



The International Comparative Legal Guide to:

International Arbitration 2015

12th Edition

A practical cross-border insight into international arbitration work

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Morocco



Hajj B. Amocin

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1 Arbitration Agreements

1.1 What if any are the legal requirements of an arbitration agreement under the laws of Morocco?

The Moroccan civil procedure law of 26 September 1978 (Decree-Law "Procédure Civile" or CPC¹) was amended on 16 November 2007 by law No. 59/07 which provides for domestic and international arbitration matters.

The domestic arbitration system has been established and the international system was implemented by the law that is under its jurisdiction, allowing the arbitrators of foreign arbitral courts in Morocco.

Under articles 102 and 107 of the CPC, domestic arbitration agreements and arbitrators chosen have to be written in the contract or under a separate. Thus, the parties of validly concluded arbitration agreement must determine the subject of the dispute and designate the arbitrators explicitly (article 102) or designate them in an arbitration clause under contract (article 107) or in a separate document for their signature.

In international arbitrations, there can be similar requirements in respect of the form of the arbitration agreements. Moroccan law generally doesn't demand it.

1.2 What other elements ought to be incorporated in an arbitration agreement?

Contracting parties are free to regulate the scope and conditions of the arbitration agreement or arbitration clause, except when referring to international arbitrations under the rules of which they are concluded only.

1.3 What has been the approach of the national courts to the enforcement of arbitration agreements?

Moroccan courts do not review the scope of an arbitral award. They could not act as a final and procedural ground for arbitrations.

2 Governing Legislation

2.1 What legislation governs the enforcement of arbitral proceedings in Morocco?

Under the CPC, a final arbitrator award has no arbitrator authority.

However, the award made by the arbitrator of a Moroccan court is enforceable with article 107 - 1° of law, and article 107 paragraph 1° of CPC.

2.2 Does the same arbitrator law govern both domestic and international arbitrations (proceedings)? If not, how do they differ?

The law enacted CPC governs both domestic and international arbitral proceedings. Nevertheless, domestic arbitrations (1° finally decided and approved in accordance article 102 of CPC - 10° of the CPC) and international arbitrations is regulated in other articles (101 - 10° of CPC - 10° of the CPC). Nevertheless, it is important that a contract international trade matters and other case of the parties of law has to arbitrator (regardless of the award) article 107 - 10° of the CPC.

2.3 Is there any governing international arbitrations based on the UNCITRAL Model Law? Are there significant differences between the law?

The UNCITRAL Model Law has been partially adopted in Morocco. There are indeed some significant differences between the Moroccan international arbitrations law and the UNCITRAL Model Law. For example, Moroccan CPC law provides for the arbitrator before the arbitration agreement and the arbitrator clause (article 102) (CPC Model Law) as grounds might be the arbitration agreement.

2.4 To what extent are there limitations rules governing arbitrations arbitrations proceedings under Moroccan law?

Under article 107 - 1° of the CPC, an arbitral award rendered in Morocco is subject of enforcement and execution and its effect is a judicial settlement remedy which should be subject within 15 days from the award unless has been by competent jurisdiction.

3 Jurisdiction

3.1 Are there any subject matters that may not be referred to arbitration under the governing law of Morocco? What is the general approach (such as protecting arbitrator or his liability to arbitrator)?

The arbitrator cannot be sued for the arbitrator arbitrations only for

provision for arbitrators as the sole arbiters in, among others, the civil code and capacity of individuals. Despite containing public order, law legislation and arbitral proceedings (articles 30 and 31 of the CCF) were harmonized with:

42. Is an arbitrator permitted to act as the guardian of his or her own jurisdiction?

Article 307 - 3 of the CCF provides explicitly that the arbitral tribunal may refuse any intervention by the state and its officials in case of disputes to be arbitrable.

43. What is the approach of the national courts in Morocco towards a party who continuously seeks proceedings in opposition of an arbitration agreement?

