

LAW NO. 11/1995 ON JUDICIAL ARBITRATION WITH RESPECT TO CIVIL AND COMMERCIAL MATTERS

Article 1

There shall be formed at the Court of Appeal headquarters one or more arbitration panels consisting of three judges and two arbitrators. Each dispute party - even if there are several parties - shall select one of the arbitrators listed in the respective rolls at the Arbitration Department of the Court of Appeal or elsewhere. Should either arbitration party fails to do so within the next ten days following the arbitration departments order to him to select his own arbitrator, the said department shall appoint the next arbitrator on the rolls of arbitrators specialized in the dispute subject matter to be a member of the panel. The panel shall be presided over by the oldest judge who should be a consultant.

The panel secretary shall be one of the staff of the Court of Appeal. The panel shall hold its session at the Court of Appeal headquarters or at any place specified by the panel president. Appointment of judge arbitrators shall be made through a decision by the higher judicial council for two years as of its date of issue.

Article 2

The arbitration panel shall have the following powers:

- 1- Decide the disputes which the concerned parties agree to the referral thereof to the panel. It is also concerned with deciding the disputes resulting from contracts concluded after this law effective date, including the settlement thereof through arbitration, unless otherwise provided for in the respective contract or in a respective arbitration regulations.
- 2- Solely decide the disputes arising between ministries or government authorities or public corporate persons and the companies wholly owned by the state or between these companies.
- 3- Decide the arbitration applications filed by individuals or private corporate persons against the ministries or public bodies or corporate persons in the disputes arising between them. These bodies shall be bound with arbitration unless the dispute is already filed to the courts. The panel shall decide the disputes referred to it free of charge.

Article 3

The arbitration application shall be submitted to the Arbitration Department. This department shall register such application in the respective role on the submission date. The request shall be presented within the next three days following the selection of other arbitrators, to the president of arbitration panel to assess the amount which each arbitration party shall deposit for account of the legal fees in case of lack of prior notice from the arbitrator that these fees have been paid. The arbitration dept. shall request the arbitration parties to the deposit amount required from them into the treasury of the arbitration dept. within the following ten days. In case of failure to do so in time, the arbitration dept. shall notify the other party within the following five days thereof. He - if he desires to continue arbitration procedures - may deposit the required amount within the following ten days. If this time passed without deposit thereof by any litigant, the arbitration dept. shall present the arbitration application to the arbitration panel president for

reservation thereof and refund of whatever amount which a litigant may have deposited under account of the legal fees.

#### Article 4

Arbitration dept. shall present the arbitration application within the next three days following the deposit of the amount allocated for the fees of selected arbitrators to the arbitration panel president to set a session for deciding it. It shall notify both parties about such session and the full panel formation within the following five days and set a date for them to submit their documents and memos as well as their defenses. Such notice shall be made as stipulated in Article 179 of the Civil & Commercial procedures Law unless the dispute parties agree otherwise.

#### Article 5

The arbitration panel shall decide the initial matters presented to it in respect of the dispute as covered within the jurisdiction of civil or commercial courts and the pleas related to lack of jurisdiction, including those based on lack of arbitration agreement or cancellation or invalidity or non coverage or the dispute matter. These pleas should be insisted on before dealing with the subject mater. Furthermore, the plea for non coverage or arbitration agreement of the other party demands during the dispute trial should be insisted on, immediately upon presentation thereof, otherwise the right thereto will be cancelled.

The arbitration panel shall in all cases accept delayed pleas if it deems that delay is justified. The arbitration panel shall decide the said pleas before deciding the subject matter or annex them together for joint decision. It may issue verdicts and orders refer to in paragraphs a, b and c of Article 180 of civil & commercial procedures law.

The arbitration panel shall decide the summary matters related to the dispute matter under the parties expressly agree otherwise.

