

Law of the Republic of Armenia

Note: Articles 38, 39, 40 and 41 were subsequently amended.

“On Arbitration Courts and Arbitration Procedures”

Chapter 1. General Provisions

Article 1. Arbitration Courts

Permanently functioning arbitration courts and arbitration courts for settling specific disputes are established in the Republic of Armenia.

Article 2. Permanently functioning arbitration courts

1. Permanently functioning Arbitration Courts may be established within the structure of Trade Industrial Chambers, Stock Exchanges, organizations involved in public auctions, the Association of Armenian Banks and other organizations.

2. The procedures for a permanently functioning Arbitration Court are defined by the bylaws of the founding organization.

The following data should be included in the bylaws:

- 1) The list of arbiters (judges);
- 2) The procedure for establishing the Arbitration Court;
- 3) The procedure for withdrawal and rejection of an arbiter (judge);
- 4) The procedure for resolving disputes;
- 5) The procedure for collecting duties.

Article 3. Arbitration Courts for resolving specific disputes

An Arbitration court for resolving specific disputes is established by the parties.

Article 4. Activity principles of Arbitration Courts

The activities of Arbitration Courts are based on the principles of legality, independence of judges, equality of citizens and legal entities before the law and the court, competition between the parties and the principle of equality.

Article 5. Jurisdiction of Arbitration Courts

In compliance with the Civil Procedure Code of the RA the Arbitration Court resolves property disputes within the jurisdiction of the courts of the RA, with the exception of disputes emerging from state-legal, administrative-legal and taxation based legal relations, alimony relations, bankruptcy cases of legal entities and citizens.

Article 6. The right to apply to an Arbitration Court

Citizens of the Republic of Armenia (sole entrepreneurs included) and legal entities, foreign citizens and legal entities (hereinafter foreign entities), as well as entities without citizenship have the right to apply to the Arbitration Court if there is an arbitration agreement between the parties.

Chapter 2. Arbitration Agreement

Article 7. The Concept of an Arbitration Agreement

1. An arbitration agreement is an agreement between parties on specific legal relations of contractual or non contractual nature as to passing the resolution of present or all possible or specific disputes to the Arbitration Court.

2. An arbitration agreement can be concluded both in the form of a separate contract (arbitration arrangement) and as a reservation in the main contract (arbitration reservation).

Article 8. The form of the Arbitration Agreement

1. The arbitration agreement is concluded in writing.

The arbitration agreement is considered concluded if it is drawn as one document signed by the parties, or is concluded through exchanging letters, faxes, telegrams, or other messages with the use of communication techniques that provide for fixing such an agreement.

2. In case the provisions of the present article are not followed the arbitration agreement is void.

Article 9. The content of the arbitration agreement

1. The following should be included in the arbitration agreement:

- 1) The order of establishing an arbitration court and consequences for violating that order;
- 2) The order for withdrawal and rejection of an arbiter (judge);
- 3) The order for settling/addressing the withdrawal and rejection of an arbiter.

2. The agreement of the parties to pass the dispute to an arbitration court may include a reference to the bylaws of a certain permanently functioning arbitration court instead of the terms stipulated by paragraph 1 of the present article.

3. In case the provisions of the present article are not followed the arbitration agreement is void.

Article 10. Types of an arbitration agreement

An arbitration agreement may be of the following types;

- 1) On passing all disputes to a certain permanently functioning arbitration court;
- 2) On passing the dispute to a related permanently functioning arbitration court based on the nature of the case;
- 3) On passing the dispute to an arbitration court for resolving specific duties.

Chapter 3. The Structure of the Arbitration Court

Article 11. Requirements to judges of arbitration courts (arbiters)

An individual possessing either sufficient knowledge or working experience in the associated sphere of legal relations can be appointed (elected) a judge of an arbitration court (arbiter) unless otherwise specified by the agreement of the parties.

No one can be deprived of the right to be appointed (elected) a judge of the arbitration court (arbiter) on the basis of citizenship unless otherwise specified by the agreement of the parties.

Article 12. The number of arbiters

1. The number of arbiters is defined by the arbitration agreement of parties, but in all the cases it has to be odd. Unless otherwise agreed by the arbitration agreement three judges shall constitute the arbitration court.

2. In settling the dispute solely the arbiter acts as an arbitration court.

Article 13. The order for establishing an arbitration court

1. Unless otherwise agreed by the arbitration agreement each of the parties appoints one arbiter. The two appointed arbiters select the third one, the chairman.