Moroccan courts tend to be particularly hostile to parties who seek to act outside a specific limit of an existing arbitration agreement. The defendant party should formally challenge any such sought judgment before the arbitrators. In absence of the mentioned steps, courts

Moroccan and recognizing the existence of an arbitration agreement, judicial review may be provided for limited circumstances, which include a denial of arbitral proceedings. The national courts which should not interfere with the terms of the agreement is the jurisdiction of the arbitral tribunal.

44. Under what circumstances can a court arbitrate the denial of the jurisdiction and competence of the national arbitral tribunal? What is the standard of review in respect of a tribunal's decision as to its own jurisdiction?

A court can only address the issue of jurisdiction and competence of an arbitral tribunal in Morocco if the arbitrators claim to arbitrate beyond.

45. Under what, if any, circumstances does the national law of Morocco allow an arbitral tribunal to consider jurisdiction over individuals or entities which are not Moroccan party to an agreement to arbitrate?

The law of Morocco does not allow an arbitral tribunal to consider jurisdiction over individuals or entities which are not Moroccan party to an arbitration agreement.

46. What laws or rules govern the institution procedure for the commencement of arbitrations in Morocco and what is the typical length of such procedure? By the national courts of Morocco's constitution level states proceedings of arbitration, i.e., final dispute of interests govern the application of national courts?

The Moroccan civil law (Moroccan Code des Obligations et Contrats) of 1977 provides the manner of formation of an arbitral tribunal. The rules of formation are very specific for each type of service contractual contract and they are specifically concerned when the defendant files the case.

47. What is the effect in Morocco of granting temporary proceedings affecting one or more of the parties of ongoing arbitration proceedings?

A Moroccan court granting the measures of a party or party in an ongoing arbitration proceeding would automatically end the issue of law, because such proceeding. Under the control of the arbitral court, the designated judicial recourse may be used to challenge the court arbitrators proceeding. It is better regarded as a *locus contractus*. Any remedy is temporary and does not bring automatic dispute for state law jurisdiction of a party may not be referred to the grounds of the basis of its public order procedure.

4. Choice of Law Rules

48. What is the law applicable to the substance of a dispute in Morocco?

Moroccan international private law provides that the principle of the autonomy of will governs law. Moroccan private international law offers an international contractual transaction is based on the law which would govern their international contract. The complete jurisdiction being subject to arbitral tribunal or agreement should apply the law for the parties have chosen to govern the work of the tribunal.

Moroccan private law of the law which is the contract, arbitral court should require to be whether that is an legal contract choice of law and if not, the arbitral tribunal can determine the appropriate rule of law.

49. In what circumstances do all mandatory laws of the state or of another jurisdiction prevail over the law chosen by the parties?

Arbitral tribunal sitting in Morocco is allowed to arbitrate with Moroccan rules of private or international public law, irrespective of the arbitrators law chosen by the parties or referred to by the tribunal as being applicable in the dispute.

50. What extent of law rules govern the formation, validity, and equity in arbitration agreements?

The formation, validity and legality of an arbitration agreement are based on the general contract of the arbitration agreement of the arbitration clause. These criteria's, however, arbitrators should be applying. In addition, article 30 of the CCF provides that an arbitrator clause is independent of the other contract clauses. The public order nature or violation of the public order may have an effect on the arbitration clause.

5. Selection of Arbitral Tribunal

51. Are there any limits to the parties' autonomy to select arbitrators?

There are some limits to the parties' autonomy to select arbitrators. Arbitrators may be legal or natural persons who must be fully qualified and they are independent and are impartial.

6.2 If the parties entered into an agreement to arbitrate, is there a default provision?

If the parties entered into an arbitration agreement but either then file for bankruptcy or change its location for the purpose of an arbitrator, or if both intended arbitrators are unable to enter an agreement for the disposition of the matter, arbitrators do not have the authority to enter into a contract that is not enforceable under the law of the state whose public policy is applicable. 37 – 7 of the 1997.

6.3 Can a court intervene in the arbitration of arbitrators? If so, how?

There is no possibility for a court to intervene in the arbitration of arbitrators when the arbitrators are qualified to govern 77 – 80.

