sole arbitrator).

If arbitration proceedings were carried out collectively, in the absence of the signature of an arbitrator, the reason for its absence is indicated. An arbitral award may not be signed by an arbitrator having a dissenting opinion, which must be attached to the arbitral award in writing.

2. An arbitral award shall contain:

- 1) the date of the decision;
- 2) the seat of arbitration determined in accordance with article 22 of this Law;
- 3) the composition of an arbitration tribunal;
- 4) justification of the competence of an arbitration tribunal;
- 5) names of the parties to the dispute, last names and initials, job positions of their representatives and description of their powers;
- 6) the plaintiff's claims and the defendant's objections;
- 7) the merits of the dispute;
- 8) the circumstances of the case established by the arbitration tribunal, the evidence on which the arbitration findings on these circumstances are based, regulatory legal acts that governed the decision-making process of arbitrators;
- 9) the arbitration tribunal's conclusions on satisfaction or dismissal of each submitted claim;
- 10) the amount of expenses related to arbitrating a dispute, the distribution of these expenses between the parties and, if necessary, the timeline and order of execution of the award made.

Article 48. Ruling of an arbitration tribunal

Reasoned rulings shall be made on the issues unrelated to the merits of the dispute.

Article 49. Termination of arbitration proceedings

1. The arbitration proceedings shall be terminated by issuing a decision on the termination of arbitration proceedings on the grounds specified in paragraph 2 of this article.

2. The arbitration tribunal shall determine the termination of arbitration in cases where:

1) the plaintiff abandons his/her claim and the refusal is accepted by the arbitration tribunal, unless the defendant objects to the termination of the arbitration proceedings in connection with his/her legitimate interest in resolving the dispute on its merits;

2) the dispute referred to an arbitration tribunal is beyond its competence;

3) there is a court decision or an arbitral award taken on a dispute between the same parties, on the same subject matter and on the same grounds, which has entered into legal force;

4) the parties have come to an agreement on termination of the arbitration proceedings;

5) a legal entity that is a party to the arbitration proceedings is liquidated;

6) a natural person, who is a party to the arbitration proceeding, died, or this person was declared dead or recognized as missing.

Article 50. Correction and explanation of an arbitral award. Additional arbitral award

1. Within sixty calendar days after receipt of the arbitral award, unless the parties or the rules specify another time period:

1) either party, having notified the other party of this, may request the arbitration tribunal to correct any mistakes in the calculations in the award, clerical errors or misprints or other errors of a similar nature;

2) either party, having notified the other party of this, may ask the arbitration tribunal to explain any particular item or part of the decision made.

The arbitration tribunal, if it considers the request to be reasonable, shall within thirty calendar days after its receipt, if another deadline is not established by the rules or agreement of the parties, make appropriate corrections or give explanations. Explaining the arbitral award is an integral part of the award.

2. Within sixty calendar days from the date of issuing an arbitral award, if another term is not established by the rules or agreement of the parties, an arbitration tribunal may, upon its own initiative, after due notification of the parties, correct any errors specified in subparagraph 1) of paragraph 1 of this article.

3. Unless otherwise agreed by the parties, either party may, having notified the other party of this, within sixty calendar days after receipt of the arbitral award, request the arbitration tribunal to make an additional award regarding the claims submitted in the course of the arbitration proceeding, but not documented in the award. If the arbitration tribunal considers the request to be reasonable, it shall make an additional arbitral award within sixty calendar days after its receipt.

4. An arbitration tribunal may, if necessary, extend the deadline, but not more than for sixty calendar days, during which it is necessary to correct mistakes, give an explanation or make an additional award in accordance with paragraph 1 or 3 of this article.

Article 51. Revision of an arbitral award based upon discovery of new facts

1. An arbitral award may be reviewed at the request of one of the parties to the arbitration agreement or another person whose rights are affected by newly discovered facts. The grounds for reviewing the arbitral award upon discovery of new facts are:

1) knowingly and willfully given false testimony of a witness established by the court verdict that has come into force, willful false conclusion of an expert, intentionally wrong translation, falsification of documents or material evidence entailing the adoption of an illegal or unsubstantiated decision;

2) criminal actions of the parties, other persons participating in the case, or their representatives or criminal acts committed by an arbitrator in the course of case consideration that were established by the court verdict that has come into force;

3) recognition by the Constitutional Court of the Republic of Kazakhstan of the unconstitutionality of a law or other normative legal act applied by the arbitral tribunal in rendering an arbitral ruling.

