Chapter 20

# Armenia


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## 1 Arbitration Agreements

### 1.1 What, if any, are the legal requirements of an arbitration agreement under the laws of your jurisdiction?

Article 7 of the Law of the Republic of Armenia on Arbitration ("the Law on Arbitration") defines "arbitration agreement" and provides the requirements of the form and effectiveness thereof. Arbitration agreements can be concluded either by including an arbitration clause in an agreement or by including a separate arbitration agreement. Arbitration agreements shall be made in writing through: the bilateral execution of one document; the exchange of letters via post; or telecommunication means. Alternatively, arbitration agreements can be concluded by the exchange of a claim and a response where one party refers to an arbitration agreement and the counterparty does not object to it.

A reference to a document which included an arbitration clause shall be deemed as an arbitration agreement, provided that the agreement is concluded in writing and such reference makes the arbitration clause as part of the said agreement.

### 1.2 What other elements ought to be incorporated in an arbitration agreement?

A mandatory requirement of an arbitration agreement is the agreement of the parties to refer existing or potential disputes to arbitration. There are no other mandatory requirements other than to incorporate certain elements in an arbitration agreement. Yet, in consideration of the internationally-accepted principles and in order to tackle any issues related to the vagueness of an arbitration agreement, a number of other issues, including the number of arbitrators or any other requirements for the appointment of the arbitrators, as well as the place and seat of arbitration, applicable laws and other elements, may also be required.

### 1.3 What has been the approach of the national courts to the enforcement of arbitration agreements?

The Civil Procedure Code of the Republic of Armenia ("CPC") outlines the ground for the courts to refer a case to arbitration in the following manner: When the respondent, prior to completion of the deadline for submitting a response to the court, refers to an arbitration agreement concluded between the parties to refer the dispute to arbitration, provided that the possibility to refer the case to arbitration has not yet lapsed, the court shall leave the dispute without consideration.

## 2 Governing Legislation

### 2.1 What legislation governs the enforcement of arbitration proceedings in your jurisdiction?

The main source governing the enforcement of arbitration proceedings is the CPC, which regulates a number of relevant issues, including the authority of the court when one of the parties refers to the existence of an arbitration agreement, recognition and/or compulsory enforcement of arbitral awards, proceedings for rendering the arbitral award void, etc. The Law on Arbitration is another significant source for enforcement of arbitration proceedings; such Law regulates similar obligations for the court to leave the dispute without consideration in case any of the parties refer to the existence of an arbitral agreement (prior to submitting its statement on the merits of the case to the court).

### 2.2 Does the same arbitration law govern both domestic and international arbitration proceedings? If not, how do they differ?

As a preliminary remark, it is noteworthy that the Law on Arbitration does not differentiate international arbitration and domestic arbitration but rather indicates that the Law is applicable to disputes which have the Republic of Armenia as their seat. Therefore, as long as the seat of arbitration is Armenia, the same arbitration law would be applicable to the procedure.

One difference that may be relevant here is that the CPC contains two different processes for the enforcement of arbitral awards: A chapter of the CPC provides a procedure for the enforcement of domestic arbitral awards (when the seat of arbitration has been the Republic of Armenia) and a separate procedure for *recognition and enforcement* of foreign arbitral awards. Yet, the differences between these two processes are merely technical to the extent that even the grounds for rejection of recognition and/or enforcement overlap.

### 2.3 Is the law governing international arbitration based on the UNCITRAL Model Law? Are there significant differences between the two?

The law governing international arbitration is based on the UNCITRAL Model Law. Although there are no significant

differences, there are still certain differences, including supplementary provisions and additional requirements. The Law on Arbitration extends to non-commercial disputes, and there are no provisions or articles explicitly governing international arbitration. Unless otherwise agreed by the parties or when the disputed legal relationship excludes succession, the death of one of the parties to the arbitration agreement does not result in its termination. The qualifications and the numbers of arbitrators, and the power of the arbitral tribunal to order interim measures are cited in more detail. In addition, there are provisions concerning the confidentiality of the hearings and that the conclusion of the expert is subject to assessment.

**2.4 To what extent are there mandatory rules governing international arbitration proceedings sited in your jurisdiction?**

As discussed in further detail in the answer to question 2.3, the Law on Arbitration governs arbitration proceedings exclusively in cases where the seat of arbitration is in Armenia. Subsequently, a separate process for the recognition and enforcement of foreign arbitral awards is provided under the CPC which does not significantly differ from the process for the enforcement of domestic awards.

