

Law No. 95-17 on Arbitration and Conventional Mediation

Reference: Dahir No. 1-22-34 of 23 Chaoual 1443 (24 May 2022) promulgating Law No. 95-17, repealing Chapter VIII of the Code of Civil Procedure introduced by Law No. 08-05

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Practice areas: Arbitration and mediation, Litigation and court proceedings, Business law, Commercial law and debt recovery

Law 95-17 modernises Moroccan law on domestic and international arbitration and on conventional mediation: arbitration agreement, constitution of the arbitral tribunal, procedure, award, application for annulment and exequatur, online arbitration, and mediation agreement.

Arbitration agreement

- Arbitration clause or submission agreement, which must be in writing, including by electronic exchange (Arts. 3 to 6).
- Disputes relating to contracts entered into by legal persons governed by public law may be submitted to arbitration, except for excess of power and tax matters (Art. 12).
- A judge seised of a dispute covered by an arbitration agreement must decline jurisdiction if a party so requests.

Procedure and award

- The parties freely set the rules; failing that, the arbitral tribunal determines them (Art. 29 et seq.).
- The award is reasoned, signed and rendered within the agreed time limit or, failing that, within six months.
- Exequatur by the President of the competent court; application for annulment within fifteen days of service on limited grounds (no agreement, irregular composition of the tribunal, breach of public policy, etc.).

Conventional mediation

- Written mediation agreement entrusting a third party with facilitating a settlement (Art. 85 et seq.).
- The settlement reached through mediation has the force of res judicata between the parties and may be granted exequatur.

Key articles

ART. 2

Arbitration is a method of settling disputes by an arbitral tribunal to which the parties entrust, under an arbitration agreement, the task of deciding the dispute between them.

Points to watch

- Draft the arbitration clause precisely: seat, language, number of arbitrators, institution, applicable law.
- Arbitration costs more than court proceedings but remains faster and confidential; it is particularly suited to international contracts.

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