DELOS
dispute resolution

ARGENTINA

DELOS GUIDE TO ARBITRATION PLACES (GAP)

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There have not been any material changes requiring an update to this chapter (including the traffic lights) since the date of the latest version. Nonetheless, please note that this chapter does not constitute legal advice and its authors, the contributing law firm and Delos Dispute Resolution decline all responsibility in this regard.

IN-HOUSE AND CORPORATE COUNSEL SUMMARY

Law No. 27.449 regarding international commercial arbitration was passed on 25 July 2018 and published in the official bulletin on 26 July 2018. It since governs any and all questions regarding international commercial arbitration under Argentinian law as of its publications and implements substantial changes in this regard. This GAP Chapter on Argentina is currently being updated to incorporate the provisions and implications of the new law and will be published shortly.

Argentine arbitration law is composed of two different regulations: (i) a chapter on the Arbitration Agreement contained in the Civil and Commercial Code enacted by the National Congress and applicable nation-wide; (ii) regulations of the procedural aspects of the arbitration contained in the Civil and Commercial procedural Codes (enacted by each province) and in the National Civil and Commercial Procedural Code respectively applicable in each province and in the federal jurisdiction. These procedural codes provide for the recourses available after an award has been rendered (such as annulment and clarification requests) and the terms, grounds, and conditions for their filing.

Key places of arbitration in the jurisdiction	Buenos Aires.
Civil law / Common law environment?	Civil law jurisdiction.
Confidentiality of arbitrations?	Not explicitly stated but parties may agree on it.
Requirement to retain (local) counsel?	Not necessary.
Ability to present party employee witness testimony?	Not forbidden.
Ability to hold meetings and/or hearings outside of the seat?	Yes.
Availability of interest as a remedy?	This matter is regarded as a part of substantive law.
Ability to claim for reasonable costs incurred for the arbitration?	The National Civil and Commercial Procedural Code provide that arbitrators must allocate costs to the losing party unless they find that the circumstances of the case do not justify it. Parties may agree on a different cost allocation (either directly or through the adoption of institutional rules).
Restrictions regarding contingency fee arrangements and/or third-party funding?	Local bar rules allow lawyers to agree on contingency fees for up to 30% of the value of the awarded amount. There is no provision on third-party funding.
Party to the New York Convention?	Yes, with reservations with regard to reciprocity and commercial disputes.
Other key points to note	ϕ
WJP Civil Justice score (2018)	0.57

ARBITRATION PRACTITIONER SUMMARY

Law No. 27.449 regarding international commercial arbitration was passed on 25 July 2018 and published in the official bulletin on 26 July 2018. It since governs any and all questions regarding international commercial arbitration under Argentinian law as of its publications and implements substantial changes in this regard. This GAP Chapter on Argentina is currently being updated to incorporate the provisions and implications of the new law and will be published shortly.

The new Civil and Commercial Code, which has been in force since August 1st, 2015, contains a chapter on the arbitration agreement, which applies to both international and domestic arbitration. It does not apply to arbitrations to which the State or the Provinces are parties.

This chapter includes provisions on the: definition, form, content and effects of the arbitration agreement; types of disputes that may not be subject to arbitration; interim measures; appointment of arbitrators and challenging their appointment; and duties and compensation of arbitrators.

The National Civil and Commercial Code's chapter on the arbitration agreement does not regulate the procedural aspects of the arbitration. So, the chapter on the arbitration agreement is complemented with the existence of procedural regulations of arbitration in provincial procedural codes and in the National Civil and Commercial Procedural Code (1968), respectively applicable in each province and in the federal jurisdiction. These procedural codes provide for the recourses available after an award has been made (such as appeal, annulment and clarification requests) and the terms, grounds, and conditions for their filing.

The recognition and enforcement of foreign arbitral awards is primarily governed by the treaties signed and ratified by Argentina, notably the New York Convention, the OAS Inter-American Convention on International Commercial Arbitration 1975 (Panama Convention) and the Inter-American Convention on Extraterritorial Validity of Foreign Judgments and Arbitral Awards 1979.