## 3 Jurisdiction

**3.1 Are there any subject matters that may not be referred to arbitration under the governing law of your jurisdiction? What is the general approach used in determining whether or not a dispute is "arbitrable"?**

A limitation to the arbitrability of disputes arising within family law is defined under the Family Code of the Republic of Armenia. It determines that the spouses may decide to refer the dispute on dividing their common property to an arbitral tribunal, provided that the dispute does not affect the rights of third parties. However, the agreement to refer the dispute to arbitration shall not limit the right of the spouses to refer the dispute to the court, except for cases where an arbitration agreement has been concluded after the dispute has arisen and the parties have unconditionally agreed to refer the dispute to arbitration. Other disputes involving non-proprietary rights that have arisen between the spouses may not be referred to arbitration.

Additionally, the Law on Arbitration determines that an arbitration agreement concluded between a consumer of financial organisations shall not deprive the consumer from applying to the court. An exception to this rule is when the arbitration agreement has been concluded after the dispute has arisen and the parties have unconditionally agreed to refer the dispute to arbitration.

**3.2 Is an arbitral tribunal permitted to rule on the question of its own jurisdiction?**

The Law on Arbitration states that an tribunal is entitled to and, in case of contesting the validity of an arbitration agreement, is obliged to rule on the question of its jurisdiction, including on the existence and validity of an arbitration agreement. For this purpose, the arbitration agreement shall be interpreted as a separate agreement (separability of an arbitration clause).

A motion on the absence of jurisdiction of the tribunal may be made no later than before the submission of a response on the merits of the case. The appointment of an arbitrator by the party shall not preclude the latter from bringing a motion on the absence of jurisdiction of the tribunal.

A motion exceeding the powers of the tribunal shall be made immediately when the party believes that a question is being considered by the tribunal which is out of the scope of its jurisdiction. The tribunal may, in any case, accept a belated motion if late submission thereof is considered reasonable.

The tribunal shall rule on a motion on absence of its jurisdiction either as a preliminary matter or address the issue in its final decision on the merits of the case. The decision of the tribunal, which has been adopted as a preliminary matter, may be appealed to court within 30 days. Before the ruling of the court of this decision, the tribunal may continue the arbitral proceedings and render an award.

**3.3 What is the approach of the national courts in your jurisdiction towards a party who commences court proceedings in apparent breach of an arbitration agreement?**

As discussed in the answer to question 2.1, the CPC and the Law on Arbitration oblige the court before which an action is brought in a matter which is the subject of an arbitration agreement, if a party so requests, no later than when submitting his first statement on the merits of the dispute, to refer the parties to arbitration, unless it finds that the agreement is null and void, inoperative or incapable of being performed.

**3.4 Under what circumstances can a national court address the issue of the jurisdiction and competence of an arbitral tribunal? What is the standard of review in respect of a tribunal's decision as to its own jurisdiction?**

As discussed below, at the stage of enforcement (and recognition) of an award, the law provides certain grounds based on which the court may reject enforcement (and recognition) of an award. One of those grounds is the following:

The award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration, provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, that part of the award which contains decisions on matters submitted to arbitration may be recognised and enforced.

**3.5 Under what, if any, circumstances does the national law of your jurisdiction allow an arbitral tribunal to assume jurisdiction over individuals or entities which are not themselves party to an agreement to arbitrate?**

The successors are bound by the arbitration agreement unless otherwise agreed by the parties. Other situations, such as assignment, agency, insolvency or other cases are not regulated by legislation.

**3.6 What laws or rules prescribe limitation periods for the commencement of arbitrations in your jurisdiction and what is the typical length of such periods? Do the national courts of your jurisdiction consider such rules procedural or substantive, i.e., what choice of law rules govern the application of limitation periods?**

The Civil Code of the Republic of Armenia, within the choice of law

rules, states that the statute of limitation shall be governed by the law applicable to the merits of the case. Under Armenian law, limitation periods are provided under the Civil Code of the Republic of Armenia and thus are substantive issues. Under the recent amendments of the CPC, such limitations have been provided; however, it is still unclear whether these rules are substantive or procedural.

**3.7 What is the effect in your jurisdiction of pending insolvency proceedings affecting one or more of the parties to ongoing arbitration proceedings?**

The Law on Bankruptcy of the Republic of Armenia states that after the decision of the court on declaring a debtor bankrupt has entered into force any cases heard by an arbitral tribunal related to claims of payment of money or transfer of property against the debtor shall be terminated or completed.

## 4 Choice of Law Rules

**4.1 How is the law applicable to the substance of a dispute determined?**

The Law on Arbitration determines that the law on which the parties have mutually agreed shall be applicable to the dispute. Any reference to the laws or jurisdiction of a certain country shall be interpreted as a reference to the material laws rather than the conflict of law rules.

