

# IRAN

## DELOS GUIDE TO ARBITRATION PLACES (GAP)

CHAPTER PREPARED BY

NASIM GHEIDI, MOHAMMADREZA MALEKI AND SARA TAJDINI  
OF GHEIDI & ASSOCIATES



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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

Arbitration laws were included as part of the Iranian Civil Procedure Law (“**CPL**”) up until 1997, when arbitration was further codified under the Law on International Commercial Arbitration (“**LICA**”). The LICA and the CPL (last modified in 2001) are the latest applicable laws governing international commercial disputes and local disputes respectively. Chapter 7 of the CPL deals with arbitration. The provisions of this chapter are applicable only to arbitration where both parties to the dispute have Iranian nationality.

In 1997, in order to harmonize and facilitate the provision of arbitration with international practice, the Iranian Parliament passed the LICA, which is largely based on the UNCITRAL Model Law. According to Article 1(B) of the LICA, *“International arbitration is the case where one of the parties, at the time of conclusion of the arbitration agreement, is not a national of Iran under the Iranian laws.”* The LICA applies to arbitration in international commercial relationships including, *inter alia*, sale of goods and services, transportation, insurance, financial matters, consulting, investment, technical cooperation, representation, factoring or similar activities as per Article 2(1).<sup>1</sup> In practice, accepted principles and procedures of international arbitration are recognized and applied by arbitral tribunals seated in Iran. For example, although confidentiality of arbitration is not held as a requirement under the LICA, it is an accepted principle applied within arbitration proceedings.

In the years following the enactment of the LICA, Iran ratified the United Nations Convention on Recognition and Enforcement of Foreign Arbitral Awards (the “**New York Convention**”) in 2001, taking a noteworthy further step towards enhancing the climate for foreign investment in Iran. The accession to the New York Convention has paved the way for the referral of disputes by foreign investors to international arbitration outside of Iran; foreign arbitral awards are recognized and may be enforced in Iran, provided that there is no ground for annulment or refusal in accordance with Article V of the New York Convention.<sup>2</sup>

As per the reservation rights provided under the New York Convention, Iran applies the Convention only to commercial disputes, whether contractual or non-contractual, and to awards issued in other contracting states on the basis of reciprocity. It is also worth noting that when public and state properties are involved, there are fundamental challenges to arbitrability. In particular, Article 139 of the Iranian Constitutional Law mandates as follows: *“The settlement of claims relating to public and state property or the referral thereof to arbitration is in every case contingent on the approval of the Board of Ministers, and the Parliament must be informed of these matters. In cases where one party to the dispute is a foreigner, as well as in important domestic cases, the approval of the Parliament must also be obtained. Law will specify the cases which are considered to be important.”* In line with Article 139 of the Constitutional Law, the CPL also establishes exactly the same restriction in terms of arbitrability. Therefore, legal scholars and professionals have endeavoured to limit the applicability of this provision, as it may discourage foreign investors seeking to refer their disputes to arbitration rather than Iranian domestic courts.<sup>3</sup>

The adoption of a Comprehensive Arbitration Law is currently on the agenda of the Iranian Parliament. The Arbitration Center of the Iran Chambers (“**ACIC**”) was tasked by the Judiciary with drafting this law, which is intended to replace current regulations on arbitration and provide a comprehensive package of laws thereon. The ACIC was established on 3 February 2002, pursuant to the approval of the “ Law on Articles of Association of ACIC” by the Iranian Parliament. Although ACIC is organized as an affiliate to the Iran Chamber of Commerce, it has an independent legal personality. It is the first Iranian independent arbitration institution established for the purpose of settlement of both domestic and international disputes through arbitration

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<sup>1</sup> Available at: <https://efilablog.org/2016/12/08/arbitration-in-iran-with-focus-on-international-commercial-arbitration/>.

<sup>2</sup> Available at: <https://efilablog.org/2016/12/08/arbitration-in-iran-with-focus-on-international-commercial-arbitration/>.

