

Law of the Republic of Kazakhstan On International Commercial Arbitration

This Law shall govern relations arising in the process of international commercial arbitration in the Republic of Kazakhstan, and the procedure for and conditions of recognition and enforcement international arbitral awards in Kazakhstan.

Chapter 1. General Provisions

Article 1. Scope of application

This Law shall apply to disputes which have arisen from civil law contracts with the participation of individuals and legal entities, to be resolved by international commercial arbitration unless legislative acts of the Republic of Kazakhstan establish otherwise.

Article 2. Principal concepts used in this Law

The following concepts are used in this Law:

- 1) arbitration – an international commercial arbitration expressly established to resolve a specific dispute or operating on a permanent basis as well as an arbitrator considering a dispute solely;
- 2) arbitrator – an individual elected or appointed by the parties in the agreed procedure in accordance with this Law for resolving a dispute;
- 3) arbitral proceedings – the process of examining a dispute in an arbitration and making an award;
- 4) arbitration agreement – a written agreement by the parties to a contract to submit to arbitration disputes which have arisen and which may arise between them. It may be concluded in the form of an arbitration clause in a contract or in an exchange of letters, telegrams, telephone messages, telex, fax, electronic documents or other documents which define the subjects and contents of the expression of their will;
- 5) arbitral award – an award made by the arbitration;
- 6) competent court – a court of the judicial system of the Republic of Kazakhstan, which – in accordance with the civil procedure legislation of the Republic of Kazakhstan – is authorized to examine a case over a dispute between the parties to a contract under the original jurisdiction;
- 7) customs of business turnover – habitual and widely used in the field of civil law contracts rules of conduct, which do not contradict the applicable law, regardless of whether they were recorded in a document;
- 8) arbitration rules – the procedure for the activity of a permanent international commercial arbitration;
- 9) commercial enterprise – a legal entity of the Republic of Kazakhstan or a foreign entity whose main objective is to gain a profit;
- 10) public policy of the Republic of Kazakhstan – the basis of the state and social order provided by the legislation of the Republic of Kazakhstan.

Article 3. Legislation of the Republic of Kazakhstan on international commercial arbitration

1. The legislation of the Republic of Kazakhstan on international commercial arbitration shall be based on the Constitution of the Republic of Kazakhstan and shall consist of this Law and other normative legislative acts of the Republic of Kazakhstan.
2. If international treaties ratified by the Republic of Kazakhstan establish regulations which differ from those contained in this Law, the provisions of the international treaty shall be applied.

Article 4. Principles of arbitral proceedings

Arbitral proceedings shall be conducted subject to the following principles:

- 1) autonomy of the parties' will meaning that the parties shall, by prior agreement between themselves, have the right to independently determine the procedure for and conditions of arbitral proceedings in respect of a dispute;
- 2) legitimacy meaning that when making decisions, arbitrators and arbitration courts shall only be governed by provisions of applicable law as per the parties' agreement;
- 3) adversary proceedings and equal rights between the parties meaning that the parties to arbitral proceedings shall have equal rights and responsibilities, and select their positions and the means and manner of defending the same on their own, independent from the arbitration court, other authorities and persons;
- 4) equity meaning that when examining disputes, arbitrators, arbitration courts and the parties to arbitral proceedings shall act in good faith and observe statutory rules, the moral principles of the society, and rules of business ethics;
- 5) confidentiality meaning that arbitrators shall not divulge information, which became known to them in the course of arbitral proceedings, without prior consent of the parties or their legal successors, and may not be interrogated as witnesses with respect to circumstances that became known to them in the course of arbitral proceedings, save in the cases where the law explicitly provides for the duty of a citizen to report information to a relevant body.

Article 5. Inadmissibility of interference in the activity of an arbitration court

When resolving disputes, arbitrators and arbitration courts shall be independent and make decisions in an environment which excludes any influence upon them by the State bodies and other organizations.

Article 6. Referral of a dispute for examination by an arbitration court

1. A dispute may be referred for examination by an arbitration court if there is an arbitration agreement between the parties.
2. An arbitration agreement may be concluded by the parties in relation to disputes which have arisen or may arise between the parties from a specific civil law contract.
3. An arbitration agreement in relation to a dispute, which is being examined by a competent court, may be concluded prior to the passing of a judgment by this court. Such being the case, the competent court shall issue a ruling to dismiss an application [a statement of claim].
4. Disputes arising from civil law contracts between individuals and commercial and other organiza-

tions may by agreement between the parties be referred to arbitration if at least one of the parties is a non-resident of the Republic of Kazakhstan.