The Law further indicates that in the absence of the parties' agreement, the tribunal shall use the law determined in accordance with the conflict of law rules chosen by the tribunal. In case that the tribunal chooses a law which differs from the laws of the seat of arbitration, the tribunal shall justify such decision. Irrespective of this regulation, the law determines that in case of the absence of a mutual agreement on applicable laws, Armenian law shall be applicable to the dispute if (i) the seat of arbitration is in Armenia, and (ii) a party of the arbitration is a citizen of the Republic of Armenia, or (iii) a legal entity is registered in the Republic of Armenia.

Irrespective of the chosen law, the parties may explicitly authorise the tribunal to settle the dispute based on the common rules of justice (*ex aequo et bono*) or as a mediator (*amiable compositeur*).

**4.2 In what circumstances will mandatory laws (of the seat or of another jurisdiction) prevail over the law chosen by the parties?**

Generally, the parties are free to choose the law that would be applicable to the agreement. However, there are certain aspects where the mandatory rules of Armenia shall prevail. For example, relations with respect to the arising of rights towards property shall be governed by the laws of the state where such property is located. Therefore, when for instance an agreement with respect to real estate located in the territory of Armenia has been concluded, the relations with respect to the arising of rights toward the real estate or the content thereof shall be governed by the laws of Armenia.

**4.3 What choice of law rules govern the formation, validity, and legality of arbitration agreements?**

At the stage of enforcement (and recognition of an award), the court will reject enforcement and recognition in cases where the arbitration agreement is not valid under the law to which the parties have been subjected to or under the law of the country where the award was made in case the parties have failed to indicate such governing law.

## 5 Selection of Arbitral Tribunal

**5.1 Are there any limits to the parties' autonomy to select arbitrators?**

The Law on Arbitration does not indicate any limits to the parties' autonomy to select arbitrators. Unless otherwise agreed by the parties, no person shall be precluded because of his nationality from acting as an arbitrator. Any capable individual, who has a higher education qualification and is not less than 25 years old, can be appointed as an arbitrator. However, it will not be possible to appoint a person as an arbitrator if he has been convicted, by a court decision, for committing a crime, as well as a person against whom a criminal offence has been committed.

**5.2 If the parties' chosen method for selecting arbitrators fails, is there a default procedure?**

When failing to appoint arbitrators, each party shall appoint one arbitrator, and the two arbitrators thus appointed shall appoint the third arbitrator; if a party fails to appoint the arbitrator within 30 days of receipt of a request to do so from the other party, or if the two arbitrators fail to agree on the third arbitrator within 30 days of their appointment, the appointment shall be made, upon the request of a party, by the court. In an arbitration with a sole arbitrator, if the parties are unable to agree on the arbitrator, he shall be appointed, upon the request of a party, by the court.

**5.3 Can a court intervene in the selection of arbitrators? If so, how?**

The court can intervene in the appointment of the arbitrators; for instance, in cases where one of the parties requests the court's intervention after their failure to agree on the appointment of the arbitrators by the court.

**5.4 What are the requirements (if any) imposed by law or issued by arbitration institutions within your jurisdiction as to arbitrator independence, neutrality and/or impartiality and for disclosure of potential conflicts of interest for arbitrators?**

According to article 12(1) of the Law on Arbitration, an arbitrator shall disclose any circumstances likely to give rise to justifiable doubts as to his impartiality or independence to the parties unless they have already been informed of them by him.

## 6 Procedural Rules

**6.1 Are there laws or rules governing the procedure of arbitration in your jurisdiction? If so, do those laws or rules apply to all arbitral proceedings sited in your jurisdiction?**

The Law on Arbitration states that the parties are free to agree on the

procedure to be followed by the arbitral tribunal in conducting the proceedings. However, in the absence of any agreement, the arbitral proceedings shall be conducted by the relevant procedural rules of the CPC.

**6.2 In arbitration proceedings conducted in your jurisdiction, are there any particular procedural steps that are required by law?**

The Law on Arbitration provides certain default rules and indicates the matters that must be regulated by the agreement of the parties or by the tribunal. Please note, however, that most of the rules provided by the Law are dispositive which allows the parties or the arbitral tribunal to alter such provisions.

*The Start of Arbitration*, unless otherwise provided by the agreement of the parties, shall be the day when the respondent has received the Notice of Arbitration.

The parties shall mutually agree on or the tribunal shall indicate the timeframes within which the claimant shall submit its claims and the underlying facts, as well as security and compensation measures. The respondent shall submit its objections unless otherwise agreed by the parties. The parties shall also submit the documents and evidence supporting their arguments or refer to documents and evidence that shall be submitted in the future. Unless otherwise provided by the parties, each party is entitled to amend their statements during the arbitral proceedings unless the arbitral tribunal considers it inappropriate.