2. An application for the revision of an arbitral award upon discovery of new facts shall be filed and considered by the arbitration tribunal that has made an award within three months from the date of the establishment of facts constituting a ground for the revision in the procedure established by this Law, unless another timeline is established by the rules or agreement of the parties.

Cases in view of newly discovered facts are considered and resolved by an arbitration tribunal within a period of up to one month.

If it is not possible to gather the former composition of an arbitration tribunal in a meeting, including a permanent arbitration tribunal having rendered a decision, the application for review of the award upon newly discovered facts shall be considered by a new composition of arbitrators formed in accordance with the procedure established by this Law.

Footnote. Article 51 as amended by Law of the Republic of Kazakhstan No. 157-VII of 05.11.2022 (shall come into effect on 01.01.2023).

Article 52. Ground for the annulment of an arbitral award

1. To annul an arbitral award in a court, the party petitioning for the annulment shall provide evidence that:

1) it contains a decision on an issue not provided for by the arbitration agreement or not within its terms, or contains judgments on issues beyond the scope of the arbitration agreement, as well as due to the lack of the dispute's subject-matter jurisdiction to arbitration.

If arbitral awards on issues covered by an arbitration agreement can be separated from awards on issues not covered by such an agreement, then only that part of the award that contains decisions on issues not covered by the arbitration agreement may be revoked;

2) the court recognized a party to the arbitration agreement legally incompetent or the arbitration agreement is invalid under the law, to which the parties have subjected it, and in the absence of such indication - under the legislation of the Republic of Kazakhstan;

3) a party was not duly notified of the appointment of an arbitrator or of arbitration proceedings or for other reasons the court recognized as valid, could not submit its explanation;

4) the composition of the arbitration tribunal or the procedure for arbitration proceedings did not comply with the agreement of the parties, unless such an agreement contradicts any provision of this Law, from which the parties may not depart, or in the absence of such an agreement - did not comply with this Law;

5) there is a court decision or arbitral award entered into legal force, rendered in the dispute between the same parties, on the same subject matter and for the same grounds, or the ruling of the court or arbitration tribunal to terminate the proceedings in connection with the plaintiff's refusal from the claim;

6) is excluded by Law of the Republic of Kazakhstan № 217-VI as of 21.01.2019 (shall be enforced ten calendar days after its first official publication).

2. The arbitral award shall be annulled by the court, if it is determined that:

1) the arbitral award is contrary to the public policy of the Republic of Kazakhstan;

2) the dispute over which an arbitral award has been rendered may not be the subject matter of arbitration under the legislation of the Republic of Kazakhstan.

3. When considering an application for the annulment of an arbitral award, refusal to issue a writ of execution, the court may not review the merits of the arbitral award.

Footnote. Article 52 as amended by Law of the Republic of Kazakhstan № 217-VI as of 21.01.2019 (shall be enforced ten calendar days after its first official publication).

Article 53. An application for the annulment of an arbitral award

1. An application for the annulment of an arbitral award shall be submitted to the court in accordance with the civil procedure legislation of the Republic of Kazakhstan.

2. An application for the annulment of an arbitral award may not be submitted after the expiration of one month from the date of receipt of an arbitral award by the party submitting the application, and in the event that the application has been submitted in accordance with Article 51 of this Law - from the date of making the arbitral award pursuant to this application.

3. The court has the right, at the request of either party, to suspend the proceedings for a defined period of time upon an application for the annulment of the arbitral award for the resumption of arbitration proceedings or for taking other measures to eliminate grounds for the annulment of an arbitral award.

If the arbitrators render a new decision, the party shall be entitled, within the time period established by the court, to file a petition for the annulment of the arbitral award regarding the resumed arbitration proceedings or changes in the initial decision without submitting the statement of claim.

4. The court issues a ruling on the annulment of an arbitral award. This determination can be appealed or challenged in accordance with the civil procedure legislation of the Republic of Kazakhstan.

Footnote. Article 53 as amended by Law of the Republic of Kazakhstan № 217-VI as of 21.01.2019 (shall be enforced ten calendar days after its first official publication).

Chapter 7. RECOGNITION AND ENFORCEMENT OF ARBITRAL AWARDS

Article 54. Recognition and enforcement of an arbitral award in the Republic of Kazakhstan

1. An arbitral award is recognized as binding and is executed in accordance with the civil procedure legislation of the Republic of Kazakhstan upon a written application submitted to the court.

2. If no timeframe is fixed in an arbitral award, then it is subject to immediate enforcement.

Article 55. Compulsory enforcement of an arbitral award

1. If an arbitral award is not enforced voluntarily within the time period established therein, then it is subject to compulsory enforcement.