<sup>3</sup> Available at: <https://efilablog.org/2017/04/11/arbitration-in-iran-with-focus-on-international-commercial-arbitration-2/>.

or conciliation.<sup>4</sup> Besides ACIC, the other major and active arbitration institution in Iran is the Tehran Regional Arbitration Center ("TRAC"). It is an independent international organization established under the auspices of the Asian-African Legal Consultative Organization ("AALCO"), pursuant to the Agreement signed on 3 May 1997 between the Islamic Republic of Iran and AALCO. TRAC enjoys the privileges and immunities applicable to international organizations. The TRAC Rules of Arbitration are essentially based on the UNCITRAL Rules of Arbitration.<sup>5</sup>

Key places of arbitration in the jurisdiction	Tehran.
Civil law / Common law environment?	The Iranian legal system is now based on Sharia, which is integrated into a civil law system.
Confidentiality of arbitrations?	Confidentiality is not explicitly indicated in the laws, however it is recognized and applied as an accepted principle in practice.
Requirement to retain (local) counsel?	No.
Ability to present party employee witness testimony?	Yes, in accordance with Articles 19 and 20 of the LICA, the parties may agree on the rules of procedure, including presentation of party employee witness testimony. Failing such agreement, the arbitrator shall conduct the procedure in an appropriate manner. Relevance, materiality and weight of evidence offered are at the arbitrator's discretion.
Ability to hold meetings and/or hearings outside of the seat?	Yes. In accordance with Article 20 of the LICA, arbitration may take place at a venue mutually agreed to by the parties; failing such agreement, the venue of arbitration shall be determined by the arbitrator with due consideration given to the circumstances of the case and to the accessibility for the parties.
Availability of interest as a remedy?	Yes.
Ability to claim for reasonable costs incurred for the arbitration?	Yes, in practice, it is possible to claim reasonable costs sustained in the course of the arbitration proceedings.
Restrictions regarding contingency fee arrangements and/or third-party funding?	No.
Party to the New York Convention?	Yes.
Other key points to note	<p>The LICA does not contain any provisions on criminal liability of arbitrators or experts. However, under the Iranian Penal Code, criminal liability has been defined for arbitrators and experts in the event of bribery or breach of confidentiality.</p> <p>In case one of the parties requests the annulment of the arbitral award from the court and the other party demands its recognition</p>

<sup>4</sup> See <http://arbitration.ir/En/Home/index>.

<sup>5</sup> Available at: <http://www.trac.ir/Staticpages/ShowPage.aspx?staticpageID=6>.

	<p>or enforcement, the court shall provide that the party demanding nullification pay the eventual damages, if so requested by the party demanding recognition or enforcement (Article 35 of the LICA).</p> <p>Moreover, based on Article 6 of the Law concerning the Accession of Iran to the New York Convention, an application for the setting aside or suspension of the award must be made before a competent authority. The authority may, if it considers it proper, adjourn the decision on the enforcement of the award and may also, on the application of the party claiming enforcement of the award, order the other party to give suitable security.</p>
<p>WJP Civil Justice score (2017-2018)</p>	<p>0.48</p>

## ARBITRATION PRACTITIONER SUMMARY

The primary regulations on arbitration can be found in Articles 454-501 of the Iranian Civil Procedure Law (“CPL”), which is in force and applicable to purely domestic arbitrations. On 17 September 1997, the Iranian Law on International Commercial Arbitration (“LICA”) was adopted, based on the UNCITRAL Model Law on International Commercial Arbitration (1985). However, certain provisions of the law do not exactly reflect the Model Law and instead are tailored to satisfy local requirements. Arbitration laws have not allocated specific tribunals to arbitration proceedings and have not set restrictions or specific qualifications on arbitrators to be appointed by the parties to arbitration, except that persons who lack legal capacity or have been deprived of social rights (by court) cannot be appointed as arbitrators.

The law has granted some specific powers to arbitrators, that are similar to judges’ powers, including the ability to issue an injunction upon request by a party in matters related to a dispute which require immediate action. However, the ability to issue pre-arbitration interim measures is not provided for in the law.

The principle of *Kompetenz-Kompetenz* is included in the LICA, and an arbitrator may rule on his/her jurisdiction as well as on the question of the existence or validity of an arbitration agreement, even if the CPL is silent on this principle, as well as on many other principles and rules that are adopted under the LICA. The LICA also includes provisions on, amongst others, (i) party autonomy to agree on the procedure of arbitration proceedings, (ii) recognition of institutional arbitration, (iii) independence and impartiality of arbitrators, and (iv) arbitrator jurisdiction to identify the applicable law in the event that the parties have failed to do so.

Recognition and enforcement of arbitral awards are recognized under the LICA, unless an award is either set aside or is null and void *ab initio*.

