



OBSTACLES TO THE ENFORCEMENT OF INTERNATIONAL COMMERCIAL ARBITRATION AWARDS IN ACCORDANCE WITH ALGERIAN LEGISLATION

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Abstract: This study aims to spotlight on the most important key instances of refusal to enforce international commercial arbitration awards, while the original is implemented the arbitration awards voluntary enforcement by the parties involved, there may be specific exceptions to this origin , These exceptions when one of the parties refuses to comply with the award, necessitating judicial intervention in the arbitration award enforcement process.

Keywords: Recognition; Implementation; refusal; International Commercial Arbitration award; Coercive Force; Algerian legislation.

Introduction:

The true essence of arbitration reaches its pinnacle with the issuance of an award by arbitrators. However, this award holds little legal or practical significance if it remains a collection of written phrases lacking enforceability. The success of the arbitration system, especially in resolving internationally flavored disputes, is underscored by the enforcement of arbitration awards beyond the jurisdiction of their origin. Nevertheless, the possibility of refusing to enforce these awards exists under specific conditions. Instances of refusal may be dictated by the national regulations of the enforcing state or grounded in rules outlined in an international agreement.

A significant difference exists between the prerequisites for enforcing international arbitral awards and scenarios where enforcement is declined. The conditions for enforcing an award involve several criteria that the arbitral award must satisfy to gain effectiveness. Most national legislations mandate that the national judiciary confirms compliance with various

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**OBSTACLES TO THE ENFORCEMENT OF INTERNATIONAL COMMERCIAL ARBITRATION
AWARDS IN ACCORDANCE WITH ALGERIAN LEGISLATION**

conditions before authorizing the enforcement of the arbitral award. This underscores that the inherent nature of the arbitral award does not automatically confer enforceability. In cases of enforcement refusal, it signifies that the default status of the arbitral award is enforceable without the need for specific conditions.

Certain legislations delineate the conditions an arbitral award must meet for an enforcement order to be issued. This constitutes an official directive from the competent authority to undertake coercive measures, if necessary, to execute the arbitral award. This is done to assimilate the arbitral award into the legal framework of the enforcing state, treating it akin to domestic judgments concerning enforcement. If the conditions stipulated in domestic laws are not met, the competent judicial authority has the jurisdiction to reject the enforcement of the arbitral award¹.

The Algerian legislator has not explicitly addressed cases of refusal to recognize and enforce international arbitration awards. Article 1056 of the Algerian Code of Civil and Administrative Procedure (CCAP) briefly outlines the conditions for having an arbitral award and its non-violation of the public international order. This article grants the national judge the authority to appeal orders related to recognition or enforcement. Notably, Algeria's accession to the New York Convention has further empowered the national judge, allowing them to act in accordance with its provisions .

This study aims to illuminate significant instances leading to the rejection of enforcement for international commercial arbitral awards within the framework of Law 08-09, which encompasses Algerian civil and administrative procedural law. The primary objective is to pinpoint and specify these instances, ultimately contributing to the enhancement of arbitration's effectiveness and positioning it as a viable alternative to state litigation.

The central question guiding this investigation is as follows: Are the cases outlined in Law 08-09 sufficient for rejecting the enforcement of arbitral awards, or do they represent exceptional and exclusive circumstances?

To address this inquiry, our methodology adopts an analytical approach well-suited for scrutinizing relevant sections of the Algerian Code of Civil and Administrative Procedure 08-09. The study will be segmented into two sections: the first delving into cases where enforcement refusal is initiated at the request of a party, and the second addressing instances where the court independently rules on enforcement refusal..

**THE FIRST TOPIC : CASES OF ENFORCEMENT REFUSAL UPON THE
REQUEST OF ONE OF THE PARTIES**

Instances falling under this category involve enforcement refusal, and the burden of proof rests with the party that did not prevail in the arbitration award. This party must furnish evidence substantiating the existence of specific circumstances leading to refusal. The competent court does not spontaneously rule on refusal; instead, it is incumbent upon the party who suffered an adverse arbitration decision or against whom an arbitral award has been issued, imposing obligations, to initiate the refusal process. This holds true whether the party is the claimant in arbitration or the party against whom enforcement is sought. The following cases illustrate this category.