Chapter 2. Composition of the Arbitration Court

Article 7. Arbitrators

1. An individual who is not directly or indirectly interested in the outcome of a case, independent of the parties, has agreed to act as an arbitrator, has reached twenty-five years of age, and has a higher education, shall be elected (appointed) an arbitrator.

2. An arbitrator examining a case solo must have a higher education in law and work experience in law for at least two years. In collegial examination of a case, the presiding arbitrator of the court must have a higher education in law.

3. Requirements for prospective arbitrators may be agreed upon by the parties or specified by the arbitration rules.

4. An individual may not be an arbitrator, if he/she:

- 1) is elected or appointed as a judge of the competent court in the procedure established by a legislative act of the Republic of Kazakhstan;
- 2) is declared by the competent court legally incapable or of limited legal capability in the procedure established by law of the Republic of Kazakhstan;
- 3) has a record of unquashed or outstanding conviction;
- 4) is a civil servant.

Article 8. Number of arbitrators

1. The parties are free to determine the number of arbitrators which must be odd.

2. Unless the parties have agreed otherwise, three arbitrators shall be elected (appointed) to resolve a dispute.

Article 9. Composition of the arbitration court

1. The arbitration court shall be formed by way of electing (appointing) arbitrators (an arbitrator).

2. In a permanent arbitration court, the arbitration court shall be formed in the procedure established by the rules of the permanent arbitration court.

3. In an arbitration for settlement of a specific dispute, the arbitration court shall be formed in the procedure agreed by the parties.

4. A citizen of the Republic of Kazakhstan, a foreign person or a stateless person may by agreement between the parties be elected as an arbitrator.

5. Unless the parties have agreed otherwise, an arbitration for settlement of a specific dispute shall be formed as follows:

- 1) in an arbitration with three 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 sixty days of receipt of a request to do so from the other party, or if the two appointed arbitrators fail to agree on the third arbitrator within sixty days of their appointment, the arbitrator may be appointed by the chairman of a permanent arbitration court;

2) in an arbitration with a sole arbitrator, if within sixty days after receipt by a party of a proposal to appoint the arbitrator the parties fail to do so, the arbitrator may be appointed by the chairman of a permanent arbitration court.

Article 10. Challenge of an arbitrator

1. The parties may challenge an arbitrator if he/she does not comply with the requirements set forth in Article 7 of this Law.

2. A prospective arbitrator shall disclose to those who approach him/her in connection with his/her possible election (appointment) any circumstances which are the grounds for his/her challenge in accordance with Article 7 of this Law. If such circumstances arise in the course of arbitral proceedings, the arbitrator shall immediately notify the parties about them and withdraw.

3. A party may challenge the arbitrator appointed by him/her under this Article provided that the circumstances on which the challenge is based become known to him/her after the appointment has been made.

4. In a permanent arbitration court, the procedure for challenge of an arbitrator may be established by its rules.

5. In an arbitration for settlement of a specific dispute, the procedure for challenge of an arbitrator may be agreed upon by the parties.

6. If the procedure for challenge of an arbitrator has not been agreed by the parties or established by the rules of a permanent arbitration court, a party who intends to challenge an arbitrator shall send a written reasoned statement on challenge of an arbitrator within thirty days after the circumstances on which the challenge is based became known to that party.

Unless the challenged arbitrator withdraws or one of the parties agrees to the challenge, the decision on the challenge shall be made by the arbitrators of the arbitration court within ten days of receipt of the written reasoned statement of the party.

The decision on the challenge of a sole arbitrator shall be made by that arbitrator.

If a sole arbitrator refuses to satisfy a petition of one or both parties, or one of the parties does not agree to the challenge, the decision on the challenge shall be made by the parties' entering into an agreement on the termination of arbitral proceedings.

Article 11. Termination of the arbitrator's powers

1. The arbitrator's powers may be terminated by agreement between the parties on the grounds provided by this Law as well as in the event of the persistent failure to perform his/her functions due to illness or death.

2. When the powers of the arbitration court or of a sole arbitrator are terminated, proceedings related to the dispute under examination shall be suspended until another arbitrators have been elected (appointed).

3. The arbitrator's powers shall be terminated after making an award on the case. In the events envisaged by Article 30 of this Law the powers of an arbitrator shall be resumed and then terminated after performing procedural acts specified in the said Article.