It is worth noting that the LICA does not include any provision on the enforcement and recognition of foreign awards that have been annulled at the seat of arbitration by a competent authority. Therefore, it seems that the Courts will refuse to enforce such awards.

Date of arbitration law?	17 September 1997.
UNCITRAL Model Law? If so, any key changes thereto?	Yes, although certain provisions of the law do not exactly reflect the Model Law and are specifically tailored to local requirements.
Availability of specialised courts or judges at the key seat(s) in the jurisdiction for handling arbitration-related matters?	No.
Availability of <i>ex parte</i> pre-arbitration interim measures?	No, although <i>ex parte</i> pre-arbitration interim measures are not available within Iranian jurisdiction, arbitrators have the ability to issue injunctions upon a request by a party in matters related to the dispute which require immediate action.
Courts’ attitude towards the competence-competence principle?	Based on Article 16 of the LICA, the arbitral tribunal is empowered to make a determination as to its own jurisdiction to adjudicate the substantive claims in dispute.
Grounds for annulment of awards additional to those based on the criteria for the recognition and	Grounds of annulment of an international award in Iran are the same as those stated in Article 5 of the New York Convention. However, the LICA further provides that the award is null and void <i>ab initio</i> when the award with respect to immovable property located in Iran is incompatible with the mandatory

<p>enforcement of awards under the New York Convention?</p>	<p>provisions of the laws of Iran, or with respect to official deeds, unless the arbitrator has been given the authority to reach a compromise.</p>
<p>Courts' attitude towards the recognition and enforcement of foreign awards annulled at the seat of the arbitration?</p>	<p>Courts refuse to enforce foreign arbitral awards that have been annulled at the seat of arbitration by a competent authority. It is argued that enforcing an annulled award results in unacceptable and inconsistent consequences. Bearing in mind the analytical framework below, other key points to note, in particular any significant idiosyncrasies of the jurisdiction not covered elsewhere in the summaries (e.g. atypical formality requirements for an award to be deemed valid, such as its signature at the seat of arbitration; whether it is sufficient for the institution to notify an award to trigger the time-limit for seeking the annulment of the award; issues with the enforcement of partial and interim awards).</p>
<p>Other key points to note?</p>	<p><u>Typical formality requirements for an award to be deemed valid:</u></p> <p>The award shall be in writing and signed by the arbitrator(s). In cases where there is more than one arbitrator, the signature of the majority of the arbitrators shall be sufficient, provided that the reason(s) for non-signature by the other member is indicated.</p> <p>The reasoning of the decision shall be stated in the text of the award, unless the parties agree that the reasoning not be provided, or unless the award has been issued on the basis of a mutual agreement by the parties.</p> <p>The award shall contain the date and venue of the arbitration.</p> <p><u>The enforcement of partial awards:</u></p> <p>The LICA is silent on the enforcement of partial awards, hence it seems that there are no legal obstacles to the enforcement of partial awards</p>

## JURISDICTION DETAILED ANALYSIS

For the purpose of this detailed analysis, we would like to **first** focus on the following fundamental challenge to **arbitrability** in the Iranian jurisdiction:

*"In case the national law of the place of arbitration or the law of the state where award enforcement is being sought imposes a restriction on referring to arbitration either regarding the subject matter of the dispute or against a party, it is quite likely that an award would be vacated by the national court on the grounds that the dispute was not capable of arbitrability in the first place. Courts often refer to "public policy" as the basis of such restriction. Thus, the issue of arbitrability is of great importance in determining whether to refer a dispute to arbitration from the beginning stage of contract execution.*

*In this regard Iranian law is faced with some ambiguous provisions, requirements of which might be quite discouraging for foreign companies hoping to invest in Iran as most of them are more willing to refer their disputes to arbitration rather than Iranian domestic courts. A very fundamental challenge in arbitrability lies in Article 139 of the Iranian Constitution Law that mandates as follow[s]:*

*"The settlement of claims relating to public and state property or the referral thereof to arbitration is in every case contingent on the approval of the Board of Ministers, and the Parliament must be informed of these matters. In cases where one party to the dispute is a foreigner, as well as in important domestic cases, the approval of the Parliament must also be obtained. Law will specify the cases which are considered to be important."<sup>6</sup>*

The above constitutional restriction in terms of arbitrability is reflected in the CPL. Legal scholars and professionals, in their interpretation of this provision, are trying to limit the applicability of this provision.