Subject to any contrary agreement by the parties, the arbitral tribunal shall decide whether to hold oral hearings or whether the proceedings shall be conducted based on documents and other materials. However, unless the parties have agreed that no hearings shall be held, the arbitral tribunal shall hold such hearings at an appropriate stage of the proceedings, if so requested by a party.

As discussed throughout this chapter, the law further considers a number of procedural aspects of arbitration proceedings, such as granting preliminary and interim measures.

The law further regulates the failure of any of the parties to comply with its obligations. Particularly, subject to any contrary agreement by the parties and if there are no reasonable grounds:

1. The tribunal shall terminate the process if the claimant has failed to submit its claims.
2. The tribunal shall continue the process if the respondent has failed to submit its objections without implying that the respondent accepts the claims submitted by the respondent.
3. The tribunal is entitled to continue the process and adopt an award if any of the parties has failed to attend the hearings held or produce any evidence requested by the tribunal or under the mutual agreement of the parties.

Finally, the Law on Arbitration ascertains that arbitration shall be completed based on the award granted by the tribunal or based on the adoption of one of the following decisions:

1. The claimant waives its claims, unless the respondent objects to the completion of the proceedings and the tribunal finds that the respondent has a legal interest in the final settlement of the case.
2. The parties agree on termination of the procedure.
3. The tribunal finds that the examination of the case has been rendered unnecessary or impossible.

**6.3 Are there any particular rules that govern the conduct of counsel from your jurisdiction in arbitral proceedings sited in your jurisdiction? If so: (i) do those same rules also govern the conduct of counsel from your jurisdiction in arbitral proceedings sited elsewhere; and (ii) do those same rules also govern the conduct of counsel from countries other than your jurisdiction in arbitral proceedings sited in your jurisdiction?**

Generally, rules of ethics are applicable to the licensed attorneys and foreign attorneys registered in Armenia. However, there is no mandatory requirement for the counsel in arbitral proceedings to hold an attorney's licence. Therefore, such rules are not in default applicable to counsel in arbitral proceedings.

**6.4 What powers and duties does the national law of your jurisdiction impose upon arbitrators?**

The Law on Arbitration gives power to the arbitral tribunal to rule on its own jurisdiction, to order interim measures, and to ask the parties to immediately inform the arbitral tribunal about a necessary change in the circumstances. As for duties, the arbitrators should be impartial and independent, treat the parties with equality and give them sufficient advance notice of any hearing and any meeting of the arbitral tribunal for inspection of goods, other property or documents.

**6.5 Are there rules restricting the appearance of lawyers from other jurisdictions in legal matters in your jurisdiction and, if so, is it clear that such restrictions do not apply to arbitration proceedings sited in your jurisdiction?**

No such restrictions are applicable under Armenian law.

**6.6 To what extent are there laws or rules in your jurisdiction providing for arbitrator immunity?**

No such regulations have been provided under Armenian law. Neither is there any practice with respect to this.

**6.7 Do the national courts have jurisdiction to deal with procedural issues arising during an arbitration?**

When it comes to dealing with procedural issues which arise during an arbitration, national courts have jurisdiction in the appointment of the arbitrators when the parties fail to agree to appoint them, when they fail to agree on a procedure for challenging an arbitrator or decide on the termination of the mandate of the arbitrator if he becomes *de jure* or *de facto* unable to perform his functions. Additionally, as discussed below, the court has a number of powers with respect to preliminary and interim measures.

## 7 Preliminary Relief and Interim Measures

**7.1 Is an arbitral tribunal in your jurisdiction permitted to award preliminary or interim relief? If so, what types of relief? Must an arbitral tribunal seek the assistance of a court to do so?**

Unless otherwise agreed by the parties, the arbitral tribunal may, at the request of a party, order any party to take such interim measure of

protection as the arbitral tribunal may consider necessary in respect of the subject matter of the dispute. The arbitral tribunal may require any party to provide appropriate security in connection with such measure or a counter-measure if such measure seeks to prevent or compensate the possible damages of the other party or to preserve evidence. The party that applies for an interim measure shall substantiate that the damages caused as a result of the absence of such measure will be impossible to recover by way of compensation of damages and that such damage will be larger than the one that will be borne by the party subjected to an interim measure.

The law also regulates the regime of preliminary orders. Such orders are issued by the arbitral tribunal if notifying the party about a motion regarding an interim measure will render the execution of such interim measure impossible. By a motion to issue a preliminary order, the party may ask the other party to refrain from actions that might render the execution of the interim measure impossible. A preliminary order is not an award.

It is not incompatible with an arbitration agreement for a party to request, before or during arbitral proceedings, from a court an interim measure of protection and for a court to grant such measure.

The interim award of the tribunal ordering interim measures can be recognised and executed or set aside by a state court on the grounds applicable for final awards.