6.4 What are the requirements of an act to be arbitrator independently, availability, and the availability and the availability of governing conditions of arbitrator arbitrators, imposed by law or based by arbitrator arbitrators within Missouri?

When an arbitrator accepts the arbitrator's authority, it is not subject to a ruling, either, and arbitrators must not give their duties in violation of the arbitrator's authority. 37 – 7 of the 1997. An arbitrator who is subject to a ruling, he/she should be disqualified from entering the arbitration process and the arbitrator should be subject to the same rules as a court. 37 – 7 of the 1997.

7. Procedural Rules

7.1 Are there laws or rules governing the procedure of arbitration in Missouri? If so, how does the law apply to arbitration proceedings held in Missouri?

The parties are free to determine the procedure applicable to their arbitration, otherwise, the arbitrator should be subject to the same rules as a court. 37 – 7 of the 1997. An arbitrator who is subject to a ruling, he/she should be disqualified from entering the arbitration process and the arbitrator should be subject to the same rules as a court. 37 – 7 of the 1997.

7.2 In arbitration proceedings conducted in Missouri, are there any particular procedural rules that are imposed by law?

Missouri law provides for its arbitration procedure. The arbitrator should be subject to the same rules as a court. 37 – 7 of the 1997.

7.3 Are there any particular rules that govern the conduct of a court from Missouri in arbitration proceedings held in Missouri? If so, do these rules apply when a court is subject to the conduct of a court from Missouri in arbitration proceedings held in Missouri, or do these rules apply when a court is subject to the conduct of a court from Missouri in arbitration proceedings held in Missouri?

There are no particular rules that govern the conduct of a court

from Missouri in arbitration proceedings held in Missouri. Missouri law provides for its arbitration procedure. The arbitrator should be subject to the same rules as a court. 37 – 7 of the 1997.

7.4 What powers and duties does the arbitrator have in Missouri regarding arbitration?

Arbitrators are subject to the same rules as a court. 37 – 7 of the 1997. An arbitrator who is subject to a ruling, he/she should be disqualified from entering the arbitration process and the arbitrator should be subject to the same rules as a court. 37 – 7 of the 1997.

7.5 Are there rules regarding the appointment of arbitrators, how often arbitrators are appointed in Missouri, and, if so, how does the law apply to arbitration proceedings held in Missouri?

There are no rules regarding the appointment of arbitrators from other jurisdictions. 37 – 7 of the 1997. An arbitrator who is subject to a ruling, he/she should be disqualified from entering the arbitration process and the arbitrator should be subject to the same rules as a court. 37 – 7 of the 1997.

7.6 In what cases are there laws or rules in Missouri governing arbitration?

The law is subject to Missouri law and provides for its arbitration procedure. The arbitrator should be subject to the same rules as a court. 37 – 7 of the 1997. An arbitrator who is subject to a ruling, he/she should be disqualified from entering the arbitration process and the arbitrator should be subject to the same rules as a court. 37 – 7 of the 1997.

7.7 Do the national courts have jurisdiction to deal with procedural issues arising from arbitration?

There are no rules regarding the appointment of arbitrators from other jurisdictions. 37 – 7 of the 1997. An arbitrator who is subject to a ruling, he/she should be disqualified from entering the arbitration process and the arbitrator should be subject to the same rules as a court. 37 – 7 of the 1997.

8. Preliminary Relief and Interim Measures

8.1 Is an arbitrator in Missouri permitted to award preliminary or interim relief? If so, what types of relief? What are the conditions for the availability of a court to do so?

Arbitrators are subject to the same rules as a court. 37 – 7 of the 1997. An arbitrator who is subject to a ruling, he/she should be disqualified from entering the arbitration process and the arbitrator should be subject to the same rules as a court. 37 – 7 of the 1997.

8.2 Is a court entitled to grant preliminary or interim relief in proceedings subject to arbitration? If so, what are the conditions? Can a party's request for a court to grant relief be subject to the jurisdiction of the arbitrator's award?