Date of arbitration law?	The new Civil and Commercial Code, which has been in force since August 1st, 2015.
UNCITRAL Model Law? If so, any key changes thereto?	Currently the Executive Power has drafted a bill based on the Model Law that would apply exclusively to international commercial arbitrations. It has been approved by the Senate and is currently being analyzed by the House of Representatives.
Availability of specialised courts or judges at the key seat(s) in the jurisdiction for handling arbitration-related matters?	There are no specialized courts or judges for arbitration-related matters.
Availability of *ex parte* pre-arbitration interim measures?	A tribunal may adopt *ex parte* interim measures (Article 1655 of the National Civil and Commercial Code) that are expressly allowed in domestic proceedings. In this regard, the power of judges to grant interim measures is very broad since the National Civil and Commercial Procedural Code expressly authorizes to grant any measure that may be necessary to provisionally ensure the enforcement of the final judgment under the circumstances (Section 230 of the NCCPC).

	However, the arbitrators' duty to ensure the equal treatment of the parties (Article 1662, Civil and Commercial Code) may be interpreted as imposing some limitations on their ability to adopt *ex parte* interim measures and arbitrators may decide to hear both parties before adopting any measure. That is why, in practice, Argentine lawyers prefer to request interim measures before domestic courts.
Courts' attitude towards the competence-competence principle?	Unless otherwise stated in the arbitration agreement, the arbitrators have the power to decide on their own jurisdiction, which includes the power to rule on the existence or the validity of the arbitration agreement (Article 1654, Civil and Commercial Code). Article 1656 of the Code recognizes the concept of *Kompentenz-Kompetenz*. It states that courts must refuse jurisdiction if the dispute is brought before them, unless the arbitral tribunal has not been constituted yet and the arbitration agreement is manifestly void or inapplicable. In *Francisco Ctibor SACI v. Wallmart* (2016) the Commercial Court of Appeal held that, according to this article 1656, the courts' intervention prior to the constitution of the arbitral tribunal is limited to cases in which the nullity of the arbitration agreement is evident and clear.
Grounds for annulment of awards additional to those based on the criteria for the recognition and enforcement of awards under the New York Convention?	According to Articles 760 and 761 of the National Civil and Commercial Procedural Code, an award issued in an arbitration at law may be annulled on the following grounds: • Essential procedural errors: Courts may only annul an award based on the existence of procedural flaws that affect due process but may not review the merits of the case. It is similar to Article V.1.b) of the New York Convention. • Award rendered after the term to do so has elapsed. • Award decides issues not submitted to the Arbitral Tribunal. It is similar to Article V.1.c) of the New York Convention. • Award is inconsistent or contains contradictory decisions. This ground is limited to the dispositive part of the award. Apart from these statutory grounds, in cases where a State entity is a party to the arbitration, the Argentine Supreme Court has held that an award may also be annulled if it is contrary to public policy or it is illegal, unreasonable or unconstitutional (*Cartellone. c. Hidroeléctrica Norpatagónica S.A.*, 2004). The 2015 reform has not affected the existence of this non-statutory ground. Concerning arbitration in equity (*amiable compositeur*), the award may not be appealed and it may be annulled if it was rendered after the time limit or if it decides issues not submitted to the arbitral tribunal (Section 771 of the National Civil and Commercial Procedural Code). Argentine commentators

	consider that the existence of essential procedural errors constitutes a non-statutory ground of annulment.
Courts' attitude towards the recognition and enforcement of foreign awards annulled at the seat of the arbitration?	There are no precedents from Argentine Courts interpreting the New York Convention on this issue.
Other key points to note?	• Argentine Commercial courts, in general, do not interfere with arbitration proceedings between private parties and have consistently refused to review the merits of awards. There are some isolated precedents in which the Commercial Court reviewed the interpretation of the contract made by the arbitral tribunal (*EDF International v. Endesa Internacional*, 2009) on the ground that the award had disregarded the applicable Argentine Law. However, no similar decision has been issued since. In disputes involving the Argentine State or other State parties, the risk of unreasonable domestic court intervention is significantly higher. • The existence of multiple – and sometimes contradictory – sources of law (Civil and Commercial Code and Civil and Commercial Procedural Codes in each province) hinders the existence of a modern arbitration law. The recent Arbitration Bill sent to Congress based on the UNCITRAL Model Law would provide a uniform regulation of international arbitration (for disputes primarily based on private law) thus limiting the scope of the Civil and Commercial Code and of all the provincial procedural codes to domestic arbitration. • Argentina still lacks a regulatory framework for the arbitration of disputes not primarily governed by private law –such as disputes concerning State parties based on public law– since the current Civil and Commercial Code does not apply to this type of dispute. It would be desirable to have a predictable legal framework for arbitration with state-owned companies or with the Argentine State.