Article 12. Replacement of an arbitrator

When the arbitrator's powers are terminated, a substitute arbitrator shall be elected (appointed) pursuant to the rules which were applicable to the election (appointment) of the arbitrator being replaced.

The substitute arbitrator thus elected (appointed) shall have the right to repeat hearings of the case.

Chapter 3. Arbitration Costs

Article 13. Arbitration costs

1. The costs of the arbitration shall include:

the arbitrators' fees;

expenses incurred by the arbitrators in connection with arbitral proceedings, including traveling, accommodation, and meals expenses associated with traveling to the place of arbitration;

sums payable to experts and translators/interpreters;

expenses incurred by the arbitrators in connection with inspection and study of written and physical evidence at its place of location;

expenses incurred by witnesses;

expenses on paying for the services of a representative by the party in whose favor the award was issued; and

expenses on organizational and logistics support of arbitral proceedings.

2. In a permanent arbitration, the arbitrators' fees shall be determined by the arbitration court in accordance with the schedule of fees provided by the rules of the permanent arbitration court.

If the rules of the permanent arbitration court do not specify a fixed rate of arbitrators' fees, the arbitration court may determine the rate of arbitrators' fees for each specific case with regard to the value of a claim, complexity of the dispute, time spent by arbitrators in carrying out arbitral proceedings, and other circumstances pertaining to the case.

3. In an arbitration for settlement of a specific dispute, the rate of arbitrators' fees shall be determined by agreement of the parties, and in the absence of such agreement by the arbitration court for resolving a specific dispute in the procedure set out for a permanent arbitration court.

Article 14. Distribution of the arbitration costs

1. The costs associated with the dispute resolution in arbitration shall be distributed by the arbitration court in accordance with the agreement of the parties, and in the absence of such agreement, in proportion to satisfied and denied claims.

2. The costs associated with payment for the services of a representative by the party in whose favor the award was issued, and other expenses relating to arbitral proceedings may be charged to the other party subject to a decision of the arbitration court if a claim to compensate expenses incurred is made in the course of arbitral proceedings and is satisfied by the arbitration court.
3. Distribution of the arbitration costs shall be specified in an award or ruling of the arbitration court.

Chapter 4. Jurisdiction of the Arbitration Court

Article 15. The right of the arbitration court to rule on its own jurisdiction

1. The arbitration court is free to rule on the existence or lack of its jurisdiction to examine a dispute, including in the events where one of the parties objects to arbitral proceedings on the ground of invalidity of the arbitration agreement.
2. A party shall have the right to raise a plea that the arbitration court does not have jurisdiction to examine a dispute before the submission of the first statement on the merits of the dispute.
3. A party shall have the right to raise a plea that the arbitration court is exceeding the scope of its authority if in the course of arbitral proceedings a subject-matter of the proceedings has become the matter which is not envisaged by the arbitration agreement, or which cannot be the subject-matter of arbitral proceedings in accordance with norms of law being applied to these proceedings or the rules of arbitral proceedings.
4. The arbitration court must examine a plea filed in accordance with clauses 2 and 3 of this Article within ten days. Upon the results of considering the plea, a ruling shall be issued.
5. If the arbitration court, when examining the matter of its jurisdiction, issues a ruling on the lack of jurisdiction of the arbitration court to consider a dispute, then it may not examine the dispute on its merits.

Chapter 5. Conduct of Arbitral Proceedings

Article 16. Determination of rules of arbitral proceedings

1. A permanent arbitration court shall conduct arbitral proceedings in accordance with its rules.
2. An arbitration for settlement of a particular dispute shall conduct arbitral proceedings in accordance with the rules agreed upon by the parties.

Arbitral proceedings rules which are not specified by the rules of the permanent arbitration court and provisions of this Law and are not agreed upon by the parties shall be determined by the arbitration court.

Article 17. Place of arbitration

The parties may agree on the place of arbitration at their discretion. Failing such agreement, the place of arbitration shall be determined by the arbitration court having regard to the circumstances of the case, including the convenience of the parties.