**7.2 Is a court entitled to grant preliminary or interim relief in proceedings subject to arbitration? In what circumstances? Can a party's request to a court for relief have any effect on the jurisdiction of the arbitration tribunal?**

The Law on Arbitration states that the court has jurisdiction to grant interim measures in the manner prescribed under the CPC in proceedings subject to arbitration. The CPC itself ascertains that the court, based on the motion of the party, is entitled to grant interim measures before or during the arbitration proceedings regulated by the general rules for granting interim measures provided under the CPC and considering the peculiarities provided under the Law on Arbitration. The CPC further states that if the interim measure has been granted prior to the commencement of arbitration or the appointment of a sole arbitrator, the person who had brought a motion on granting an interim measure shall submit proof of the commencement of arbitration within two months following the day when the motion had been granted. Otherwise, the court shall eliminate the measures based on the motion of the interested party.

The Law on Arbitration itself gives such authority to the courts and it cannot be deemed as something that would prejudice and effect the jurisdiction of the arbitration tribunal.

**7.3 In practice, what is the approach of the national courts to requests for interim relief by parties to arbitration agreements?**

It must be noted that there is no extensive practice of the national courts in which such requests have or have not been granted; this is merely due to the low number of such cases in the courts. However, the general approach is that the courts do grant interim relief whenever the requested grounds exist.

**7.4 Under what circumstances will a national court of your jurisdiction issue an anti-suit injunction in aid of an arbitration?**

There is no procedure for issuing anti-suit injunctions as such. However, the CPC provides grounds for (i) leaving the claim without consideration when an arbitration agreement exists, and (ii) rejecting acceptance of a claim or termination of a case when an arbitral award on the same subject matter exists.

**7.5 Does the law of your jurisdiction allow for the national court and/or arbitral tribunal to order security for costs?**

The tribunal has a large discretion to apply any measure that it finds appropriate and necessary. The security of costs is not regulated by the legislation. However, this also means that the application of such type of interim measure is not prohibited in any way.

**7.6 What is the approach of national courts to the enforcement of preliminary relief and interim measures ordered by arbitral tribunals in your jurisdiction and in other jurisdictions?**

The enforcement of preliminary reliefs and interim measures by the national courts is a procedure for the recognition of the relevant procedure adopted by the tribunal. The process is very similar to the recognition and enforcement of the award itself. This may mean lengthy procedures, including a judicial hearing: while there is not extensive practice on this, it is believed that enforcement of such measures by the court may be rather time-consuming.

## 8 Evidentiary Matters

**8.1 What rules of evidence (if any) apply to arbitral proceedings in your jurisdiction?**

The Law on Arbitration states that the powers of arbitral tribunals include the consideration of admissibility, relevance, materiality and importance of evidence. The law does not further elaborate as to what each of these requirements mean, leaving to the tribunal to rule on the indicated issues.

Additionally, as it was discussed above, relevant procedural aspects provided under the CPC shall be applicable unless other rules are provided under arbitration regulations or the agreement of the parties.

Therefore, should specific rules of evidence not be provided under applicable procedural regulations, the CPC will be applicable. The CPC defines evidence as factual data, based on analysis and evaluation, with which the court ascertains the existence or absence of the facts underlying the claims and objections of the parties. The court shall study and evaluate the pieces of evidence that have relevance to the case. A piece of evidence is deemed relevant if it makes the existence or absence of a fact material to the case more or less possible. Furthermore, the CPC refers to the admissibility of a piece of evidence; particularly, a fact which can be ascertained only under a certain piece evidence as provided under the law, which cannot be ascertained under other evidence. Furthermore, the law prohibits the use of evidence which has been obtained through a breach of basic rights or right to a fair trial.

**8.2 What powers does an arbitral tribunal have to order disclosure/discovery and to require the attendance of witnesses?**

As discussed in the answer to question 8.3 below, the tribunal is entitled to seek assistance from the court with respect to the

obtaining of evidence or enforcing witnesses to attend the hearing. Thus, the tribunal may request the parties to produce the relevant evidence or request the relevant persons to appear as witnesses. In case of the failure of the parties or the witnesses to act on the request of the tribunal, the tribunal has the right to seek assistance from the court.

**8.3 Under what circumstances, if any, can a national court assist arbitral proceedings by ordering disclosure/discovery or requiring the attendance of witnesses?**

At any stage of the arbitral proceedings, the tribunal or a party with the approval of the arbitral tribunal may request a competent court to enforce the parties of the dispute or third parties to: submit any document or evidence relevant to the dispute and required by the tribunal; secure the attendance of any person to the hearings as a witness; or assist with the taking of evidence in any other manner.