**FIRST REQUIREMENT: IN CASES WHERE THE ARBITRATION COURT
ISSUES A RULING DUE TO THE INVALIDITY OF THE ARBITRATION**

**OBSTACLES TO THE ENFORCEMENT OF INTERNATIONAL COMMERCIAL ARBITRATION
AWARDS IN ACCORDANCE WITH ALGERIAN LEGISLATION****AGREEMENT, CANCELLATION OF THE ARBITRATION AWARD, OR THE
EXPIRATION OF THE AGREEMENT'S TERM**

Algerian legislation affords the right to refuse the enforcement of an international commercial arbitral award when the disputing party provides evidence of compelling reasons for refusal. These reasons may pertain to the arbitration agreement, procedural aspects of arbitration, or the substance of the arbitral award itself.

First section: Due to the invalidity of the arbitration agreement

The arbitration agreement, under Algerian law, serves as the instrument granting individuals the opportunity to resort to arbitration for dispute resolution instead of seeking recourse through the judiciary. This agreement may manifest as a clause within a broader contract or as a standalone arbitration agreement, with arbitrators deriving their authority from its provisions.

In the eyes of jurisprudence², the arbitration agreement is deemed the "basic element and cornerstone" upon which the competence of arbitrators and the validity of the award rest—essentially constituting the foundation for the entire arbitration process.

Consequently, a disputing party may raise a compelling reason for refusal, particularly concerning the invalidity of the arbitration agreement. This might stem from factors such as the lack of legal capacity of one of the parties, the inherent invalidity of the arbitration agreement, or an arbitrator exceeding the powers delegated to them

First: Eligibility of the Parties to the Arbitration Agreement

Merely obtaining the consent of the two parties is not sufficient for the validity of the arbitration agreement; it is essential that the eligibility to agree to arbitration exists. This means that each party must have the capacity to act because arbitration involves mutual obligations on both parties.³

Algerian legislation, through the first paragraph of Article 1006 of the Algerian Civil and Commercial Procedure Code, emphasizes the necessity of having the capacity to act. It states: "Anyone can resort to arbitration for the rights over which they have absolute capacity to act."

From the wording of this paragraph, it is clear that the legislator requires the capacity to act and not the capacity to commit or litigate. Thus, anyone who has reached the age of majority and whose will be not tainted by defects of consent can request arbitration for rights over which they have absolute capacity to act.⁴

It should be noted that reaching the age of majority and not being subject to incapacity during the agreement's conclusion are crucial factors for proving the capacity to act.

Second: Invalidity of the Arbitration Agreement

For the arbitration agreement to be valid, both formal and substantive conditions must be met.

The first paragraph of Article 1008 of the Algerian Civil and Commercial Procedure Code states: "The arbitration clause must be proven, under penalty of invalidity, in writing in the original agreement or the document it is based on." Additionally, the first paragraph of Article 1012 emphasizes the necessity of writing for the validity of the arbitration agreement, stating: "The agreement to arbitrate is obtained in writing."

From these two articles, it can be concluded that the legislator requires writing under the penalty of invalidity. Writing, in this case, is considered a condition for the validity of the arbitration agreement, not just a means of proving it. If the arbitration agreement is not in writing, it does not have legal existence.



OBSTACLES TO THE ENFORCEMENT OF INTERNATIONAL COMMERCIAL ARBITRATION AWARDS IN ACCORDANCE WITH ALGERIAN LEGISLATION

Furthermore, Article 1040 of the Algerian Civil and Commercial Procedure Code adds: "... The arbitration agreement must be concluded in writing or by any other means of communication allowing proof in writing..."

This article indicates that any other means of communication allowing proof in writing includes electronic signatures as specified in Article 323 of the Civil Law.

Algerian legislation has been wise by not imposing a specific form for writing but rather making the condition of writing fulfilled through any means agreed upon for arbitration.⁵

Third: Arbitrator Overstepping the Assigned Task

Arbitration functions as a contractual system, and the integrity of this system relies on the strict adherence to a valid arbitration agreement. The arbitrator, therefore, must operate within the defined scope of this agreement. Any deviation from this scope jeopardizes the foundation of arbitration, rendering the resulting judgment void. While the law dictates the jurisdiction of judges, the boundaries of an arbitrator's jurisdiction are outlined by the agreement reached between the parties. Parties are restricted from introducing requests before the arbitral tribunal that surpass the parameters established in the arbitration agreement. The arbitral tribunal is expressly prohibited from adjudicating on such requests or ruling on matters that fall outside the agreed-upon scope, even if one of the parties introduces them.⁶