Article 18. Statement of Claim and Statement of Defense

1. The claimant shall set forth its claims in a statement of claim to be filed with the arbitration court in writing. A copy of the statement of claim shall be communicated to the respondent.
2. The statement of claim shall include the following:
 - 1) the date of filing of the statement of claim;
 - 2) the names, mailing addresses, and bank details of the parties;
 - 3) grounds for application to the arbitration court;
 - 4) a statement of the demands of the claimant;
 - 5) the circumstances on which the claimant is basing its demands;
 - 6) evidence confirming the grounds for claims;
 - 7) the amount claimed by the action, if the claim is subject to valuation; and
 - 8) a list of documents and other materials enclosed to the statement of claim.

The statement of claim shall be signed by the claimant, or by the claimant's representative with the enclosed original power of attorney or another document attesting to the powers of the representative.

3. The arbitration rules may provide for additional requirements for the content of the statement of claim.
4. The respondent shall have the right to present to the claimant and arbitration court a statement of defense containing its objections to the action. The statement of defense shall be communicated to the claimant and arbitration court in the procedure and within the deadline specified by the arbitration rules.

If the arbitration rules do not specify the deadline for filing the statement of defense, then it shall be presented at least ten days before the first hearing of the arbitration court, unless otherwise established by this Law.

5. In the course of arbitral proceedings a party may amend or supplement its claims or objections to the action.

Article 19. Commencement of arbitral proceedings

Unless otherwise agreed by the parties, the arbitral proceedings in respect of a particular dispute shall commence on the date on which a notice that the dispute has been referred to arbitration is received by the respondent.

Article 20. Returning a statement of claim

1. The arbitration court shall return the statement of claim if:
 - 1) there is no arbitration agreement between the parties;
 - 2) the claim is filed with the arbitration court not envisaged by the arbitration agreement;
 - 3) the subject-matter of the claim is beyond the scope of the arbitration agreement;
 - 4) it was signed by a person not authorized to do so;
 - 5) the claimant has filed an application to return the statement of claim;
 - 6) the same court or another arbitration court is processing a case involving a dispute between the same parties, regarding the same subject-matter, and on the same grounds.
2. Upon returning the statement of claim, the arbitration court shall issue a substantiated ruling.

3. The return of the statement of claim shall not prevent the claimant from re-applying to the arbitration court with an action against the same respondent, regarding the same subject-matter, and on the same grounds.

Article 21. Language of arbitral proceedings

1. The parties may, at their discretion, agree on the language or languages to be used in the arbitral proceedings. Failing such agreement, the arbitration court shall establish the state language, along with Russian or other languages, to be used in arbitral proceedings on an equal basis with the state language.

Case participants who have not mastered the language in which the arbitral proceedings are being conducted shall be given the right to review case materials and participate in the arbitral proceedings through an interpreter, and speak in the arbitration court in their native language.

2. The party presenting documents and other materials in a language other than the language(s) of the arbitral proceedings shall submit a translation thereof. Such being the case, the arbitration rules or agreement between the parties may establish additional requirements.

3. The arbitration court may oblige the parties to provide a translation of documents and other materials into the language(s) of arbitral proceedings.

Article 22. Failure by a party to present documents or to appear

1. Failure to present documents and other materials, and to appear in arbitration sessions by one of the parties or their representatives, having been duly notified of the time and place of the arbitration session, shall not impede the conduct of arbitral proceedings and issuance of the award by the arbitration court, if the arbitration court deems the reason of the failure to present documents and other materials or to appear in arbitration sessions invalid.

2. The respondent's failure to present objections to the action cannot be considered the respondent's admission of the claimant's demands.

Article 23. Rights of the parties

The parties participating in the arbitral proceedings shall be entitled:

- 1) to acquaint themselves with case materials, and make copies from the same;
- 2) to present evidence;
- 3) to file petitions, and to petition for recusal of arbitrators;
- 4) to pose questions to case participants, and to give oral and written explanations;
- 5) to make arguments on all matters arising in the course of the proceedings;
- 6) to object to the petitions and arguments of the other party;
- 7) to petition the competent court for enforcement of an arbitral award in accordance with the legislation of the Republic of Kazakhstan; and
- 8) to appeal arbitral awards in cases provided by this Law.

Article 24. Experts appointed by the arbitration court

1. Unless the parties to arbitral proceedings agreed otherwise, the arbitration court may:

- 1) appoint one or several experts to report to the arbitration court on specific issues to be determined by the arbitration court;
- 2) require a party to give the expert any relevant information or to produce or provide access to any

relevant documents, goods or other property for inspection by the expert.

2. Unless otherwise agreed by the parties, if a party so requests or if the arbitration court considers it necessary, the expert shall, after delivery of his/her written or oral report, participate in a hearing at which the parties shall have the opportunity to question the expert and to present expert witnesses in order to testify on the points at issue.