JURISDICTION DETAILED ANALYSIS

1. The legal framework of the jurisdiction

1.1 Is the arbitration law based on the UNCITRAL Model Law?

The current Argentine arbitration regulation is not based on the Model Law.

According to Section 75.12 of the Argentine Constitution, the National Congress has the power to enact the Criminal, Civil, Commercial and Labor codes, which are applicable nation-wide. In light of this provision, Congress can regulate all matters related to contract law. Against this background, the new Civil and Commercial Code in force since 2015 contains a chapter on the arbitration agreement that includes provisions on the definition, form, content, effects of the arbitration agreement, the types of disputes that may not be subject to arbitration, the issuance of interim measures the appointment and challenge of arbitrators and their duties and compensation. This regulation does not apply to controversies in which the State or any Province is a party (Article 1651).

The National Civil and Commercial Code's chapter on the arbitration agreement does not regulate the procedural aspects of arbitration. Thus, the National Civil and Commercial Code chapter is complemented with the existence of procedural regulations of arbitration in provincial and national procedural codes, respectively applicable in each province and in the federal jurisdiction. These procedural codes set forth the recourses available against an award (appeal, annulment, clarification request) and the terms, grounds and conditions to file such a motion.

The recognition and enforcement of foreign arbitral awards is primarily governed by the treaties signed and ratified by Argentina, such as the:

- UN Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 (New York Convention).
- OAS Inter-American Convention on International Commercial Arbitration 1975 (Panama Convention).
- Inter-American Convention on Extraterritorial Validity of Foreign Judgments and Arbitral Awards 1979.

Finally, it should be pointed out that, currently, the Executive Power has drafted a bill based on the Model Law that would apply exclusively to international commercial arbitrations and which has been submitted to the Congress.

1.2 When was the arbitration law last revised?

In 2015, with the enactment of the new national Civil and Commercial Code.

2. The arbitration agreement

2.1 How do the courts in the jurisdiction determine the law governing the arbitration agreement?

There are no precedents concerning this issue, but Argentine courts will likely base their decision on Article V.1.a) of the New York Convention ("*the law to which the parties have subjected it or, failing any indication thereon, under the law of the country where the award was made*").

2.2 Is the arbitration agreement considered to be independent from the rest of the contract in which it is set forth?

Article 1653 of the Civil and Commercial Code provides that the arbitration agreement is independent from the main contract to which it is related. Article 1653 also states that the validity of the arbitration agreement

is not affected even if the main contract is declared null and void. Therefore, arbitrators maintain their jurisdiction to decide on each party's claims even if the main contract is not valid.

2.3 What are the formal requirements (if any) for an enforceable arbitration agreement?

Article 1650 of the Civil and Commercial Code provides that the agreement must be in writing. However, since it does not provide any definition of this requirement, the general rules of contract law apply so that private documents (signed or not) suffice (Article 28).Like for contracts in general, *consent* to the arbitration agreement may be proven by any conduct that shows its acceptance (Article 979).

Article 1651 of the Civil and Commercial Code establishes that disputes related to adhesion contracts may not be subject to arbitration. However, this is a formal requirement of the arbitration agreement disguised as a non-arbitrability provision.

Article 1651 establishes that an arbitration agreement may be included in a contract, in an independent agreement, in the by-laws of a company or in a certain set of rules (*reglamentos* in Spanish). It can also arise from a reference made within a contract to another document, as long as the contract is in writing and if the reference is sufficiently clear as to the fact that the arbitration clause is part of it.

2.4 To what extent if at all can a third party to the contract containing the arbitration agreement be bound by said arbitration agreement?