Therefore, the arbitral tribunal is not only bound by the limits of the requests made by the parties before it, as is the case with state courts, but it is also bound by the scope of the arbitration agreement.⁷

The legal foundation for refusing to enforce an international commercial arbitration award, arising from an arbitrator exceeding their assigned task, is grounded in both Algerian legislation and international conventions. Specifically, the third paragraph of Article 1056 of the Algerian Civil and Commercial Procedure Code establishes this basis, stating: "The order recognizing or enforcing the arbitral award cannot be appealed except... if the arbitral tribunal has ruled in a manner inconsistent with the task assigned to it."

Article 5/1 (j) of the 1958 New York Convention provides the grounds for refusing to recognize or enforce an arbitral award if the party against whom enforcement or recognition is sought furnishes proof that: "The arbitrators exceeded their powers or so imperfectly executed them that a mutual, final, and definite award upon the subject matter submitted was not made..."

Thus, the New York Convention reaffirms a principle established in the field of arbitration in general: arbitrators only have jurisdiction within the scope of the dispute agreed upon for arbitration. They do not have the authority to rule on other disputes related to the same parties unless expressly or implicitly agreed upon by the parties.⁸

Second section: due to the invalidity of the arbitration award or the expiration of the term of the agreement

This circumstance arises in the event of the annulment or nullity of the arbitration award in the state where it was issued according to its laws. The competent authority, before deciding on the annulment request, issues a provisional decision to suspend enforcement. In this case, it is not a matter of refusing to enforce the award in the country where enforcement is sought. Instead, enforcement is temporarily halted until a decision is made on the challenges to the annulment of the arbitration award.⁹

However, French jurisprudence has established a principle allowing the enforcement of void arbitration awards issued in the state of the seat, and the void award has effects in the enforcing state. This is based on Article 7 of the 1958 New York Convention¹⁰. According to this principle, for the enforcement of such awards, they must be issued in an international dispute

**OBSTACLES TO THE ENFORCEMENT OF INTERNATIONAL COMMERCIAL ARBITRATION AWARDS IN ACCORDANCE WITH ALGERIAN LEGISLATION**

and in a foreign country, and they should not have been included in the legal system of that state. In this case, the existence of the award remains valid despite its annulment in the state of the seat of arbitration, and its recognition in France is not inconsistent with the public international policy.¹¹

The same applies regarding the expiration of the arbitration agreement period. According to Algerian law, specifically Article 1018, the arbitration agreement remains in force even if the period for its termination is not specified. The arbitral tribunal has four months to complete its task, and after the expiration of this period and the completion of all prescribed procedures, the arbitration agreement expires. Consequently, the judge presented with the dispute can refuse to enforce the arbitration award.¹²

SECOND REQUIREMENT: CASES OF REFUSAL TO IMPLEMENT RELATED TO ARBITRATION PROCEDURES

The fundamental principle in all national legislations, as enshrined in the New York Convention, is the respect for the will of the contracting parties. The arbitral tribunal must be constituted according to what the parties have decided in the arbitration clause or agreement. The will of the parties usually does not specify the conditions for constituting the arbitral tribunal but rather refers to an arbitral system or law. In this context, that system or law becomes the will of the parties, and any deviation from it in the constitution of the arbitral tribunal is considered a violation of the parties' will.¹³

On the other hand, arbitration procedures must not contradict the agreement of the parties if they have agreed on these procedures, or the law of the state where the arbitration takes place if the parties have not reached an agreement on the procedures followed by the arbitrators. The reference in the absence of an agreement is the law of the state in which the arbitration is conducted.¹⁴

First section: Invalidity of the Composition of the Arbitral Tribunal

In the context of arbitration jurisprudence and the resulting arbitral awards, legislations have shown a keen interest in defining the individuals who will undertake the judicial task instead of the official judge. These legislations have established conditions regarding the individuals who will assume this responsibility.¹⁵

Article 1017 of the Algerian Code of Civil and Administrative Procedure lays down the conditions for the constitution of the arbitral tribunal. Article 1041 of the same law serves as a reference for the process of constituting the arbitral tribunal by specifying who has the right to appoint arbitrators. This latter article states: "The parties may, either directly or by referring to the arbitration system, appoint the arbitrator or arbitrators, or specify the conditions for their removal or replacement. In the absence of an appointment and in case of difficulty in appointing, removing, or replacing the arbitrators, the party concerned with expedited proceedings may do the following:

1- Submit the matter to the president of the court having jurisdiction over the arbitration if the arbitration is taking place in Algeria.