2. If within thirty days of filing a request on appointing an arbiter by one of the parties the other party doesn't appoint the second arbiter, or if the two judges appointed by parties do not reach an agreement as to the selection of the third arbiter (the chairman) within thirty days, then

- 1) The arbiter or the chairman of a permanently functioning arbitration court is appointed by the head of the organization under the jurisdiction of which the court is established, from the list of arbiters of that court.
- 2) The order of appointing (electing) an arbiter or a chairman of an arbitration court established for resolving specific disputes is defined by the arbitration agreement of the parties.

Article 14. Grounds and procedure for withdrawal and rejection of arbiters

1. The arbiter hearing the case can notify about his/her withdrawal before starting the hearing. Withdrawal notice shall be in writing, giving grounds for such action. Withdrawal during the proceedings is allowed only in case grounds for such withdrawal have become known to the arbiter after starting the proceedings.

2. The arbiter may be given a notice of rejection before the start of proceedings if there are circumstances giving grounds for doubt as to his/her objectivity. Rejection notice is in writing, giving merits for such an action.

3. During the proceedings rejection notice shall be given only if grounds for such rejection became known after the start of the proceedings.

4. Unless otherwise provided by the arbitration agreement, it is not allowed to reject a sole arbiter appointed for the settlement of a specific dispute.

5. Unless otherwise provided by the arbitration agreement of the parties, in case of a joint proceedings by an arbitration court established to resolve specific disputes, the issue of withdrawal or rejection of an arbiter is settled by the same structure of the arbitration court in the absence of the arbiter who has notified of his/her withdrawal or the arbiter who has been rejected.

Article 15. Termination of the arbiter's mandate

The arbiter's mandate can be terminated upon the agreement of the parties or on the basis of the provisions of article 14 of present law.

Article 16. The appointment of a new arbiter

In case of termination of an arbiter's mandate a new arbiter is appointed in compliance with the rules spelt out in article 13 of the present law.

Chapter 4. Arbitration Court Procedure

Article 17. Filing a claim

1. The plaintiff specifies his/her demands in a claim and sends it to the defendant. The claim is considered instituted on the day the defendant receives the claim. Within thirty days period after receiving the claim the defendant sends an answer to the claimant. In response to the claim the defendant may issue a counter-claim.

2. The documents are sent by registered mail, by any other communication means providing for a receipt at delivery (hereinafter in the appropriate manner).

Article 18. The content of the claim

1. The following information shall be included in the claim

- 1) The name of the parties and the address;
- 2) The demands of the plaintiff;
- 3) Circumstances serving as grounds for the plaintiff's demands;
- 4) Evidence proving grounds for the plaintiff's demands;
- 5) The amount of the controversy;
- 6) The list of the documents attached to the claim.

2. The following documents are attached to the claim

- 1) The copy of the arbitration agreement;
- 2) The documents confirming the plaintiff's demands;
- 3) The proposal to establish an arbitration court and the name of the arbiter nominated by the plaintiff.

3. The claim is signed either by the plaintiff or by his/her representative. Should the plaintiff's representative sign the claim, a letter of attorney confirming his mandate to file a claim is attached.

4. The provisions of the present article are applied to the defendant's answer and counter-claim.

Article 19. The place of dispute resolution

The arbitration court taking into consideration all the circumstances of the case, including the factor of convenience for the parties, sets the place of dispute resolution unless otherwise specified by the agreement of the parties.

Article 20. Notifying the parties about the session

1. The arbitration court notifies the parties about the place and the time of the session in an appropriate manner.

2. The party changing its address during the proceedings shall notify the arbitration court and the other party in an appropriate manner. If there is no such notice, the court proceeding documents are sent to the last known address and are considered delivered despite the fact that the party is not located or doesn't reside at that address.

Article 21. The session of the arbitration court

1. The dispute is settled at an in camera arbitration court session unless otherwise provided by the arbitration agreement of the parties.

2. Arbiters are obligated to provide the confidentiality of the information related to the dispute.

Arbiters are held responsible for making public any administrative, trade or bank secrets revealed to them during the case proceedings.

Article 22. The order for dispute resolution

1. In a permanently functioning arbitration court the disputes are settled in the order defined by its bylaws, which shall not contradict the requirements of the Civil Procedure Court of the Republic of Armenia and those of the present law.

2. In an arbitration court established for the resolution of a specific dispute the order for settling a dispute is defined by the agreement of the parties. In the absence of such agreement the order for settling a dispute is defined by the arbitration court.

Article 23. The language of the court proceedings

1. The language (languages) of the court procedure to be used while settling the dispute is defined by the agreement of the parties. In the absence of such agreement the arbitration court identifies the language (languages) of the court proceedings.

2. The arbitration court may require that the parties translate the written evidence into the language to be used at settling the dispute.

Article 24. Changes and additions to the demand

During the hearing the plaintiff may change his/her demands or make additions to them unless otherwise specified by the parties.