A preliminary distinction must be drawn between State entities and the properties belonging to those entities. We will then discuss which properties are considered as public and State property under the Iranian legal system.

A distinction exists between subjective arbitrability and objective arbitrability. Subjective arbitrability refers to the restrictions relating to the parties to the dispute. For example, in some jurisdictions, States or State entities may not be allowed to enter into arbitration agreements at all or may require a special permission. Objective arbitrability restrictions are based on the limitations imposed on the subject matter of the dispute, and are even more challenging. In other words, certain subject matters may constitute a threat to public policy or national interest, so that they should only be dealt with by national courts or be referred to arbitration under certain conditions. The restriction that Article 139 of the Constitutional Law imposes on the arbitrability is an objective one, as it applies to the subject matter of the dispute. Therefore, it could be said that Iranian State entities can participate in an arbitration without needing to obtain approval to do so from the Board of Ministers or from the Parliament, as long as the dispute is not related to or does not arise from State or public properties.

Despite the fact that State and public properties are referred to under the Iranian Constitutional Law and the CPL, they have not been defined in a Parliamentary enacted provision. Hence, we must refer to some executive bylaws and commentaries.

Based on the opinions of certain Iranian scholars, public properties are owned by the entire people, do not have a specific owner and can be utilized by the entire people. Furthermore, they cannot be sold or seized by an order, judgment or award. They include mineral resources, jungles, mountains, roads, bridges, etc. Also, it should be noted that public properties are ruled by the state to be used as public good. Therefore, such properties cannot be either owned or notarized.

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<sup>6</sup> Nasim Gheidi & Parham Zahedi, *Arbitration in Iran: With Focus on International Commercial Arbitration (Part II)*, EFILA Blog, 11 April 2017, available at <https://efilablog.org/2017/04/11/arbitration-in-iran-with-focus-on-international-commercial-arbitration-2/>.

The Executive Bylaw on State-Owned Properties adopted in 1993 and amended in 1995 by the Council of Ministers defines State properties as *"those which are bought by ministries and the State-agencies or possessed by the State through any other legally permitted manner"*. Accordingly, in contrast to public properties, State-owned properties can be sold, rented out or mortgaged. However, in order to determine the scope of this definition, one must distinguish between the properties that the State possesses in its sovereign capacity, and those that it possesses in a contractual capacity. Based on this doctrine, which was first proposed by French scholars, only properties in possession of the government in its sovereign capacity shall be considered as State properties. In fact, when State-owned entities are acting in their contractual capacities, they shall be treated like any other private entities running their businesses.

Iranian courts have different opinions in this regard. However, there is a positive trend to limit the scope of State properties definition. According to a verdict of a branch in Tehran Public Court, *"properties that are subject of Article 139 of the Constitutional Law are confined to the properties that the government has possessed while acting in its sovereign capacity, like properties of national army, rather than properties that the government has possessed in its contractual capacity. In general, actions undertaken by the government in its contractual capacity and the properties thereof like those of national Shipping Company are out of the scope of Article 139 of the Constitutional Law."*

Furthermore, in an arbitration proceeding administered by the Arbitration Center of Iran Chamber ("**ACIC**"), a private company, the claimant, resorted to arbitration to force the defendant, which was a State-owned company, to compensate the loss of claimant due to non-conformity of the goods with the contract. The defendant argued that since it is a State-owned company and that its properties are subject to Article 139 of the Constitutional Law, the permission of the Board of Ministers should have been obtained, otherwise the arbitral tribunal has no jurisdiction. The arbitral tribunal found that the conditions of Article 139 of the Constitutional Law were not applicable, and stated that:

*"Article 139 of the Constitutional Law is not in principle an obstacle to the jurisdiction of the tribunal in a commercial dispute that a State-owned company is a party of the dispute since the properties that are subject of the dispute are considered private properties and are being possessed by the defendant in its contractual and commercial capacity."*

In conclusion, by adopting these interpretations, the scope of Article 139 of the Constitutional Law can be limited, thus removing a major obstacle to recourse to arbitration in Iran. In fact, the requirements of this article would otherwise be inconsistent with the principle of rapidity in international commercial trade, and would also be contrary to the principle of good faith. Foreign investors expect from the host government to ensure the implementation of the agreement and arbitration clause rather than disregard the investor's rights and hamper the arbitration process. Moreover, laws and regulations must not be interpreted in a way that allows State-owned entities to be unilaterally relieved from their contractual commitments. Therefore, differentiation between the properties possessed by the government in its sovereign capacity and in its contractual capacity is a key point to resolve this problem.<sup>7</sup>

The **second** subject that we would like to discuss here is about the **recognition and enforcement** of arbitral awards.