2- Submit the matter to the president of the Algiers Court if the arbitration is taking place abroad, and the parties have chosen to apply the procedural rules in Algeria.

From the text of this article, we can derive that there are three methods for appointing arbitrators:

a. Direct appointment by the parties.

**OBSTACLES TO THE ENFORCEMENT OF INTERNATIONAL COMMERCIAL ARBITRATION
AWARDS IN ACCORDANCE WITH ALGERIAN LEGISLATION**

b. Appointment through a permanent arbitral center (institutional arbitration).

c. Appointment by the judiciary (in case of disagreement between the parties).

Furthermore, Article 5/1d of the New York Convention emphasizes the importance of determining the seat of arbitration. It states that the recognition and enforcement of an arbitration award may only be refused if a party provides proof that the composition of the arbitral tribunal or the arbitration procedures is inconsistent with the agreement of the parties or the law of the country where the arbitration took place, in the absence of agreement.¹⁶

Second section: Violation of the Confrontation Principle and the Right to Defense

Once the judge confirms the validity of the arbitration agreement and the constitution of the tribunal, the next step is to examine the other document required from the respondent, which is the arbitral award issued by the arbitral tribunal. The judge will assess its compliance with the legal provisions related to procedures and ensure it is free from defects that could lead to the refusal of enforcement. One of the prominent procedural issues is the violation of the confrontation principle and the right to defense, as well as any defect related to the form of the award and its statements.

The issue of confrontation is a procedural matter independent of the content of the arbitral award. It entails giving each party the opportunity to present all statements, evidence, witnesses, and expert opinions at their disposal. Each party should be in a position to defend itself using all available means before the tribunal.

A violation of the right to defense results in the rejection of recognition and enforcement of the international arbitral award. If the requesting party presents evidence that it was not properly notified of its presence at the arbitration session, the appointment of the arbitrator, the arbitration procedures, or if it was impossible for it, for one reason or another, to present its defense.¹⁷

Algerian legislation has uniquely adopted this principle, considering the confrontation principle as a ground for refusing the enforcement of the arbitral award, as stated in the fourth paragraph of Article 1056 of the Code of Civil and Administrative Procedure

Similarly, Article 5/1 (b) of the New York Convention states the refusal of recognition or enforcement of an arbitral award if the party against whom enforcement is sought provides evidence that: "It was not given proper notice of the appointment of the arbitrator or of the arbitration proceedings or was otherwise unable to present its case.",

**THE SECOND TOPIC : CASES OF REFUSAL TO ENFORCE DECIDED BY THE
COURT ON ITS OWN MOTION**

The judge is the guardian of public order, and therefore, anything that affects this order must be addressed by the judge on its own motion, without waiting for a request or urging from the parties. This doesn't mean that a party against whom an arbitral award has been issued cannot request the court to refuse the enforcement order. Rather, the court will not demand that party to provide evidence to prove it¹⁸.

In this section, we will address two cases of refusing recognition and enforcement of international commercial arbitral awards. The first scenario involves the law of the country where enforcement is sought not allowing dispute settlement through arbitration. The second scenario is when the arbitral award contradicts the public order of the country where

**OBSTACLES TO THE ENFORCEMENT OF INTERNATIONAL COMMERCIAL ARBITRATION
AWARDS IN ACCORDANCE WITH ALGERIAN LEGISLATION**

enforcement is sought. If either of these cases exists, the competent authority in the requested country may refuse to recognize or enforce the arbitral award.