2. Compulsory enforcement of an arbitral award shall be effected according to the rules of enforcement proceedings in force at the time of the arbitral award's execution, on the basis of a writ of execution of the arbitral award issued by the court.

3. An application for compulsory execution of an arbitral award shall be submitted to the court in accordance with the civil procedure legislation of the Republic of Kazakhstan.

Article 56. Compensation of expenses related to the enforcement of an arbitral award

Additional costs associated with the enforcement of an arbitral award are assigned to the party that has not voluntarily enforced the award.

Article 57. Grounds for refusal to recognize and (or) enforce an arbitral award

1. The court shall refuse to recognize and (or) enforce an arbitral award, irrespective of the country where it was rendered, on the following grounds, if:

1) the party against whom the award was made will produce evidence to the court that:
the arbitration agreement is invalid under the laws of the state to which the parties have subjected it, and in the absence of such indication - under the laws of the country where the award was made;

the award is rendered on a dispute not provided for by the arbitration agreement or beyond the scope of its terms, or contains decisions on issues that go beyond the scope of the arbitration agreement, as well as due to the lack of subject-matter jurisdiction of the dispute to arbitration.

If an arbitral award on issues covered by the arbitration agreement may be separated from decisions on issues that are not covered by such an agreement, the issuance of a writ for the enforcement of that part of the award that is covered by the arbitration agreement may not be refused;

one of the parties to the arbitration agreement was recognized by the court as legally incompetent or partially legally incompetent;

the party, against whom the decision was rendered, was not duly notified of the appointment of an arbitrator or of arbitration proceedings or for other reasons recognized by the court as valid, could not submit its explanation to the arbitration tribunal;

there is a court decision or arbitral award entered into legal force made on the dispute between the same parties, on the same subject matter and on the same grounds, or the ruling of the court or arbitration tribunal on termination of proceedings in connection with the plaintiff's refusal from the claim;

the composition of the arbitration tribunal or the procedure for arbitration proceedings did not comply with the agreement of the parties, and in the absence thereof – did not comply with the laws of the country where arbitration proceedings were held;

the award has not yet become binding on the parties or has been annulled, or its execution was suspended by the court of the country, which law was applied in rendering it;

2) the court will establish that the recognition and (or) enforcement of this arbitral award is contrary to the public policy of the Republic of Kazakhstan or that the dispute over which the award is made may not be the subject matter of arbitration in accordance with this Law.

2. The court shall render a ruling on the recognition and (or) enforcement of the award. This determination may be appealed or challenged in accordance with the civil procedure legislation of the Republic of Kazakhstan.

Footnote. Article 57 as amended by Law of the Republic of Kazakhstan № 217-VI as of 21.01.2019 (shall be enforced ten calendar days after its first official publication).

Chapter 8. FINAL AND TRANSITIONAL PROVISIONS

Article 58. Responsibility for violation of the legislation of the Republic of Kazakhstan on arbitration

Violation of the legislation of the Republic of Kazakhstan on arbitration entails responsibility established by the laws of the Republic of Kazakhstan.

Article 59. Transitional provisions

1. International arbitration tribunals and arbitration courts established in the Republic of Kazakhstan prior to the enactment of this Law shall, within two years from the date of introduction of this Law, make appropriate changes to their provisions, statutes or regulations.

2. Organizational issues related to the holding of the first constituent assembly for the establishment of the Arbitration Chamber specified in article 11 of this Law are vested in the Ministry of Justice of the Republic of Kazakhstan.

Article 60. The order of enactment of this Law

1. This Law shall go into effect ten calendar days after the day of its first official publication.

2. It shall be deemed to have lost force:

1) The Law of the Republic of Kazakhstan, dated 28 December, 2004 " On Arbitration Courts" (Bulletin of the Parliament of the Republic of Kazakhstan, 2004, № 24, Art. 151; 2009, № 9-10, Art. 47; 2010, № 3-4, Art. 12; 2012, № 6, Art. 43; № 14, Art. 93; 2013, № 15, Art. 76; 2014, № 16, Art. 90);

2) The Law of the Republic of Kazakhstan dated 28 December 2004 "On International Arbitration" (Bulletin of the Parliament of the Republic of Kazakhstan, 2004, № 24, Art. 152; 2010, № 3-4, Art. 12; 2013, № 15, Art. 76; 2014, № 12, Art. 82).

The President
of the Republic of Kazakhstan

N. NAZARBAYEV

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