It is an accepted approach in international arbitration that arbitration treaties play the most important role in the enforcement of foreign arbitration awards. However, by early 2001, Iran had not joined any of the multilateral treaties, including the New York Convention. Therefore, Iran's treaties on the enforcement of foreign arbitration awards were limited to a few bilateral treaties.

One reason for the delay in the accession of Iran to the New York Convention was the concern of conflict with the application of favorable judicial supervision on the enforcement of the awards within the country. The first and most important step in order to facilitate and accelerate the enforcement of foreign arbitral

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<sup>7</sup> Available at: <https://efilablog.org/2017/04/11/arbitration-in-iran-with-focus-on-international-commercial-arbitration-2/>.

awards was the accession to this convention, which is not inconsistent with the rules of Iranian national law but even provides a guarantee of enforcement of foreign awards in line and in conformity with domestic regime.

One way to enforce foreign arbitral awards within the framework of domestic law in jurisdiction is to simulate the foreign arbitral awards to domestic arbitral awards. To achieve this, the development of the national enforcement regime for foreign arbitral awards is a proper solution, which may require the development of civil procedural law or an international commercial arbitration law.

## **1. The legal framework of the jurisdiction**

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

The LICA is a modern arbitration law based on the UNCITRAL Model Law, which entered into force in 1997.

#### **1.1.1. If yes what key modifications if any have been made on it?**

Certain provisions of the LICA do not exactly reflect the UNCITRAL Model Law in its entirety and instead are adapted to satisfy local requirements.

The LICA covers disputes arising from international trade relationships. This definition is to a considerable extent contrary to Article 1(1) of the UNCITRAL Model Law, which emphasizes the international character of arbitration, rather than the nature of the relationship.

In addition, the LICA relies on the non-Iranian nationality of one of the parties to the arbitration as the sole criterion of the internationality of the arbitration, which is incompatible with the definition of international arbitration provided in Article 3(1) of the UNCITRAL Model Law.

Moreover, the LICA provides that the Iranian party shall not appoint an arbitrator or an arbitral body with the same nationality as the foreign party to the agreement before the dispute arises, while the Model Law does not contain any such restriction.<sup>8</sup>

### **1.2 When was the arbitration last revised?**

The law was adopted on 15 October 2001 and it has not been revised since then.

## **2. The arbitration agreement**

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

Under Iranian conflict of law rules, the law governing a contract is the law of the place of execution of the contract, except when both parties are foreigners and have agreed on a law other than the laws of Iran. Therefore, when a contract is concluded outside of Iran, it might be subject to foreign law even if the parties are Iranian (Article 968 of the Iranian Civil Code).

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

Yes, based on Article 16(1) of the LICA, although the arbitration clause is a part of the underlying contract, it is essentially independent from the rest of the contract.

### **2.3 What are the format requirements (if any) for an enforceable arbitration agreement?**

Under Article 7 of the LICA, the arbitration agreement shall be signed by both parties by way of signature of a document or through exchange of letter, telex, telegram or any other similar written format, evidencing

<sup>8</sup> Jamal Seifi, 'The New International Commercial Arbitration Act of Iran – Towards Harmony with the UNCITRAL Model Law' (1998) 15 Journal of International Arbitration, Issue 2, pp. 5–35.

acceptance of arbitration by both parties. Further, it is possible for one party to claim the existence of an arbitration agreement through an application or a notice, and the other party accepts this in practice.

#### **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?**

Under Iranian Civil Law, undertakings or contracts are only binding on the two parties concerned or their legal substitutes, except in cases coming under Article 196, which stipulates that anyone who makes a contract is deemed to be acting for himself, unless otherwise agreed or unless subsequent evidence to the contrary is established. When entering into a contract, however, anyone can include a provision for the benefit of a third person.