**FIRST REQUIREMENT: IMPOSSIBILITY OF DISPUTE SETTLEMENT
THROUGH ARBITRATION**

The competent authority in the requested country may refuse to recognize or enforce the arbitral award if it becomes apparent that the law of that country (the requested country) does not permit the settlement of disputes through arbitration. This requires, on the one hand, that the agreement explicitly addresses the issue of arbitrability, and, on the other hand, that the parties have a legal capacity to resort to arbitration as a means of settling their disputes. These considerations aim to protect the public interest rather than the interests of the parties to the agreement. It is not acceptable to request a country to enforce an arbitral award that involves a matter prohibited from arbitration by the laws of that state.¹⁹

Although national laws in different countries vary in defining issues that are not arbitrable, it is advisable to limit these issues as much as possible, especially given the widespread use and development of arbitration tools and the precision of its judgments. Therefore, we observe that national judiciaries in most countries attempt to facilitate the enforcement of arbitral awards by narrowly interpreting cases of refusal and considering any facilitations allowed by national laws. Hence, the drafters of the New York Convention in 1958 were content to regulate the possibility of applying national law rules in the stage following the issuance of the arbitral award.²⁰

First section: The Concept of Arbitrability of Disputes

The concept of arbitrability of disputes refers to the possibility of resolving a dispute through arbitration. It is a legal concept that allows for the delineation of an area of disputes that can be settled through arbitration. Conversely, any dispute falling outside this area is considered not arbitrable and cannot be resolved through arbitration.²¹

According to Article 5/ 2 (a) of the New York Convention, the competent authority in the enforcing country may refuse to recognize or enforce the arbitral award if it is found that the law of that country does not permit the settlement of disputes through arbitration.

This provision of the New York Convention makes arbitrability subject to the law of the enforcing state. Therefore, a refusal to enforce or recognize an arbitral award is required if the dispute is not arbitrable under the law of the enforcing state. Arbitrability is not only a condition for the validity of the arbitration agreement but is also a condition for recognizing and enforcing the arbitral award. There is no separation between these two matters, and the criterion is the law of the enforcing state. To enforce an arbitral award, it is sufficient for the dispute to fall within the scope allowed by the law of the enforcing state for arbitration. The drafters of the convention aimed to narrow the scope of non-arbitrable subjects and confine them to the law of the enforcing state, facilitating the implementation of international arbitral awards.²²

The Algerian legislator did not explicitly address this point, perhaps due to oversight or leaving it to the discretionary authority of the judge. Although the legislator adopted most provisions related to arbitration from the French legal system, there are discrepancies in crucial provisions. Despite the French legal system being explicit and clear, there are some oversights in Algeria. Although the Algeria legislator took most provisions related to arbitration from the French legal system, there are discrepancies in crucial provisions. Despite the French legal system being explicit and clear, there are some oversights in Algeria. Since the conventions ratified in Algeria supersede the constitution, a comparison can be made between the Algerian



OBSTACLES TO THE ENFORCEMENT OF INTERNATIONAL COMMERCIAL ARBITRATION AWARDS IN ACCORDANCE WITH ALGERIAN LEGISLATION

procedural law and the New York Convention.²³

Referring to Article 1006 of the Algerian Code of Civil and Administrative Procedure, the legislator lists matters that are not subject to arbitration, such as issues related to personal status or incapacity and violations of public order. If the subject matter of the dispute is not arbitrable because it involves matters that cannot be settled, such as those related to personal status, or if it violates public order, the judge must reject the enforcement of the arbitral award.

The Algerian legislator also requires that the arbitration dispute be related to economic interests. Article 1039 of the Algerian Code of Civil and Administrative Procedure states: "Arbitration is considered international, within the meaning of this law, when it concerns disputes related to the economic interests of at least two states".

Second section: The Applicable Law on Arbitrability

Before addressing the arbitrability of a dispute, the arbitrator must adapt it to determine the applicable law. What is the law that should be applied to arbitrability by the arbitral tribunal? Does the arbitrator apply the law of the enforcing country to enhance the effectiveness of the arbitral award by facilitating its enforcement, or does the arbitrator have the authority to choose the law it deems appropriate in the absence of an agreement?

The principle of party autonomy plays a significant role in arbitration. If the parties choose a specific law to govern their agreement, that chosen law is the reference. Even in the absence of such a choice, the arbitrator can determine the implicit intent of the parties by examining the applicable law. The parties' selection of a certain law to govern their contractual relationship, without indicating a desire to subject the arbitration agreement to a different law, can be indicative of their intent to apply that chosen law implicitly.²⁴

In the absence of a choice of law by the parties regarding the dispute, opinions differ. Some argue for referring to the law of the place of contract formation, while others suggest looking at the law of the state whose courts would originally have jurisdiction over the dispute. There are also proponents of applying the law of the seat of arbitration for adaptation, followed by determining the applicable law. The latter approach tends to ignore the genesis of the arbitration agreement and overlooks the fact that the arbitrator lacks a specific law, leading most international arbitration awards to adhere to common legal principles, i.e., comparative law and general legal principles.²⁵

The New York Convention addressed the issue of the law applicable to arbitrability before the enforcing state's judiciary, restricting it to the law of the judge. According to Article 5/2 (a) of the Convention, the enforcing state's judiciary must apply its own law. This ensures that the arbitral award is integrated into its legal system, granting it the necessary enforceability.