#### Article 6

The Court of Cassation shall decide any demand for rejection of any arbitration panel member and file the rejection demand by means of a report to be lodged to the Clerk Dept. of the Court of Cassation within five days as of the notice date to the rejection applicant about the formation of arbitration panel or the date of rejection cause or the date his knowledge thereof if subsequent thereto.

The submission of rejection application shall not result in the supervision of arbitration procedures. If the rejection is approved, the arbitration procedure which are carried out including the arbitration panel verdict for referral of the rejection demand may not be challenged by any way of challenge.

In case of verdict to reject any arbitrator or his resignation or dismissal for whatever reason, his substitute shall be appointed subject to the same procedures upon appointment of the former.

#### Article 7

The arbitration panel verdict shall be issued without time limitation as on exception to Article 8 of civil procedures law.

The arbitration panel verdict shall be made by majority of votes and shall be announced at a public hearing notified to the arbitration parties. It shall include in particular the brief agreement of arbitration the brief litigation sayings and their documents, the verdict reasons and text, issue date, place of issue and arbitrators signatures. The draft verdict containing such reasons and signed by arbitrators upon recital thereof shall be deposited also. If one or more arbitrators refused to sign the verdict, this should be referred to. A verdict shall be valid if signed by the majority of arbitrators even if one or more of them resigned or was dismissed after reservation of the case for decision and deliberation beginning. The original verdict putting an end to the litigation shall be lodged with the original agreement of arbitration at the Clerk Dept. - Court of Appeal within the next five days of the issuance date thereof. The arbitration panel verdict nor part thereof may not be published except under both parties agreement.

#### Article 8

The arbitration panel shall correct the material errors whether of written or accounting nature in its verdict and interpret it if its text contains ambiguity or confusion. It shall also decide the objective demands which it omitted. This shall be done in accordance with rules stipulated in Articles 124, 125 and 126 of Civil & Commercial procedures law. If this is impossible, these matters shall be within the jurisdiction of the court originally competent to decide the dispute. If the verdict is cosseted, the court of cassation shall be solely competent to correct the verdict material errors or interpretation thereof.

#### Article 9

The verdict issued by the arbitration panel shall be deemed as a binding order and enforceable as per the stipulated procedures of civil and commercial procedures law after endorsement of the writ of execution on the verdict by the Clerk Dept. - Court of Appeal.

#### Article 10

The verdict issued by the arbitration panel may be cosseted in the following cases:

- a) Violation, misapplication or misinterpretation of law.
- b) If the verdict or its subsequent procedures are invalid.
- c) If the arbitration panel ruled to the contrary of a previous verdict between the same litigants.
- d) If it is executive and binding, if it is issued by ordinary courts or an arbitration panel.
- e) In case of fulfillment of a reason which may lead to the submission of a petition for reconsideration.

The verdict issued by the arbitration panel may not be challenged by any other way of appeal.

#### Article 11

By virtue of Article 130 of civil and commercial procedures law, challenge shall be filed to the court of cassation in accordance with the stipulated procedures of the said law, within 30 days from the issuance date of the arbitration panel verdict in the cases stated in

paragraph a, b and c of the preceding article. This period shall start in the cases which fulfill one of the reasons stated in paragraph (d) of the said article as per article 149 of Civil and Commercial Procedures law. The appellant shall deposit 100 Dinar as a bail upon submission of appeal. The challenge for cassation shall be listed and decided as per the procedures of objection for cassation as per civil and commercial procedures law.

#### Article 12

The provisions of this law shall come into force in respect of arbitration panel contained herein and shall be subject to the provision of civil and commercial procedures law as long as not in contradiction with the provisions hereof. Article 177 of civil and commercial procedures law is hereby cancelled.

#### Article 13

The Minister of Justice shall issue necessary decisions to enforce this law provided that the same should include the provisions related to the regulation of arbitration dept. - court of appeal - as well as registration in the arbitrators roles and procedures of their selection, replacement and fees assessment.

#### Article 14

This law shall be published in the official gazette. It shall come into force one month after its issuance date. Ministers - each within his powers - shall execute this law