There is no specific regulation on this issue. However, since any conduct that shows acceptance may be used to prove consent to the arbitration agreement, it could be possible –depending on the circumstances– to extend it to a non-signatory party that has been actively involved in the negotiation, performance and termination of the main contract.

Additionally –pursuant to Article 54 of the Argentine Companies Act– the arbitration clause could be extended to a corporation or its shareholders when the corporate form is used to commit fraud or other illegal acts.

2.5 Are there restrictions to arbitrability?

The general principle is that matters that cannot be subject to compromise or settlement cannot not be submitted to arbitration (Article 737, National Civil and Commercial Procedural Code), *i.e.*, a criminal matter arising from an unlawful act.

2.5.1 Do these restrictions relate to specific domains (such as IP. corporate law etc.)?

Article 1651 of the Civil and Commercial Code adds that disputes related with the civil status of capacity of a person, with family matters, adhesion contracts, consumer disputes and labour disputes may not be subject to arbitration. The parties may not agree to arbitrate disputes that put the public order at stake (Article 1649). However, Argentine Courts have held that a dispute governed by public policy rules can be submitted to arbitration if it only concerns the parties' monetary rights.

2.5.2 Do these restrictions relate to specific persons (i.e. State entities, consumers etc.)?

Article 1651 of the Civil and Commercial Code provides that consumer disputes may not be decided by arbitration and arbitration clauses in these circumstances would be declared null. However, the National System of Consumer Arbitration created by Decree 276/98 is still in place, which indicates that consumer disputes may indeed be arbitrated. The essential features of the system are:

a) pre-dispute arbitration agreements are not valid;
b) after a specific dispute has arisen, a consumer may voluntarily decide to submit it to arbitration.

The state or an instrumentality of the state may enter into an arbitration agreement if they are authorized by statute (See e.g. *Techint Compañía Técnica Internacional S.A.C.E. e I. v. Empresa Nuclear Argentina de Centrales Eléctricas en liquidación S.A. e I. y Nucleoeléctrica Argentina S.A.*, Supreme Court, 2007).

3. Intervention of domestic courts

3.1 Will the courts stay litigation if there is a valid arbitration agreement covering the dispute?

3.1.1 If the place of the arbitration is inside of the jurisdiction?

Yes, courts regularly stay litigation if there is a valid arbitration agreement and any of the parties objects to the Court's jurisdiction pursuant to Article 347.1 of the National Civil and Commercial Procedural Code.

The general rules –as set forth in Article 1654 of the Civil and Commercial Court– is that arbitrators are competent to decide on their own jurisdiction, including motions regarding the validity of the arbitration agreement in an attempt to prevent the consideration and resolution of the merits of the dispute through arbitration, and any such attempts shall be resolved by the arbitrators

3.1.2 If the place of the arbitration is outside of the jurisdiction?

Yes, the place of the arbitration is irrelevant. Local courts are unlikely to grant an injunction to restrain proceedings started overseas since it would be in breach of an arbitration agreement.

3.2 How do courts treat injunctions by arbitrators enjoining parties to refrain from initiating, halt or withdraw litigation proceedings?

Courts would likely reject any injunction issued by an arbitral tribunal because anti-suit injunctions are not in principle admissible under Argentine law.

3.3 On what ground(s) can the courts intervene in arbitrations seated outside of the jurisdiction?

In principle, Courts may not intervene in arbitrations seated outside their jurisdiction.

However, Argentine courts once issued an anti-suit injunction against an arbitral tribunal seated in Washington DC. (*Procuración del Tesoro v. Cámara de Comercio Internacional*, 2007).

An Argentine tribunal also requested that an arbitral tribunal seated in Dallas decline its jurisdiction (See *Compañía General de Combustibles*, 1999). However, the arbitral tribunal did not follow suit and the award was later enforced in Argentina.

4. The conduct of the proceedings

4.1 Can parties retain outside counsel or be self-represented?

Yes, parties may retain outside counsel and they do not need to be a member of the Bar in Argentina (at least for international cases).

4.2 How strictly do courts control arbitrators' independence and impartiality? For example: does an arbitrator's failure to disclose suffice for the court to accept a challenge or do courts require that the undisclosed circumstances justify this outcome?