However, the Algerian legislator was more liberal compared to the New York Convention. The Algerian procedural law did not explicitly stipulate arbitrability according to the Algerian system, requiring only proof of the existence of the arbitral award and its non-violation of international public policy.²⁶

Article 1051 of the Algerian Code of Civil and Administrative Procedure states that recognition of international arbitration awards in Algeria is subject to proving their existence and non-violation of international public policy, departing from the rigid arbitrability requirements set by the New York Convention.²⁷

SECOND REQUIREMENT: VIOLATING PUBLIC ORDER IN THE IMPLEMENTING STATE



OBSTACLES TO THE ENFORCEMENT OF INTERNATIONAL COMMERCIAL ARBITRATION AWARDS IN ACCORDANCE WITH ALGERIAN LEGISLATION

Violation of public policy is the second situation where the competent authority can, on its own initiative, refuse to enforce an arbitral award. This ground for refusing enforcement is almost universally recognized in national laws worldwide .

First section: The idea of public order as an obstacle preventing the implementation of an international arbitration award

The concept of public policy is flexible, difficult to define precisely, and broad in scope. It encompasses a set of rules that serve a public interest affecting the highest level of society's public order. However, mere public interest, whether political, social, or economic, is not enough. It must be based on public morality that is rooted in common ethics. Moreover, the definition and scope of any public interest vary and fluctuate within a state and from one state to another. What major economic powers consider a public economic interest, such as competition law, antitrust, and intellectual and industrial property law, may not be viewed similarly by developing countries.²⁸

It is essential to distinguish between international public policy and national public policy.

International public policy serves as an exceptional tool, deriving its existence from the foundation of private international law itself. This law establishes rules based on international solidarity, aiming to achieve a balance between national legal systems on the one hand and the requirements of international transactions on the other. It acts as a coordination mechanism, fostering cooperation between different legal systems.

In contrast, national public policy refers to mandatory rules that individuals cannot contract out of by private agreement. It is associated with the highest public order principles, aiming to protect fundamental societal principles, whether political, economic, or social.²⁹

Therefore, the concept of public policy as an obstacle preventing the enforcement of international arbitral awards is flexible. It is challenging to define, broad in scope, and subject to variation based on the public interest in each jurisdiction.³⁰

The international public policy is a tool for achieving a minimum level of legal convergence between different legal systems. In contrast, national public policy serves as a safeguard for the fundamental principles of society.

Refusing the enforcement of an international arbitral award can occur when the award violates the basic rules of morality and customs in the enforcing state. The concept of public policy in this context is not absolute but depends on the flexibility of the idea of public order. The enforcing court may interpret public policy broadly, leading to the rejection of the enforcement of an international arbitral award.³¹

Second section: The Concept of Public Policy in Algerian Arbitration

The Algerian legislator differentiates between domestic public policy and international public policy, explicitly using the term "international" in Article 1051, which states: "Recognition of international arbitral awards in Algeria is granted if the party seeking recognition proves its existence and the recognition is not contrary to international public policy." Similarly, Article 1056, paragraph 6, states: "The order recognizing or enforcing the award cannot be appealed if the arbitral award is contrary to international public policy."

Moreover, Article 605 of the Algerian Code of Civil and Administrative Procedure reinforces the distinction by specifying the internal public policy in its wording: "Foreign judicial orders, judgments, and decisions cannot be enforced in Algerian territory unless granted executive form by one of the Algerian judicial authorities, provided they meet the following conditions: ... (4) does not include anything contrary to the internal public policy and morals in

**OBSTACLES TO THE ENFORCEMENT OF INTERNATIONAL COMMERCIAL ARBITRATION AWARDS IN ACCORDANCE WITH ALGERIAN LEGISLATION**

Algeria."