**8.4 What, if any, laws, regulations or professional rules apply to the production of written and/or oral witness testimony? For example, must witnesses be sworn in before the tribunal and is cross-examination allowed?**

No specific regulations with respect to these issues have been provided under the Law on Arbitration. As in the case of other procedural rules, the rules provided under the CPC may be applicable here. Cross-examination is not prohibited. With respect to witnesses, there is no such requirement for swearing in the witnesses. The liability provided under the Criminal Code of the Republic of Armenia is applicable exclusively to giving a wrong testimony within civil and administrative judicial proceedings, so is not applicable to arbitral proceedings.

**8.5 What is the scope of the privilege rules under the law of your jurisdiction? For example, do all communications with outside counsel and/or in-house counsel attract privilege? In what circumstances is privilege deemed to have been waived?**

Privilege rules have been identified for licensed attorneys under the Law on Advocacy. However, it is not binding for representatives within arbitration proceedings to hold an attorney licence, which means that these confidentiality privileges do not apply with respect to all representatives in arbitration proceedings. Additionally, the said is applicable to in-house counsel: there are no explicit regulations on whether the communications with in-house counsel are privileged. There is no judicial practice on this either. However, it may well be successfully argued that the same privilege rules provided for attorneys shall also be applicable to all representatives within arbitration proceedings.

## 9 Making an Award

**9.1 What, if any, are the legal requirements of an arbitral award? For example, is there any requirement under the law of your jurisdiction that the award contain reasons or that the arbitrators sign every page?**

The award shall be made in writing and shall be signed by the arbitrator or arbitrators. In arbitral proceedings with more than one arbitrator, the signatures of the majority of all members of the arbitral tribunal shall suffice, provided that the reason for any omitted signature is stated. The award shall state the reasons upon which it is based, unless the parties have agreed that no reasons are to be given or the award is an award on agreed terms. If not otherwise agreed by the parties, the award shall also state the costs of arbitration and their distribution amongst the parties. The award shall state its date and the place of arbitration. The award shall be deemed to have been made at that place.

**9.2 What powers (if any) do arbitral tribunals have to clarify, correct or amend an arbitral award?**

Within 30 days of receipt of the award, unless another period of time has been agreed upon by the parties, a party, with notice to the other party, may request the arbitral tribunal to correct in the award any errors in computation, any clerical or typographical errors or any errors of similar nature. If so agreed by the parties, a party, with notice to the other party, may request the arbitral tribunal to give an interpretation of a specific point or part of the award. If the arbitral tribunal considers the request to be justified, it shall make the correction or give the interpretation within 30 days of receipt of the request. The interpretation shall form part of the award. The arbitral tribunal may correct such error on its own initiative within 30 days of the date of the award.

Unless otherwise agreed by the parties, a party, with notice to the other party, may also request, within 30 days of receipt of the award, the arbitral tribunal to make an additional award as to claims presented in the arbitral proceedings but omitted from the award. If the arbitral tribunal considers the request to be justified, it shall make the additional award within 60 days.

## 10 Challenge of an Award

**10.1 On what bases, if any, are parties entitled to challenge an arbitral award made in your jurisdiction?**

An arbitral award may be set aside by the court only if:

(a) the party making the application provides proof that:

(i) a party to the arbitration agreement was under some incapacity; or the said agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law of Armenia;

(ii) the party making the application was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case;

(iii) the award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or contains decisions on matters beyond the scope of the submission to arbitration, provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, only that part of the award which contains decisions on matters not submitted to arbitration may be set aside; or

(iv) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties, unless such agreement was in conflict with a provision of the law from which the parties cannot derogate, or, failing such agreement, was not in accordance with the law; or

(b) the court finds that:

(i) the subject matter of the dispute is not capable of settlement by arbitration under the law of Armenia; or

(ii) the award is in conflict with the public policy of Armenia.

**10.2 Can parties agree to exclude any basis of challenge against an arbitral award that would otherwise apply as a matter of law?**

The Law on Arbitration has not provided such opportunity for parties.

**10.3 Can parties agree to expand the scope of appeal of an arbitral award beyond the grounds available in relevant national laws?**

The Law on Arbitration has not provided such opportunity for parties.

**10.4 What is the procedure for appealing an arbitral award in your jurisdiction?**

The challenge may be brought before the competent court of general jurisdiction of Armenia, the decision of which is not subject to appeal. The challenge must be decided within one month after the court accepted the application of the party.

## 11 Enforcement of an Award

**11.1 Has your jurisdiction signed and/or ratified the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards? Has it entered any reservations? What is the relevant national legislation?**

Armenia signed the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards on 29 December 1997. The relevant national legislation is the CPC.

**11.2 Has your jurisdiction signed and/or ratified any regional Conventions concerning the recognition and enforcement of arbitral awards?**

No such conventions have been signed or ratified by Armenia.