Article 25. Evidence

1. Each party has to prove those circumstances he/she invokes as grounds for demands and objections.
2. Written evidence is submitted in the original or in the form of an appropriately certified copy.

Article 26. Appointment of expert examination

1. To clarify issues that arises during dispute resolution and require specialized knowledge, the arbitration court can by motion of a party (parties) or on its own initiative, appoint expert examination.

2. Parties are entitled to propose questions subject to clarification during the expert examination to the arbitration court.

The arbitration court passes a decision on appointing an expert examination, defining the list and the content of the questions.

3. The parties have the right to nominate experts and pose questions to the experts to check their knowledge of and competence in the related field.

The court passes a decision on appointing experts.

4. The costs of an expert examination appointed by a motion of a party are covered by the party.

The costs of an expert examination appointed on the initiative of the court or the parties are covered at the expense of the court in accordance with article 31 of the present law.

Article 27. Dispute resolution in the absence of parties

1. Parties can be personally involved in the hearings of the arbitration court or be represented through an appropriately authorized person.

2. The party has the right to request the arbitration court to resolve the dispute in his/her absence on the basis of the submitted documents and materials, unless otherwise specified by the agreement of the parties.

3. Should a party informed in a proper manner about the place and the time of the court hearing fail to present himself/herself, this is not an obstacle for the hearing of the case.

Article 28. Adjournment and suspension of case hearing

Should necessity arise the case hearing may be adjourned or suspended by the motion of the party or on the initiative of the arbitration court.

Article 29. Discontinuation of case proceedings

1. The arbitration court may discontinue the proceedings in the following cases:

- 1) The case is not subject to the examination of the arbitration court;
- 2) The plaintiff has withdrawn the claim;
- 3) The party being a legal entity was liquidated;
- 4) The party being a citizen deceased.

2. The arbitration court passes a decision on discontinuing the case proceedings.

Article 30. The protocol of the arbitration court session

1. The session of the arbitration court is protocolled, unless otherwise specified by the agreement of the parties.

2. The following is stated in the protocol

- 1) the name and the composition of the arbitration court
- 2) the year, month and date of the court session
- 3) information on the participation/ attendance of the parties
- 4) claims and mediations filed by the parties
- 5) brief description of the session.

3. The session is protocolled by the secretary.

4. The protocol is signed by the arbiter (arbiters).

5. The parties are entitled to read the protocol and comment on the accuracy of its content.

Article 31. The costs of an arbitration court

Arbitration duties, arbiters' honorarium and such costs related to the case hearing as summoning witnesses, examination of the evidence site, costs for expert examination by the motion of the parties or on the initiative of the court subject to payment, comprise the costs of the arbitration court.

- 1) The amount of the arbitration duty is set by the bylaws of the arbitration court.
- 2) The amount of the honorarium for arbiters in an arbitration court established for the resolution of specific disputes is defined by the agreement of the parties.
- 3) Cost allocation between parties is reached by the agreement of the parties. In the absence of such agreement, the arbitration court in proportion with the satisfied demands accomplishes cost allocation.

Chapter 5.

The Judgement of the Arbitration Court

Article 32. Legal norms applied by the arbitration court

1. The arbitration court settles disputes on the basis provided by the Civil Code of the RA, codes including civil law norms, other legal acts and international agreements of the RA.

2. In the cases provided by the arbitration agreement the court applies legal norms of other countries.

3. In the absence of laws or legal acts governing the dispute relationship, the arbitration court applies the norms of law regulating similar relationship (law analogy). In the absence of such norms the arbitration court resolves the dispute based on general legal principles.

4. The arbitration court can apply business practice customs.

Article 33. The procedure of passing a judgement

1. At a joint hearing of a case the court passes a judgement by a majority vote. An arbiter has no right to abstain from voting.
2. The arbiter disagreeing with the decision of the majority has no right to refuse to sign the judgement, but is entitled to attach his/her specific opinion to the case materials.
3. The chair person publicizes the concluding part of the judgement at the session of the arbitration court. The preparation of the judgement text shall not be delayed for more than 10 days.
4. The text of the judgement is sent to the parties in an appropriate manner.

Article 34. Issues subject to resolution while passing a judgement

1. While passing a judgement, the arbitration court
 - 1) assesses the evidence;
 - 2) identifies the laws and legal acts to be applied to the case;
 - 3) establishes the rights and obligations of the parties involved in the case;
 - 4) decides whether to satisfy or reject the claim.
2. The court, finding it necessary to additionally examine the evidence or continue the clarification of the circumstances having significance for the case, resumes the case hearing.