Article 25. Assistance of a competent court in securing the claim and obtaining evidence

1. The parties to arbitral proceedings may apply to a competent court for measures to secure the claim.
2. An application for security of a claim being examined by the arbitration court shall be filed with a competent court at the place of arbitral proceedings or location of property in relation to which the measures to secure the claim may be taken.
3. The examination by the competent court of an application for security of a claim being considered by the arbitration court and issuance of a ruling to secure the claim or refusal to secure the same shall be carried out in the procedure established by the civil procedure legislation of the Republic of Kazakhstan.
4. A ruling to secure a claim being examined by the arbitration court may be cancelled by the competent court which issued that ruling pursuant to an application of one of the parties.
5. The arbitration court or a party with the arbitration court's consent may apply to a competent court seeking assistance in obtaining evidence. The competent court shall examine the application in accordance with the legislation of the Republic of Kazakhstan.

Chapter 6. Making of an Award and Termination of Proceedings

Article 26. Norms applicable to the merits of the dispute

1. The arbitration court shall decide the dispute in accordance with the rules of law chosen by the parties as applicable to the examination of the dispute. Any designation of the law or legal system of a given state shall be construed as directly referring to the substantive law of that state and not to its conflict of laws rules.
2. If the parties have not reached an agreement on applicable law, the arbitration court shall determine the applicable law in accordance with the legislation of the Republic of Kazakhstan.
3. In the absence of the rules governing a specific legal relationship, the arbitration court shall decide in accordance with the customs of business turnover applicable to the given transaction.

Article 27. Amicable settlement

1. If the parties agree on a settlement of the dispute in the course of arbitral proceedings, the arbitration court shall terminate the proceedings and, at the request of the parties, record the settlement in the form of an arbitral award on agreed terms.
2. The arbitral award on agreed terms shall be issued in accordance with the provisions of Article 28 of this Law. Such an award shall be subject to execution in the same manner as any other award on the merits of the dispute.

Article 28. Form and content of the award

1. The award shall be made in writing and shall be signed by the arbitrators, including the arbitrator having a special opinion, whose opinion in writing is an integral part of the award. If the arbitral proceedings were carried out collegially, the award may be signed by the majority of arbitrators provided that the valid reason for any omitted signatures of other arbitrators is stated.
2. The award shall contain its date and place of arbitration, and state the reasons upon which it is based.
3. After the award is made, a copy of the award shall be served or sent to each party.

Article 29. Termination of arbitral proceedings

1. Arbitral proceedings shall be terminated by a ruling on the termination of the arbitral proceedings on the grounds provided by clause 2 of this Article.

2. The arbitration court shall issue a ruling on the termination of the arbitral proceedings when:

the claimant has withdrawn his claim and such withdrawal has been accepted by the arbitration court, unless the respondent objects to the termination of the arbitral proceedings due to his/her legitimate interest in the settlement of the dispute on its merits;

the arbitration court has issued a ruling that it has no jurisdiction to examine a dispute;

there exists a judgment of the competent court or arbitration court that has entered into legal force and was issued in relation to a dispute between the same parties, regarding the same subject-matter, and on the same grounds;

the parties have agreed on the termination of the arbitral proceedings;

a commercial organization that was a party to arbitral proceedings has been liquidated;

an individual who was one of the parties to arbitral proceedings has died (declared deceased) or is declared missing.

Article 30. Correction and interpretation of the award. Additional award.

1. Within sixty days of receipt of the award, unless the parties have agreed on another term,

1) either party, with notice to the other party, may request the arbitration court to correct in the award any errors in computation, clerical or typographical errors or any errors of a similar nature;

2) either party, with notice to the other party, may request that the arbitration court give an interpretation of any specific clause or part of the award.

If the arbitration court considers the request to be justified, it shall make the corrections or give an interpretation within 30 days of receipt of the request. The interpretation shall form part of the award.

2. The arbitration court may correct any error of the nature described in clause 1.1) of this Article on its own initiative within 30 days of the date of the award.

3. Unless the parties have agreed otherwise, either party, with notice to the other party, may, within 60

days of receipt of the award, request the arbitration court to make an additional award as to claims presented in the arbitration but not determined in the award. If the arbitration court considers the request to be justified, it shall make the additional award within 60 days of receipt of the request.