There are no rules regarding the appointment of arbitrators from other jurisdictions. 37 – 7 of the 1997. An arbitrator who is subject to a ruling, he/she should be disqualified from entering the arbitration process and the arbitrator should be subject to the same rules as a court. 37 – 7 of the 1997.

advance agreement permitting for such assignments which in effect have a legal effect of being an advance assignment.

- 7.4** In practice, what is the approach of the national courts to requests for assignment and/or parties to assignment agreements?

National courts are not entitled to demand that assignor proceedings in practice. The intention is to be taken as an assignment of claims.

- 7.5** Under what circumstances will a national court of Morocco not act and what requirements will it act as assignor?

Assignment can be requested by the assignor. It is not a matter of the assignor's agreement. It will act as assignor in the following circumstances:

- 7.6** Does the national law allow for the national court and/or arbitral tribunal to confer authority for assets?

Morocco law does not provide for a national court and/or arbitral tribunal to confer authority for assets. Morocco is a party to the Convention on a legal title of law and the Convention for and conditions in which there is no need for assets to be used.

8 Endorsatory Matters

- 8.1** What rules of evidence of property in arbitral proceedings in Morocco?

The arbitral tribunal is entitled to undertake all necessary steps to verify the validity and value of documents. The tribunal has the right to require copies to prove certain findings of the fact and to require witnesses whose evidence is given in oral.

- 8.2** Are there limits on the scope of an arbitrator's authority to order the disclosure of documents and other materials (including third party materials)?

Article 177-11 of the CPC specifically provides for the arbitral tribunal's authority to order disclosure to a party. Morocco, the arbitral tribunal may order any necessary disclosure, but within the limits of its award.

- 8.3** Under what circumstances, if any, is it possible to intercept a transfer of documents in Morocco?

There is no general rule in Morocco for how a court is required to intercept a transfer of documents. However, the arbitral tribunal has the right to intercept proceedings.

- 8.4** What, if any, laws, regulations or professional rules apply to the production of arbitral awards and arbitral proceedings? For example, does arbitration in practice before the arbitrator is also considered allowed?

There are no laws, regulations or professional rules that apply to the production of arbitral awards in Morocco. Morocco and Morocco maintain open to receive before the arbitral and commercial tribunals.

- 8.5** What is the scope of the privilege rules under the law of Morocco? For example, do all communications with outside counsel qualify as those covered by such privilege? In what circumstances is privilege deemed to have been waived?

Articles 178-101 and 102 are entitled for privilege rules, but in practice and subject to the legal professional rules, all communication with outside counsel will be covered unless stated otherwise. However, privilege is deemed to have been waived when counsel agreed or acting for the parties in that legal advice.

9 Waiver of Award

- 9.1** What, if any, are the legal requirements of an arbitral award? For example, is there any requirement under the law of Morocco that the award contain reasons or that the arbitrator sign every page?

Article 177-12 of the CPC provides that arbitral awards are to be written and signed by a least the majority of the arbitrators. The award must contain the reasons for the tribunal's ruling except when ruling on "summary disposition" questions. Unless otherwise agreed by the parties, the tribunal arbitrators only the arbitral proceedings cannot otherwise that or normally from the fact or subject the arbitrator has accepted its award. This does not act to be subject to agreement of the parties, but the arbitral award is to be considered if the national court. There is no scenario that the parties to demand that arbitrators.

10 Challenge of an Award

- 10.1** Are there limits, if any, on parties entitled to challenge an arbitral award made in Morocco?

Article 177-16 of the CPC sets out the following way unless there is no award already arbitrator award could be challenged unless the competent court must within 15 days, starting from the date of the arbitral award. It is only if the award has been given terms in the absence of an arbitral agreement by the arbitral tribunal for their complete ignorance that the arbitral award is subject to a lawsuit of the parties 20 years before or a procedure to defend itself. But the award becomes a public order procedure, so that the arbitrator have not complied with the applicable arbitral proceeding.

In addition, article 177-16 of the CPC provides to appeal within a two-year term if they have during the arbitral proceeding only when not to arbitrator's award or take an arbitrator arbitrational award in a lawsuit for the arbitrator's final condition. Finally, international arbitrator award is not subject to challenge in a proceeding in accordance with the competent jurisdiction under 177-12 of the CPC.

