



Recognition and enforcement of foreign arbitral awards in Tunisia

Summary

Historically, Tunisia is one among the first African and Arab states to regulate arbitration. On 15 October 1967, Tunisia joined the New York Convention on the recognition and enforcement of foreign arbitration awards, aka the New York Convention of 1958. The convention stipulates that its country members must recognize, and enforce each other's final, binding decisions in an arbitration award. Thus, foreign courts' rulings and decisions are recognized and enforced in Tunisia as an *exequatur* procedure.

Tunisian Arbitration Law

The following four articles of Tunisia's Arbitration Code, which was enacted on 26 April 1993, demonstrably favor arbitration.

Article 79

The provisions of this section are applicable to arbitration awards rendered in international arbitration matters in any country in the world and, under the principle of reciprocity, to foreign arbitration awards.

Article 80

An arbitration award, irrespective of the country in which it was made, is *res judicata* according to Article 32 of this Code. The award shall be enforced upon application in writing to the Court of Appeals of Tunis subject to the provisions of this article and Articles 81 and 82 of this Code.

Article 81

Recognition or enforcement of an arbitration award, irrespective of the country in which it was made, may be refused only in the following two cases:

I. At the request of the party against whom it is invoked, if that party presents to the Court of Appeals of Tunis where recognition or enforcement is sought, proof that:

a) A party to the arbitration agreement referred to, in Article 52 of this Code, was incapacitated; or the said agreement is invalid under the law to which parties have subjected it or, failing any indication thereon, under the rules of private international law.



- b) The party against whom the award is invoked was not given proper notice of the appointment of an arbitrator or of the arbitration proceedings or was otherwise unable to present his case.
- c) The award deals with a dispute not contemplated by, or not falling within, the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration, provided that, if the decisions on matters submitted to arbitration can be separated from those not submitted, that part of the award which contains decisions on matters submitted to arbitration may be recognized and enforced.