4. Where necessary, the arbitration court may extend a term, but by no more than 60 days, within which it is necessary to correct errors, give an interpretation or make an additional award in accordance with clause 1 or 3 of this Article.

Chapter 7. Appeal of the Award

Article 31. Petition seeking the cancellation of the award

1. Awards may be appealed in the competent court only by way of submitting a petition seeking the cancellation in accordance with clauses 2 and 3 of this Article.

2. An award may be cancelled by the competent court only if:

1) the party filing a petition seeking the cancellation furnishes proof that:

a party to the arbitral proceedings was declared legally incapable, or the arbitration agreement is not valid under the law to which the parties have subjected it, and in the absence of such reference, under the law of the Republic of Kazakhstan;

the party was not given a proper notice of the appointment of an arbitrator or of the arbitral proceedings, or was unable to submit explanations for other reasons deemed valid by the competent court;

the award was issued in relation to a dispute not contemplated by or not falling within the terms of the arbitration agreement, or it contains decisions on matters beyond the scope of the arbitration agreement, or a dispute is not subject to the jurisdiction of the arbitration court;

If the decisions on matters covered by the arbitration agreement can be separated from those not so covered, only that part of the award which contains decisions on matters not covered by the arbitration agreement may be cancelled;

the composition of the arbitration court or the arbitral procedure was not in accordance with the agreement of the parties and arbitration rules;

2) the competent court finds that the award is in conflict with the public policy of the Republic of Kazakhstan, or the dispute in relation to which the award was issued cannot be the subject of arbitral proceedings under the law of the Republic of Kazakhstan.

3. A petition seeking the cancellation may not be filed after three months have elapsed from the date on which the party filing that petition had received the award or, if a request had been made under Article 30 of this Law, from the date on which that request had been disposed of by the arbitration court.

4. Pursuant to a petition of one of the parties, the competent court may suspend the proceedings in relation to the petition seeking the cancellation of the award for a period of time determined by it in order to resume the arbitral proceedings or to take other measures that will eliminate the grounds for cancellation of the award.

5. The competent court shall issue a ruling pertaining to the cancellation of the award. This ruling may

be appealed or protested in accordance with the civil procedure legislation of the Republic of Kazakhstan.

Chapter 8. Recognition and Enforcement of Awards

Article 32. Recognition and enforcement of an award in the Republic of Kazakhstan

1. An award shall be deemed binding and, upon a written application to the competent court, shall be enforced in accordance with the legislation of the Republic of Kazakhstan.

An award issued in a foreign state shall be recognized by the competent court and shall be enforced by enforcement authorities on a reciprocal basis.

2. The party relying on an award or applying for its enforcement shall supply the [original] award and [original arbitration] agreement or duly certified copies thereof. If the award or agreement is made in a foreign language, the party shall supply a duly certified translation thereof into the state or Russian language.

Article 33. Grounds for refusing recognition or enforcement of an award

1. The competent court shall refuse to recognize or enforce an award irrespective of the country in which it was made, on the following grounds:

1) if that party furnishes to the competent court proof that:

one of the parties to the arbitration agreement was declared by the competent court legally incapable or of limited legal capability;

the arbitration agreement is not valid under the law to which the parties have subjected it;

the party against whom the award is invoked was not given a proper notice of the appointment of an arbitrator or of the arbitral proceedings, or was unable to submit explanations for other reasons deemed valid by the competent court;

the award was issued in relation to a dispute not contemplated by or not falling within the terms of the arbitration agreement, or it contains decisions on matters beyond the scope of the arbitration agreement, or a dispute is not subject to the jurisdiction of the arbitration court.

If the decisions on matters covered by the arbitration agreement can be separated from those not so covered, only that part of the award which contains decisions on matters not covered by the arbitration agreement may be cancelled;

the composition of the arbitration court 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;

the award has not yet become binding on the parties or has been cancelled or suspended by a court of the country, under the law of which that award was made;

2) If the competent court establishes that the recognition and enforcement of the award is contrary to the public policy of the Republic of Kazakhstan, or the dispute in relation to which the award was made cannot be the subject of the arbitral proceedings under the law of the Republic of Kazakhstan.

2. The competent court shall issue a ruling pertaining to the recognition and enforcement of the award.

This ruling may be appealed or protested in accordance with the civil procedure legislation of the Republic of Kazakhstan.

President of the Republic of Kazakhstan
N. Nazarbayev

Astana. Akorda. 28 December 2004
No. 23-III ZRK