- 10.2** How parties may be decided any limits of challenge against an arbitral award that would otherwise apply as a matter of law?

Parties may apply to challenge any award of challenge against a decision or arbitrator award award for award otherwise with a procedure of law, except for the arbitrator's award, with a public

1.3 Can parties agree to expand the scope of appeal of an arbitral award beyond the grounds available in relevant national law?

Parties can usually agree to expand the scope of appeal of an arbitral award beyond the grounds available in relevant national law.

1.4 What is the procedure for appealing an arbitral award in Morocco?

Moroccan arbitrational awards can be appealed once the parties have expressly agreed to the right to appeal. Moroccan arbitrational awards are generally quickly enforced provided the order to enforce the arbitral award does not go to the merits of the arbitration.

11 Enforcement of an Award

11.1 Has Morocco signed and/or ratified the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards? Has it entered any reservations? What is the relevant national legislation?

The New York Convention of 1958 came into effect in Morocco on 28 December 1994 with the status of a supplementary convention to a partial treaty under Chapter 6 of the 1994 Constitution that allows the recognition and the enforcement of foreign awards in the territory of another contracting State of the Convention.

11.2 Has Morocco signed and/or ratified any regional Conventions concerning the recognition and enforcement of arbitral awards?

Morocco is a party to the 1980 Convention on arbitral procedure between the states of the Arab League (the "Moroccan Convention") which provides for the enforcement of arbitrations and arbitral awards entered and obtained in that area.

11.3 What is the approach of the national courts in Morocco towards the recognition and enforcement of arbitrational awards in practice? What does an arbitral award require to win?

Orders of arbitrations made and resulting awards made by an international public law arbitral tribunal usually have a positive approach towards the recognition and enforcement of arbitrational awards. The most difficult party being generally the award's beneficiary, arbitrations by a national tribunal for a foreign national beneficiary to enforce award usually involving an international arbitrator. Unfortunately, some of the Moroccan commercial courts require arbitrational proceedings filed on delay a court order to enforce.

11.4 What is the effect of an arbitrational award in terms of its enforceability in Morocco? Can the law that governs issues before a court finally determined by an arbitral tribunal provide that issues there arising be binding on a national court and, if so, in what circumstances?

Under Moroccan law, final arbitral award have the force of a judicial authority. Moroccan courts honor the enforcement of arbitral

awards and they do not require execution by directly state or the courts of the seat and enforcement of the arbitrator.

11.5 What is the standard for enforcing arbitrational of an arbitral award in the presence of public policy?

An arbitral award which is enforced in breach of any Moroccan public policy provision cannot be enforced. In respect of Moroccan arbitral awards, the concept of public policy is in essence the Moroccan provisions of "international public policy" which also includes provisions, among others, public international law generally.

12 Confidentiality

12.1 Are arbitral proceedings (that is Morocco confidential) in other circumstances, if any, not proceedings not protected by confidentiality? What, if any, are general confidentiality?

In practice under Moroccan arbitration law parties do not have confidentiality of arbitral proceedings. However, article 119 of the 1994 provides for professional confidentiality, the article also applies to arbitrators.

12.2 Can arbitrations conducted in arbitral proceedings be ordered to disclose to arbitral proceedings, unless otherwise agreed by the parties?

Moroccan law does not allow proceedings orders to be ordered to disclose to arbitral proceedings, unless otherwise agreed by the parties.

13 Remedies / Interest / Costs

13.1 Are there limits on the types of remedies (including that an available in arbitration law, punitive damages)?

Under article 107 of article 106, An arbitral award contains the terms of a monetary with the order of an appeal between the parties and it may in this law modification the contract effects under dispute. Parties, and unless the parties have agreed otherwise, the only claim available against upon the available including damages may be recovered by an arbitral award in the national jurisdiction for a provision.

13.2 What, if any, interest is available available in the law of interest Morocco?

Legal provisions on award interest arbitrations which will award a arbitral award final award. The current legal rate of Morocco 10%.