#### **2.5 Are there restrictions to arbitrability?**

Yes, there are certain subjects under the CPL that cannot be settled through arbitration. This is also stipulated in Article 34 of the LICA. These subjects are: disputes regarding bankruptcy and some aspects of family relations including marriage, divorce and parenting. Only disputes of a private civil nature can be referred to arbitration.

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

As explained above, Article 675 of the CPL provides that disputes relating to marriage, divorce, cancellation of marriage, parenting and bankruptcy cannot be settled through arbitration.

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

As discussed above, *"the settlement of claims relating to public and State property or the referral thereof to arbitration is in every case contingent on the approval of the Board of Ministers, and the Parliament must be informed of these matters. In cases where one party to the dispute is a foreigner, as well as in important domestic cases, the approval of the Parliament must also be obtained. Law will specify the cases which are considered to be important."*<sup>9</sup>

### **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 the jurisdiction?**

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

In line with the UNCITRAL Model Law, according to the LICA, the main effect of the arbitration agreement is to deprive the court from the right to adjudicate the dispute. Based on Article 8, if a dispute governed by an arbitration agreement arises in court, the court is required to refer the parties to arbitration, unless the arbitration agreement is void or unenforceable. There is no difference between domestic and international arbitration.

#### **3.2 How do courts treat injunctions by arbitrators enjoining parties to stay litigation proceedings?**

No provision or practice on this issue.

#### **3.3 On what grounds the court (s) intervene in arbitrations seated outside of the jurisdiction? (relates to the anti-suit injunction but not only)**

No provision or practice on this issue.

<sup>9</sup> Article 139 of the Iranian Constitution Law at [http://rc.majlis.ir/fa/content/iran\\_constitution](http://rc.majlis.ir/fa/content/iran_constitution).

#### 4. The conduct of the proceedings

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

Yes, there are no restrictions to either.

##### 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?

In accordance with Article 16-3 of the LICA, in the case of an objection to the jurisdiction and/or to the existence or validity of the arbitration agreement (except in cases where the parties have agreed otherwise), the arbitral tribunal shall decide on the objection as a preliminary matter before examining the merits of the case. Objections to an arbitrator stepping out of the limits of his capacity which may occur during the arbitral investigation process may be made part of the award. Should an arbitrator confirm his jurisdiction at the outset, each of the parties shall be allowed to request, within thirty days after the date of service of the relevant notice, the court mentioned in Article 6 to investigate and make a decision. As long as such request is under investigation, the arbitrator shall continue his investigation and may also render his award.

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

Unlike the UNCITRAL Model Law, the LICA does not contain explicit provisions preventing court intervention in arbitration proceedings. However, the law provides that the parties may agree on the arbitration procedures, provided that they observe the mandatory rules of the Law. In the absence of such agreement, an arbitrator shall appropriately administer and take charge of the arbitration with due observation of the regulations of this Law.

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

Yes, based on Article 9 of the LICA, each party may demand, prior to or during arbitral proceedings, the issuance of interim measures from the relevant courts.

###### 4.4.1 If so, are they willing to consider ex parte requests?

Based on Article 9 of the LICA, each party may demand the interim measures independently.

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

In general, there are no provision on the specifications of the arbitrators. In other words, parties are free to agree on a procedure of appointing the arbitrators. It could be said that the parties have the discretion to determine the type of arbitration (*ad hoc* arbitration or institutional arbitration) and the procedure, as well as the law governing the arbitration, the number of arbitrators and the seat of the arbitration.

###### 4.5.1 Does it provide for the confidentiality of arbitration proceedings?

No.

###### 4.5.2 Does it regulate the length of arbitration proceedings?

No.

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

No. At first, the parties are free to agree on the place of arbitration. Failing such agreement, the place of arbitration shall be determined by the arbitral tribunal having regard to the circumstances of the case, including the convenience of the parties.

**4.5.4 Does it allow for arbitrators to issue interim measures? In the affirmative, under what conditions?**

As per Article 17 of the LICA, unless otherwise agreed by the parties, the arbitrator or arbitral tribunal may, at the request of a party, at any time prior to the issuance of the award, grant interim measures. The arbitrator can require the party requesting an interim measure to pay appropriate eventual damages.

**4.5.5 Does it regulate the arbitrator's right to admit/exclude evidence? For example, are there any restrictions to the presentation of testimony by a party employee?**

No.

**4.5.6 Does it make it mandatory to hold a hearing?**

No. But if a party requests holding a hearing, the hearing must be held.