Article 1663 of the Civil and Commercial Code provides that arbitrators may be challenged on the same grounds as judges. Article 1662 of the Civil and Commercial Code sets forth the arbitrators' ongoing duty to disclose any circumstance that may affect their independence or impartiality.

In practice, Courts rarely control arbitrators' independence and impartiality during the arbitration proceedings.

In institutional arbitration, Article 1663 of the National Civil and Commercial Code provides that the challenge may be decided according to the institutional rules and the courts would not give right to any request to disqualify an arbitrator before the award is rendered.

There are some isolated precedents in which domestic courts considered they had the power to review the decision taken by an arbitral institution concerning a challenge during the arbitration proceedings (See *Entidad Binacional Yacyretá v. Eriday*, 2004 and *Procuración del Tesoro v. Cámara de Comercio Internacional*, 2007). With the enactment of the new Civil and Commercial Court, this doctrine cannot be applied to arbitrations in which the new Code applies.

If the institution does not have any rules in this regard, the challenge shall be decided by domestic courts (Article 1663 of the Civil and Commercial Code).

In *ad hoc* arbitration, the parties may agree that the challenge be decided by the other arbitrators (Article 1663 of the Civil and Commercial Code). Otherwise, the courts should not, in principle, give right to any request to disqualify an arbitrator before the the award is rendered.

It is only if nothing has been agreed by the parties that the challenge shall be decided by domestic courts according to the procedure set forth in Article 747 of the National Civil and Commercial Procedural Code.

4.3 On what grounds do courts intervene to assist in the constitution of the arbitral tribunal (in case of *ad hoc* arbitration)?

Article 1659 of the Civil and Commercial Code provides the arbitral tribunal must be composed of one or more arbitrators (always an odd number) and the parties can agree on the appointment procedure.

If the parties have not agreed on the number of arbitrators, the default number is three. Each party appoints one of them and the third arbitrator is appointed by the other two arbitrators. If one of the parties does not appoint its arbitrator or if the other two arbitrators cannot agree on a third arbitrator, the appointment will be made by the entity administering the arbitration or by the competent domestic court in the case of *ad hoc* arbitrations.

In case of a sole arbitrator, if the parties do not reach an agreement, the arbitrator will be appointed by the entity administering the arbitration or by the competent domestic court in the case of *ad hoc* arbitrations.

If a dispute involves more than two parties and they cannot reach an agreement as to the constitution of the arbitral tribunal, the entity administering the arbitration or the competent domestic court will appoint the arbitrators in the case of *ad hoc* arbitrations.

4.4 Do courts have the power to issue interim measures in connection with arbitrations?

Article 1655 of the National Civil and Commercial Code authorizes courts to adopt interim measures in connection with arbitrations. A party's request does not entail a violation of the arbitral agreement nor a waiver of the arbitrators' jurisdiction.

A tribunal may adopt the *ex parte* interim measures that are expressly allowed in domestic proceedings. In this regard, the power of judges to grant interim measures is very broad since the National Civil and Commercial Procedural Code expressly authorizes to grant any measure that may be necessary to provisionally ensure the enforcement of the final judgment (Section 230 of the NCCPC).

However, the arbitrators' duty to ensure the equal treatment of the parties (Article 1662, Civil and Commercial Code) may be interpreted as imposing some limitations on their ability to adopt ex parte measures and arbitrators may decide to hear both parties before adopting any measure. That is why, in practice, Argentine lawyers prefer to request interim measures before domestic courts.

4.5 Other than arbitrators' duty to be independent and impartial, does the law regulate the conduct of the arbitration?

4.5.1 Does it provide for the confidentiality of arbitration proceedings?

Parties may agree on the confidentiality of the arbitration (Article 1658 of the Civil and Commercial Code). This agreement may be express (by inserting a confidentiality clause in the arbitration agreement) or implicit (by selecting certain institutional rules that provide for the confidentiality of arbitration proceedings under those rules).

When confidentiality is agreed by the parties, pursuant to Article 1662 (c) of the Civil and Commercial Code, arbitrators have a duty to respect the confidentiality of the arbitration proceedings.