**11.3 What is the approach of the national courts in your jurisdiction towards the recognition and enforcement of arbitration awards in practice? What steps are parties required to take?**

Recognition or enforcement of a domestic arbitral award, as well as of an award issued in one of the contracting states to the New York Convention, may be refused only:

(a) at the request of the party against whom it is invoked, if that party furnishes to the competent court where recognition or enforcement is sought proof that:

(i) a party to the arbitration agreement was under some incapacity; or the said agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law of the country where the award was made;

(ii) the party against whom the award is invoked was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case;

(iii) the award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration, provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, that part of the award which contains decisions on matters submitted to arbitration may be recognised and enforced;

(iv) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties or, failing such agreement, was not in accordance with the law of the country where the arbitration took place; or

(v) the award has not yet become binding on the parties or has been set aside or suspended by a court of the country in which, or under the law of which, that award was made; or

(b) if the court finds that:

(i) the subject matter of the dispute is not capable of settlement by arbitration under the law of Armenia; or

(ii) the recognition or enforcement of the award would be contrary to the public policy of Armenia.

**11.4 What is the effect of an arbitration award in terms of *res judicata* in your jurisdiction? Does the fact that certain issues have been finally determined by an arbitral tribunal preclude those issues from being re-heard in a national court and, if so, in what circumstances?**

Pursuant to the CPC, the court of first instance shall reject acceptance of a claim to the judicial hearings and shall terminate the case if it has already been accepted into the jurisdiction, an arbitral award exists on the same subject, or it has the same factual basis. One exception is when the court has rejected the issuance of a compulsory enforcement act for enforcement of the arbitral award.

**11.5 What is the standard for refusing enforcement of an arbitral award on the grounds of public policy?**

There is no judicial practice which would allow us to consider any standard for the scope of public policy.

## 12 Confidentiality

**12.1 Are arbitral proceedings sited in your jurisdiction confidential? In what circumstances, if any, are proceedings not protected by confidentiality? What, if any, law governs confidentiality?**

If not otherwise provided by the law, or by a judicial decision, or if not otherwise agreed by the parties, all arbitral proceedings are confidential and conducted behind closed doors. No document or other evidence or any declaration made during the arbitration can be transmitted to other persons or to any court, state body or public official unless such information is transmitted based on a judicial decision or is necessary during judicial proceedings with regards to recognition, compulsory enforcement or the setting aside of the award. This rule does not apply to any information lawfully and previously disclosed.

**12.2 Can information disclosed in arbitral proceedings be referred to and/or relied on in subsequent proceedings?**

The information disclosed can be relied by the court for the recognition, enforcement or cancellation of the arbitral award.

## 13 Remedies / Interests / Costs

**13.1 Are there limits on the types of remedies (including damages) that are available in arbitration (e.g., punitive damages)?**

Armenian legislation does not provide any limits to the types of remedies that are available in arbitration.

**13.2 What, if any, interest is available, and how is the rate of interest determined?**

The possibility of applying an interest rate to a claim will largely depend on the substantive law applicable to the dispute. If Armenian law is deemed to be applicable, the party may request a statutory interest rate to be applied to any unlawfully withheld amounts.

**13.3 Are parties entitled to recover fees and/or costs and, if so, on what basis? What is the general practice with regard to shifting fees and costs between the parties?**

There are no regulations explicitly tackling the compensation of the fees and costs within arbitration proceedings. However, the general rule is usually that the party who lost the case shall bear the expenses and compensate the other party for the costs that the latter has borne. The costs, such as reasonable attorney fees, are subject to compensation under the CPC. It is presumed that the same rule shall be applicable to arbitral proceedings.

**13.4 Is an award subject to tax? If so, in what circumstances and on what basis?**

No specific requirements with respect to this exist under Armenian legislation.

**13.5 Are there any restrictions on third parties, including lawyers, funding claims under the law of your jurisdiction? Are contingency fees legal under the law of your jurisdiction? Are there any "professional" funders active in the market, either for litigation or arbitration?**

No regulations with respect to the funding of claims exist under Armenian law. To the best of our knowledge, in Armenia, third-party funders are not active in the market: this refers to both litigation and arbitration.

## 14 Investor State Arbitrations

**14.1 Has your jurisdiction signed and ratified the Washington Convention on the Settlement of Investment Disputes Between States and Nationals of Other States (1965) (otherwise known as "ICSID")?**

Armenia signed the ICSID Convention on 16 September 1992. It entered into force on 16 October 1992.

**14.2 How many Bilateral Investment Treaties (BITs) or other multi-party investment treaties (such as the Energy Charter Treaty) is your jurisdiction party to?**

Armenia has signed bilateral treaties on reciprocal promotion and protection of investments with 39 countries. Armenia is also a signatory to multi-party investment treaties, including the Energy Charter Treaty, the CIS Investor Rights Convention, and the Treaty on Eurasian Economic Union.