Article 35. Requirements to the content of the judgement of the arbitration court

1. The following information is included in the judgement of the arbitration court:
 - 1) the year, the month and the date of passing a judgement;
 - 2) the composition/structure of the arbitration court;
 - 3) the arbitration agreement of the parties serving as a basis for the activities of the arbitration court;
 - 4) the name and the address of the parties;
 - 5) the brief summary of the dispute;
 - 6) case circumstances revealed by the arbitration court;
 - 7) evidence serving as a basis for the assumptions of the arbitration court;
 - 8) the laws and legal acts by which the arbitration court was governed while passing a judgement;
 - 9) conclusions of the arbitration court to satisfy or reject the claims of the plaintiff;
 - 10) the costs of the arbitration court, cost allocation between the parties;
 - 11) date and procedure for judgement enforcement.
2. At any stage of the proceedings the arbitration court uses all the opportunities to encourage parties enter into a reconciliation agreement.
3. Should a reconciliation agreement be concluded, the literal (word for word) text of the reconciliation agreement is to be included in the judgment of the arbitration court.

Article 37. Additional Judgment. Clarifications and adjustments to the judgment

1. The arbitration court has the right to pass an additional judgment if:
 - 1) no judgment was passed on any of the demands about which proofs had been submitted by parties.
 - 2) in resolving the issue of the rights, the court has not identified the allocated amount or the property subject to submission.
 - 3) the issue of court costs has not been resolved.
2. The arbitration court has a right to make clarifications to the judgment and correct existing misprints, spelling and arithmetical mistakes without changing the nature and the content of the judgment.
3. The parties can request an additional judgment or clarifications and adjustments in the judgment before the arbitration court passes the judgment.
4. Applications of the parties are considered at the session of the arbitration court. The parties are notified about the place and the time of the session in an appropriate manner. Their failure to attend is not a hindrance to consider the application.

Article 38. Reconsideration of the judgment of the arbitration court resulting from newly emerged circumstances

1. The judgment of the arbitration court can be reconsidered in the result of newly emerged circumstances before its enforcement.
2. In the result of newly emerged circumstances the judgment of the arbitration court is reconsidered on the bases provided by the RA Civil Procedure Code.
3. The application of the party to reconsider the judgment of the arbitration court in the result of newly emerged circumstances is addressed at the session of the arbitration court. The parties are notified about the place and the time of the session in an appropriate manner. Their failure to attend is not a hindrance to consider the application.
4. In addressing the application of the party to reconsider the judgment of the arbitration court in the result of the newly emerged circumstances, the arbitration court has a right to either revoke the judgment or reject its reconsideration.
5. In revoking the judgment the arbitration court hears the case in accordance with the rules prescribed by the present law.
6. The party has a right to file a claim with the first instance court, if:
 - 1) the arbitration court has rejected the reconsideration of the judgment based on the newly emerged circumstances.

- 2) new circumstances have emerged following the enforcement of the judgment
- 3) the hearing of the case at the same arbitration court is impossible

Chapter 6. Enforcement of the Judgment of the Arbitration Court

Article 39. Procedure of enforcement of the judgement of the arbitration court

1. The judgement of the arbitration court is executed voluntarily.
2. Should the judgement be not executed within the established deadline and in accordance with the established order, the party has a right to apply to the first instance court located within the same jurisdiction as the arbitration court in order to obtain an enforcement act form necessary for the mandatory enforcement of the court judgement.

Article 40. Basis for rejection to give an enforcement act form

The first instance court has a right to reject to give an enforcement act form for the mandatory enforcement of the judgement of the arbitration court, if;

- 1) the dispute is not subject to be heard at the arbitration court.
- 2) the order of forming an arbitration court is not consistent with the arbitration agreement of the parties.
- 3) the party against which the judgement is passed was not notified about the place and the time of the case hearing in an appropriate manner.
- 4) the judgement of the arbitration court is inconsistent with the RA Civil Code and other laws and legal acts containing norms of civil law, if the parties are RA citizens or legal entities, or persons without citizenship.
- 5) The judgement of the arbitration court is inconsistent with the legal norms of other states to be applied by the arbitration agreement of the parties, if at least one of the parties is a foreign entity.

Chapter 7. Concluding Provisions

Article 41. Record keeping

In a permanently functioning arbitration court the case records are kept in the court.

The case heard in an arbitration court established for the resolution of a specific dispute is later transferred to the first instance court located within the same jurisdiction as the arbitration court for keeping.

Article 42. Entering into force of the present law

1. The present law enters into force from January the 1st, 1999.
2. Upon coming into force of the present law, attachment #3 of the Armenian Soviet Republic's Civil Procedure Code on the "Regulations of the Arbitration Court" approved by the law of the Armenian Soviet Republic of July 4, 1964 on "Adopting the Civil Procedure Code of the Armenian Soviet Republic" is considered invalid.