4.5.2 Does it regulate the length of arbitration proceedings?

The length of the proceedings is within the scope of party autonomy. When there is no agreement by the parties concerning the term in which the award must be issued, the rules of the administering institution shall apply (Article 1658 of the National Civil and Commercial Code) or the term according to the seat of the arbitration as set forth in Article 1658.

4.5.3 Does it regulate the place where hearings and/or meetings may be held?

There are no provisions in this regard.

4.5.4 Does it allow for arbitrators to issue interim measures?

According to Article 1655 of the Civil and Commercial Code, arbitral tribunals have the power to grant interim measures, unless otherwise stated in the arbitration agreement. The enforcement of interim measures depends on domestic courts, which have the power to refuse the enforcement if the measure is unreasonable or entails a violation of constitutional rights (Article 1655 of the National Civil and Commercial Code). Commercial courts have not yet interpreted this provision, but it clearly provides courts with broad powers to review interim measures.

The scope of the relief granted by the Courts will depend on the facts of the case. The general standards applicable to interim and preliminary measures in domestic litigation are applicable to arbitration proceedings to the extent that the parties did not agree otherwise (either directly or indirectly through the agreement to arbitrate under specific institutional rules which may set forth different standards).With respect to interim measures, an applicant will have to show a likelihood of irreparable harm unless the measure is granted (*periculum in mora*) and a substantial likelihood of success on the merits (*fumus boni juris*). In the case of preliminary measures, an applicant needs to show that that the production of the evidence requested would be impossible or very difficult at the evidence stage in the arbitration.

4.5.5 Does it regulate the arbitrators' right to admit/exclude evidence?

There is no specific provision concerning this issue. Article 1658 of the National Civil and Commercial Code provides that if the parties did not agree on the applicable rules of procedure, the arbitrators have discretionary powers regarding the conduct of the arbitration proceeding.

However, the Civil and Commercial Procedural Code provides that the arbitrators must apply the procedural rules of domestic proceedings, if there is no agreement between the parties and no institutional rules applies. It is our view that the solution of the Civil and Commercial Code should now prevail.

For example, are there any restrictions to the presentation of testimony by a party employee?

Not in arbitration proceedings.

4.5.6 Does it make it mandatory to hold a hearing?

No, there is no mandatory hearing requirement. The parties have the power to determine the procedural rules of the arbitration and if the parties did not agree on the applicable rules of procedure, the arbitrators may conduct the arbitration in the way they consider appropriate (Article 1658, Civil and Commercial Code).

4.5.7 Does it prescribe principles governing the awarding of interest?

The answer depends on the law applicable to the merits. Under Argentine law, a Court (or an arbitral tribunal) has the power to award interest but it cannot award punitive damages, which are expressly limited to consumer actions (Article 52bis of Law 24.240).

4.5.7 Does it prescribe principles governing the allocation of arbitration costs?

There is absolute freedom regarding the parties' autonomy on cost allocation as set forth in article 1658.

4.6 Liability

4.6.1 Do arbitrators benefit from immunity to civil liability?

No, Argentine law does not have any specific provision concerning arbitrators' immunities. On the contrary, Article 1662 of the Civil and Commercial Code and Article 745 of the National Civil and Commercial Procedural Code on the duties of arbitrators provides that arbitrators are liable for any breach of their duties that causes damages to the parties.

4.6.2 Are there any concerns arising from potential criminal liability for any of the participants in an arbitration proceeding?

No, unless parties or arbitrators disobey a court's order (Article 239 of the National Criminal Code).

5. The award

5.1 Can parties waive the requirement for an award to provide reasons?

Awards rendered in both arbitration at law and in equity shall provide reasons. Awards rendered in an arbitration in equity are not required to apply the law, but must nonetheless must provide reasons (Article 1662 regarding arbitrators' duties).

5.2 Can parties waive the right to seek the annulment of the award?

Pursuant to Article 760 of the National Civil and Commercial Procedural Code, the parties cannot waive either the option to seek annulment or the option to request clarification.

5.3 What atypical mandatory requirements apply to the rendering of a valid award rendered at a seat in the jurisdiction?

There are no atypical mandatory requirements.