**14.3 Does your jurisdiction have any noteworthy language that it uses in its investment treaties (for example in relation to "most favoured nation" or exhaustion of local remedies provisions)? If so, what is the intended significance of that language?**

There is no specific language that the jurisdiction uses in its investment treaties.

**14.4 What is the approach of the national courts in your jurisdiction towards the defence of state immunity regarding jurisdiction and execution?**

The CPC addresses the issue when a judicial claim has been brought against a foreign country, it has been engaged as a third party, or when a lien must be placed on its property located in the Republic of Armenia, or its property must be seized based on compulsory enforcement of a judicial act. In these cases, the required steps may be undertaken exclusively based on the consent of the authorised bodies of the relevant state, unless another agreement has been provided under the international agreements concluded by the Republic of Armenia.

It is noteworthy that there are no regulations exclusively addressing state immunity and there have been no precedents on this. However, it is believed that state immunity provided under the CPC will also be applicable to arbitration proceedings.

## 15 General

**15.1 Are there noteworthy trends or current issues affecting the use of arbitration in your jurisdiction (such as pending or proposed legislation)? Are there any trends regarding the type of disputes commonly being referred to arbitration?**

During recent years, in Armenia, arbitration has been largely used only by banks and other financial institutions in their standard loan agreements. This has raised a concern of the lack of use of arbitration and resulted in a public effort to raise awareness about arbitration as an efficient and flexible alternative for the resolution of commercial disputes both for local and international business relations.

Recently, a draft of amendments to the Law on Arbitration has been circulated by the Central Bank of Armenia, which proposes the adoption of the concept of a Financial Arbitrator. The draft is still at a very early stage of discussions, although it has already raised concerns amongst a number of institutions which find the concept of state arbitration unacceptable.

**15.2 What, if any, recent steps have institutions in your jurisdiction taken to address current issues in arbitration (such as time and costs)?**

As discussed above, the most common disputes referred to arbitration are disputes with banks and financial institutions. Initiatives have been undertaken for the adoption of simplified procedures for the settlement of disputes in writing which allow the parties to save both time and costs.

Another recent initiative is the adoption of a dispute settlement mechanism with respect to domain names.

## Acknowledgment

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Aram Orbelyan is a Senior Partner with Concern Dialog Law Firm. He has led the Litigation and Arbitration Practice at Concern Dialog Law Firm since 2014 and serves as the Chairperson of the Association of the Arbitrators of the Republic of Armenia. Aram holds a Law degree and Ph.D. in Law from MGIMO University and served as Deputy Minister of Justice of Armenia from 2011–2014, where he was responsible for reform of civil procedure legislation, as well as the implementation of e-gov systems in Armenia. Afterwards, as a consultant, he supported the reform of the Law on Arbitration.

In addition to his attorney practice, he lectures at the French University of Armenia (UFAR) as well as the School of Advocates and Justice Academy, and acts as a consultant for a number of international organisations and state agencies on reform issues (mostly the justice sector, human rights and good governance issues).

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Lilit Karapetyan joined the Concern Dialog Law Firm team in March 2017 as a Junior Associate. She has since held the Associate position and has recently been promoted to Senior Associate. Lilit is enthusiastic about Energy and Mining Law. Prior to joining our team, Lilit completed internships at a number of companies in Armenia. Prior to completing her LL.B., Lilit worked at the Financial System Mediator's office as a lawyer (2013–2014) after successfully completing her internship there. After completing her LL.B. in Jurisprudence at the Yerevan State University (2010–2014), Lilit continued her studies at the University of Exeter, United Kingdom. She obtained a GDL in Law and Legal English (2014–2015) and, subsequently, an LL.M. in International Commercial Law (2015–2016), completing all the courses with distinction.

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Concern Dialog Law Firm was established in 1998 as a company for the provision of litigation and representation services, mostly for individual clients. Starting from 2002–2003, the company developed services for corporate clients. Although it is a formal corporation, it is perhaps the first company in Armenia that has implemented partnership principles (non-formal) of decision-making. At present, the company provides litigation and representation services as well as legal advice. As we work with different corporate clients, along with one time / order-based services, we provide monthly subscription services up to complete outsourcing of legal support to businesses. Parallel to general business (trade) legal advice, our specialists specialise in the provision of services to telecommunication, mining and energetics sector companies. We believe that constant training and active scientific / publishing involvement is crucial for professional development, so we encourage our specialists to be active in the aforementioned field. Besides general business law, we specialise in the regulation (including telecommunications law) and legal issues of energetics (including tariff regulations).