

Act No. 53/1989, on Contractual Arbitration

Article 1

This Act applies to contractual arbitration.

Parties can agree to submit a dispute to arbitration concerning matters in respect of which they may reach a settlement. Such agreement can pertain either to an existing or future disputes that may arise in their legal relationship.

Article 2

In the event a dispute has been brought before the national courts, which falls under the scope of a valid arbitration agreement the court shall only dismiss the case pursuant to a request from a party.

Article 3

The arbitration agreement shall be in writing. It shall explicitly establish the parties' intention to have the dispute settled by arbitration; identify the parties to the arbitration agreement and the dispute that is to be settled by arbitration.

An arbitration agreement is not binding if there are material deviations from the formal requirements stipulated in Article 3(1); if the subject matter is not capable of settlement by arbitration or if the provisions pertaining to the appointment of arbitrators, the procedure or other provisions in the arbitration agreement do not provide for an adequate judicial protection.

The tribunal shall elect its chairman unless the arbitration agreement stipulates otherwise. If the arbitration agreement is silent regarding the time limit for appointing arbitrators, the parties must appoint arbitrators within a reasonable time.

Article 4

In the event of a dispute regarding the appointment of arbitrators, a party can seek the assistance of a District Court that would have jurisdiction to resolve the dispute in the absence of an agreement to arbitrate, and the District Court will resolve the dispute with a ruling.

In the same manner, a party can seek the assistance of the District Court if the opposing party does not respect its obligation according to the arbitration agreement regarding the appointment of an arbitrator, or if the parties cannot agree on a sole arbitrator. In such cases, the District Court shall appoint the arbitrator or arbitrators. This shall also apply if the arbitral tribunal becomes inoperative due to the fact that an arbitrator is not actively participating in the arbitral proceedings, due to sickness or other circumstances.

If the arbitration agreement is silent on the appointment or the number of arbitrators and the parties are unable to reach an agreement in this respect, the District Court, pursuant to a request from a party, shall appoint three arbitrators, one of whom shall act as a chairman.

Article 5

A request to the District Court, pursuant to Article 4, shall be in writing and made on the first possible occasion. The request shall identify the disputing parties, the subject matter of the dispute, the reasons for seeking the assistance of the District Court and the decision sought. The arbitration agreement or a copy thereof shall be attached to the request.

The District Court shall notify the parties of the time it will hear the request. Pursuant to a request, the District Court may grant the opposing party a short period of time to submit a brief; subsequently the District Court shall make a ruling after an oral hearing. The deciding District Court judge is not bound by its ruling, if the issue comes before the District Court at a later stage. Rulings of the District Court under this Article cannot be appealed to the Supreme Court. Nonetheless, a District

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Court ruling denying the appointment of an arbitrator can be subject to an appeal to the Supreme Court.

Article 6

The arbitrators shall be in sufficiently good physical and mental health to participate in an arbitral proceeding. They shall possess full legal capacity in regard to their actions and their property. Their reputation shall be unblemished.

The arbitrators shall fulfil the special requirements made upon district court judges for trialling individual cases.

The chairman of the tribunal shall determine whether the arbitrators meet the requirements of this Article in case a controversy arises. A party may bring action in the District Court challenging the decision of the chairman, in the same manner and to same effect as stated in Article 5. In such cases a District Court judge rules on the issue and that ruling cannot be appealed to the Supreme Court.

Article 7

The parties must present their respective cases distinctively before the arbitral tribunal. The arbitral tribunal shall always afford the parties the opportunity to present their respective cases, submit evidence, review all the documents and all other materials pertaining to the dispute and express their views on the subject matter of the dispute. The arbitral tribunal shall ensure equal treatment of the parties.

The arbitration agreement shall determine the arbitral procedure. In the absence of provisions pertaining to the arbitral procedure in the arbitration agreement the arbitral tribunal shall determine the rules of the arbitral procedure. The arbitrators shall make every effort to ensure the swiftness of the arbitral procedure.

The arbitrators shall actively participate in the arbitral process. The chairman is allowed to accept documents submitted to the tribunal and carry out minor administrative matters. The parties can agree that the chairman has the authority to decide upon procedural issues and issue procedural orders.

The arbitral award shall be decided by a majority vote.

Article 8

The arbitral award shall be in writing. The award shall in a comprehensible manner, state the principal reasons upon which it is based. The award shall be signed by the deciding arbitrators. A settlement before the arbitral tribunal shall be in writing and signed by the disputing parties and the arbitrators.

Article 9

In the event of a severe delay in the arbitral procedure which can be contributed to the failure by one or more arbitrator(s) to fulfil their duties, a party can bring action before the District Court, in the manner described in Articles 4 and 5, requesting the replacement of the arbitrator or arbitrators in question. Such a claim must be brought against both the opposing party and all the arbitrators.

The District Court shall rule on the replacement of arbitrators according to Article 9(1). The ruling can be subject to an appeal to the Supreme Court.

Article 10

The arbitrators shall be entitled to remuneration for their work as well as travel expenses in accordance to invoices produced by the arbitrators. If a dispute arises concerning the remuneration of the arbitrators, a party can bring action before the District Court in accordance with Article 5. The District Court judge shall rule on the issue and the ruling can be appealed to the Supreme Court.

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Article 11

The arbitral tribunal shall, pursuant to a request from the parties, decide upon allocation the allocation of cost of the arbitration, both administrative fees and attorneys' fees, unless the arbitration agreement stipulates otherwise.

Article 12

An arbitral award can be wholly or partially set aside in legal proceedings issued by either party before the District Court:

1. if the arbitration agreement was invalid,
2. if an arbitrator was unauthorised due to any circumstances set forth in Article 6,
3. if there were significant procedural during the arbitration,
4. if the arbitrators exceeded their mandate,
5. if the arbitral award does not fulfil the formal requirements of Article 8,
6. if it is evident that the arbitral award is founded on unlawful grounds or is contrary to public policy.

If an action has been brought before the District Court pursuant to paragraph 1, and the challenging party had not made objections during the arbitration regarding the grounds for the challenge, the award shall not be set aside unless the objections are irrelevant or it is justifiable that the objections were not made in due time. A settlement before an arbitral tribunal can be set aside in the same manner as a settlement reached before the District Courts.

If an action has been brought before the District Court pursuant to paragraph 1 the District Court judge can decide upon a request of a party to postpone the binding effects of the arbitral award whilst the District Court decides the case. The District Court may require the requesting party to provide appropriate security for the fulfilment of the arbitral award. A decision pursuant to this paragraph shall be made by a ruling that is subject to an appeal to the Supreme Court, in accordance with the Act on Civil Procedure.

Article 13

Unless stipulated otherwise in the arbitration agreement, an award or a settlement made before an arbitral tribunal shall be enforceable. The rules applicable to the enforcement of arbitral awards shall be the same as apply to the procedure of enforcement of judgements rendered by Icelandic courts and settlements made before Icelandic courts.

If a party brings an action before the national courts that is based upon an arbitral award or a settlement made before an arbitral tribunal, the opposing party may, before the same court challenge the award or the settlement on the same grounds as stipulated in Article 12.

Article 14

Arbitral awards which are rendered in accordance with international conventions to which Iceland is a party, shall be recognised and be enforceable in Iceland.

Other international arbitral awards shall be recognised and become enforceable if they fulfil the requirements of this Act.

To enforce arbitral awards referred to in paragraphs 1 or 2, the same rules as apply to the enforcement of foreign court judgements shall be applicable.

Article 15

This Act enters into force on 1 January 1990.