Additionally, Algerian civil law, through Article 24/1, stipulates that foreign law cannot be applied if it contradicts the internal public policy or morals in Algeria or if it has been proven to have jurisdiction through fraud towards the law.

These legal provisions illustrate that the Algerian legislator, concerning the recognition and enforcement of international commercial arbitration awards, has effectively distinguished between domestic and international public policy. This distinction is more pronounced than in the New York Convention, which does not differentiate between the two systems. For the Algerian legislator, the refusal of enforcement occurs when the arbitral award violates international public policy, while the New York Convention only refers to public policy.³²

Furthermore, the New York Convention leaves the determination of the content and conditions for applying the principle of public policy to the contracting states. However, it does not provide a clear definition of the adequacy of the public policy, leaving it to the discretion of the enforcing court in each jurisdiction.³³

Despite these legal provisions, it is essential for the Algerian judiciary not to rely solely on internal standards when determining the international public policy. Not everything that contradicts domestic public policy necessarily contradicts international public policy, and vice versa. The relationship between them is intricate, requiring a nuanced approach by considering their interconnection and differences.

Conclusion:

Through a comprehensive examination of various aspects related to the obstacles to the enforcement of international commercial arbitration awards as stipulated in the Algerian Code of Civil and Administrative Procedure 08-09, it is evident that the legislator did not explicitly define them. However, by scrutinizing certain provisions related to the enforcement of international arbitration awards, we find:

Refusal of enforcement cases based on a request from the opposing party seeking enforcement, which is derived from the New York Convention. The convention, in its Article 5, divides these cases into instances where the opposing party requests refusal and instances where the competent court decides on its own to refuse enforcement. This convention established a special system for cases that the national judiciary must consider, or else the recognition or enforcement order may face rejection.

Upon closer inspection of Article 1051 of the Algerian Code of Civil and Administrative Procedure, which stipulates the recognition of international arbitral awards in Algeria, it is evident that it only requires the existence of an arbitral award and its non-violation of international public policy. However, by examining Article 1056 of the same law, which allows the party seeking enforcement to appeal the order recognizing or enforcing the foreign arbitral award, we find that the Algerian legislator has effectively incorporated grounds similar to those in Article 5 of the New York Convention.

The Algerian legislator, when it comes to the recognition and enforcement of international commercial arbitration awards, distinguishes between domestic and international public policy. This distinction is more explicit than in the New York Convention, which only refers to public policy without differentiation.

The legislator has introduced a case of non-causation of the arbitral award that is specified in the form of an order through Article 1027 of the Algerian Code of Civil and Administrative



OBSTACLES TO THE ENFORCEMENT OF INTERNATIONAL COMMERCIAL ARBITRATION AWARDS IN ACCORDANCE WITH ALGERIAN LEGISLATION

Procedure. This case, categorized under invalidity and refusal of enforcement, limits the effectiveness of arbitration under the pretext that an award in a country that does not require causation may lead to its rejection by the Algerian judiciary if the winning party seeks its enforcement.

It is recommended to amend Article 1056 of the Algerian Code of Civil and Administrative Procedure by removing the paragraph related to the causation of the arbitral award. The Algerian legislator should align more with the principle of party autonomy and limit the grounds for refusal to uphold the effectiveness of international arbitration.

Furthermore, the legislator should consider adding "respect for due process" to the principle of public policy in the fourth paragraph of Article 1056 of the Algerian Code of Civil and Administrative Procedure.

In conclusion, if Algeria aspires to become a hub for international commercial arbitration, in addition to acceding to the New York Convention of 1958, it is advisable to enact a specific law on international commercial arbitration. Such a law, akin to Tunisia and Egypt, should incorporate key legal principles, jurisprudential opinions, and practical experiences in the field of investment, thereby fostering economic development.

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**OBSTACLES TO THE ENFORCEMENT OF INTERNATIONAL COMMERCIAL ARBITRATION
AWARDS IN ACCORDANCE WITH ALGERIAN LEGISLATION**

12- Article 1018 of the Algerian Code of Civil and Administrative Procedure states: "Arbitration agreement is valid even if it does not specify a deadline for its termination. In this case, the arbitrators are obliged to complete their task within a period of four (4) months, starting from *the* date of their appointment or from the date of notifying the arbitration court. However, this period can be extended with the agreement of the parties, and in case of disagreement, the extension is carried out according to the arbitration system, and in its absence, it is carried out by the president of the competent court."

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