5.4 Is it possible to appeal an award (as opposed to seeking its annulment)?

Arbitral awards issued in arbitration in law can be appealed as first instance court final decisions (Section 758 of the National Civil and Commercial Procedural Code (NCCPC)). If parties have waived the right to appeal, they can only file for annulment against the award or a request for clarification under section 760 of the NCCPC.

In case of an appeal, there are no specific grounds since it allows for a full review of the merits of the case.

With respect to annulment, Articles 760 and 761 of the NCCPC provide that an award can be annulled on one or more of the following grounds:

- Essential procedural errors: courts can only annul an award based on the existence of formal flaws that affect the due process but cannot review the justice or injustice the case.
- If the award is rendered after the term for making the award has elapsed.
- If the award decides issues not submitted to the arbitral tribunal.
- If the award is inconsistent or contains contradictory decisions. It is limited to the dispositive part of the award.

Apart from these statutory grounds, the Argentine Supreme Court has held that an award may also be annulled if it is contrary to public policy or if it is illegal, unreasonable or unconstitutional (*Cartellone. c. Hidroeléctrica Norpatagónica S.A.*, 2004). The notion that public policy is a non-statutory ground of annulment survives the 2015 reform since the Civil and Commercial Code does not regulate the procedural aspects of the arbitration (such as the grounds of annulment).

The annulment request must be filed before the arbitral tribunal within five working days from receiving notice of the award (Article 759, National Civil and Commercial Procedural Code). If the request is formally admissible, the arbitral tribunal will send it, together with the whole case record to the Court of Appeals (in the case of arbitration in law) or to the First Instance Court (in the case of arbitration in equity). If the arbitral tribunal considers that the request is formally inadmissible, the applicant can file its annulment request directly before the Commercial Court of Appeals within five working days. The Court has the power to overrule the arbitral tribunal's decision and declare the formal admissibility of the annulment request

Concerning arbitration in equity (*amiable compositeur*), the award is not subject to appeal and it may be annulled if it was rendered after the time limit or if it decides issues not submitted to the arbitral tribunal (Article 771 of the National Civil and Commercial Procedural Code). Argentine commentators consider that the existence of essential procedural errors also constitutes a non-statutory ground of annulment. The request for annulment must be filed before the First Instance Court within five working days since the party receives formal notice of the award.

5.5 What procedures exist for the recognition and enforcement of awards, what time-limits apply and is there a distinction to be made between local and foreign awards?

A domestic award may be enforced in the same way as any domestic court's final decision (in summary enforcement proceedings).

The recognition and enforcement of foreign arbitral awards is primarily governed by the following treaties signed and ratified by Argentina:

- New York Convention. Argentina declared that it will apply the Convention to only:
  - the recognition and enforcement of foreign arbitral awards made in the territory of another Contracting State.
  - differences arising out of legal relationships, whether contractual or not, which are considered as commercial under its national laws.
- Panama Convention.
- OAS Inter-American Convention on Jurisdiction in the International Sphere for the Extraterritorial Validity of Foreign Judgments 1984

The recognition and enforcement of foreign arbitral awards outside the scope of the treaties is governed by sections 517 and 519 bis of the National Civil and Commercial Procedural Code.

5.6 Does the introduction of annulment or appeal proceedings automatically suspend the exercise of the right to enforce an award?

Yes.

5.7 When a foreign award has been annulled at its seat, does such annulment preclude the award from being enforced in the jurisdiction?

There are no precedents from Argentine Courts interpreting the New York Convention on this issue.

5.8 Are foreign awards readily enforceable in practice?

In principle, Argentine Courts enforce foreign arbitral awards without any review of the merits of the case (*Armada Holland BV Schiedman Denmark c/ Inter Fruit S.A.*, Supreme Court, 2011). In some exceptional cases against state entities, the enforcement has been rejected on public policy grounds (*Milantic v. Astillero Santiago*, Supreme Court of the Province of Buenos Aires, 2016).

6. Funding arrangements: Are there restrictions to the use of contingency or alternative fee arrangements or third-party funding at the jurisdiction?

Argentine law does not contain any specific legal or ethical rule regarding third party funding.

7. Is there likely to be any significant reform of the arbitration law in the near future?

The Executive Power has drafted a bill based on the Model Law would apply exclusively to international commercial arbitrations and it is currently being analysed by the Congress