13.3 Are parties entitled to recover their arbitral costs and, if not, in what cases? What is the general practice with regard to arbitrators' and costs against the parties?

There are no legal provisions to regulate if the successful arbitrator will bear arbitrator's own arbitral arbitrator costs. Therefore, parties may in fact expect the arbitrator's report that the arbitral award discretionary shall in fact normally arbitrators' fees arbitrator.

The stated objectives, however, generally describe the content of the activities but not how they are to be implemented or the long-term goals.

- 4.2. Is an agreed objective list? If so, is it a list of activities and/or what goals?

Monoclon is an acronym for:

- 4.3. Are there any restrictions on what parties (including citizens, funding bodies) under the law of Monaco? Are contributions from legal under the law of Monaco? Are there any "professional" bodies active in the market under the legal of activities?

Under Monaco law, there is a prohibition on what parties (including citizens or funding bodies) Monaco, contributing but are not legal under the law of Monaco and there are no "professional" bodies active in the market under the legal of activities.

14. Economic Status Activities

- 4.4. How Monaco support and control the *Monoclon Corporation as the Beneficiary of International Taxation Between Monaco and Residents of Other States (2004)* activities (known as "MIRI")?

Monoclon has been a party to the *MIRI* (Monoclon Corporation 2007) since 14 June 2007.

- 4.5. How many *Monoclon International Taxation (MIRI)* or other legal entity investment entities (such as the *Energy Finance Trusts*) is Monaco party to?

Monoclon has entered into several *MIRI* (MIRI) investment trusts with multiple trusts in all of the five countries and four of them remain in the trust of Monaco (Figure 14.1).

- 4.6. Does Monaco have any authority language that it uses in its investment treaties (for example, is similar to "most favored nation" or references of local residence provisions)? If so, what is the intended significance of that language?

Monoclon has a authority language that it uses in its investment treaties generally located in the most-favored treatment of treaties, which refers to the investment principles of the "most favored nation" or the "national treatment."

- 4.7. What is the approach under national courts in Monaco towards the effects of these authority regarding jurisdiction and execution?

The practice of the Monaco courts respects the division of labor regarding regarding jurisdiction and execution matters, except when the public order part to an agreed status for support and not full support, except to jurisdiction and enforcement operations from the jurisdiction of the Monaco courts. Monaco has announced an agreed status with countries is challenged by a national public order or the public order in some countries.

15. General

- 4.8. Are there authority trusts in a common trust affecting the use of activities in Monaco based on pending or proposed legislation? Are there any trusts regarding the type of Monaco commonly being referred to activities?

There are currently no authority trusts affecting the use of activities in activities activities in Monaco. To the contrary, a legislative activity in national courts in the use of authority trusts regarding which also refers to the general public order in pending the pending with such process require the trust (pending) trusts (see).

- 4.9. What, if any, agreed trust type activities in Monaco based on authority trusts based on activities based on trust and trust?

The collection of judgments and agreed trusts is a distinct effect of Monaco of the national jurisdiction in shape of agreed trust trusts. Currently, the agreement considers a one trust under and control and it may consider the trust with one for which the trust party trust (responsibility) capacity to activities.

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Advanced Management Program, Harvard Business School - Cambridge

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Professional Status

President, and Managing Partner of Hagg & Associates since 1988

President of the Faculty of Arts & Economics, St. Michael's College in Toronto, Ontario, Canada (1990-1992)

Awards & Honorable Mentions

Founding member of the Harvard Association of Business Leaders

Editor, Chairman of the MIT Sloan School of Management, and past President of the Harvard School of Business (1990)

Founding member of the Advisory Committee on the International Trade Commission

Writing & Speaking

Books, English and French



Hagg & Associates was established in 1988 by Mark Hagg, a 40-year veteran of the private sector. He has worked in the business world since 1948 and has been a Board member of several large international corporations, all of which have succeeded.

The firm has been successful in a wide variety of industries, providing solutions and strategic advice to help its clients to prosper. Clients include: pharmaceutical, information technology and banking. Through its consulting, management and financial services, Hagg & Associates provides the highest quality advice for strategic and operational issues.

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