**4.5.7 Does it prescribe principles governing the awarding of interest?**

No.

**4.5.8 Does it prescribe principles governing the allocation of arbitration costs?**

No.

**4.6 Liability**

**4.6.1 Do arbitrators benefit from immunity to civil liability?**

No, based on the general rules of Iranian civil law as well as tort law, leave or violation of his duties by the arbitrator can be followed by the different sanctions, including civil liability. Based on Article 501 of the CPL, the arbitrator shall be liable in cases of fraud or failure to uphold responsibilities related to the performance of duties.

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

As a general rule, if the arbitrator commits a crime, like any other person, he will be punished. Moreover, based on Article 588 of the Criminal Law, an arbitrator who commits bribery may be punished. Furthermore, unauthorized disclosure of confidential information obtained through occupations and professions will be punished. So, if the arbitrator discloses information pertaining to the arbitration proceeding without any legal authorization, he/she will be punished according to Article 648 of the Criminal Law.

**5. The award**

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

Yes, based on Article 30 of the LICA, all the reasons on which the award has been relied upon shall be stated in the text of the award, unless the parties agree not to mention such reasons, or unless the award has been issued on the basis of mutually agreed reasons.

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

**5.2.1 If yes, under what conditions?**

There are no provisions regarding the waiver of the right to seek the annulment of the award, and it seems that parties cannot waive such rights, given that it is a mandatory regulation that cannot be compromised. However, there is a right for waiver of objection under Article 5 of the LICA where one party, being aware of a failure in observing any non-authoritative regulation of this Law or any failure in observing the conditions of the arbitration agreement which may lead to the removal of an arbitrator, continues with arbitration and

fails to raise any objection immediately or within a deadline fixed for this purpose. In this case, it shall be considered that such party has waived his right for objection.

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

The following requirements apply to the rendering of a valid award rendered at a seat in Iran: the award shall be made in writing and bear the signature of the arbitrator(s); in cases where there is more than one arbitrator, the signature of the majority of the arbitrators shall be sufficient, provided that the reasons for non-signature by the other member are mentioned. All the reasons on which the award relies upon shall be stated in the text of the award. The award shall contain the date and venue of arbitration.

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

#### **5.4.1 If yes, what are the grounds for appeal?**

In general, all awards rendered under the law are not subject to review or appeal, except under limited circumstances, as mentioned earlier, where arbitral awards can be annulled or cancelled.

### **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?**

As mentioned earlier, Iran is a party to the New York Convention. Based on the “Law concerning the Accession of Iran to the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards”, in order to recognize and enforce foreign arbitral awards in Iran, the applicant shall provide the following documents:

- (a) the duly authenticated original award, or a duly certified copy; and
- (b) an official translation of the arbitral award approved by an official or sworn translator or by a diplomatic or consular agent.

Applications for annulment of an award pursuant to Article 33 of the LICA shall be filed within three months from the date of notification of the arbitrator’s award, including amending, complementary or exegetic judgment to objector, to the court, subject to Article 6 above. Otherwise, it will not be acceptable.

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

It does not happen automatically. Based on Article 35 of the LICA, in case one of the parties requests the annulment of the arbitral award by the court and the other party demands its recognition or enforcement, the exercise of the right to enforce the award will not be suspended. Instead, the court shall provide that the party requesting the annulment pay the eventual damages, if so requested by the party demanding recognition or enforcement.

### **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 is no explicit regulation on this issue. However, in the event of such silence, recognition and enforcement of foreign annulled awards is not accepted in the jurisdiction.

### **5.8 Are foreign awards readily enforceable in practice?**

In practice, enforcement of foreign arbitral awards in Iran may come along with considerable inconsistency and disconformity.

**6. Funding arrangements****6.1 Are there restrictions to the use of contingency or alternative fee arrangements or third-party funding at the jurisdiction?**

No.

**6.2 If so, what is the practical and/or legal impact of such restrictions?****7. Is there likely going to be any significant reform of the arbitration law in the near future?**

Yes, according to Article 211 of the Law of the Fifth Development Plan, the judiciary is obliged to cooperate with the government to establish an independent domestic as well as an international arbitration body. In this regard, the preparation and drafting of the Comprehensive Arbitration Law has been the responsibility of ACIC since 2011. The draft has been prepared and is in the process of adoption by Parliament.