

# **LAW OF GEORGIA**

## **ON PRIVATE ARBITRATION**

### **Chapter I**

#### **General Provisions**

##### **Article 1.**

A civil dispute which has arisen between persons shall, in agreement of the parties proper, be submitted for the consideration to the permanent or created for this dispute temporary private arbitration (hereinafter arbitration).

An agreement for submitting a dispute to the arbitration (the arbitration agreement) shall be made in writing.

##### **Article 2.**

The arbitration agreement shall include: the names, the places of residence or legal addresses of the parties; the subject-matter of the dispute; the date and place of the agreement.

##### **Article 3.**

If during the arbitrage proceedings a criminal case has been initiated on the matter which is the subject of the dispute and which may influence the outcome of the proceedings, on the basis of the Court's decision arbitration shall not be deemed to be conducted.

##### **Article 4.**

If an arbitration agreement is the part of the agreement concluded between the parties, the arbitrage award on invalidation of the agreement shall not invalidate the arbitration agreement by force of law.

##### **Article 5.**

The death or liquidation of a party shall not cause the termination of the arbitration agreement or replacement of the already appointed arbitrator, unless the parties have agreed otherwise.

##### **Article 6.**

A party's claim or a request of the arbitration, on matters defined by this Law, shall be

considered by a district (city) court on whose territory the arbitrage proceedings are taking place.

#### **Article 7.**

The permanent arbitration shall conduct its activities after registration according to the rules established by the Law of Georgia On Entrepreneurs.

Each permanent arbitration shall before commencing its activity adopt and publish through the Mass Media statute containing the rules of appointment of the arbitration and conduct of the arbitrage proceedings.

## **Chapter II Establishment of Arbitration**

#### **Article 8.**

A citizen of Georgia, a stateless person or a foreign national may be appointed as an arbitrator. A person shall not be appointed as arbitrator if he/she is: a person with lack of dispositive legal capacity or with a limited dispositive legal capacity; a political official or state employee; a person convicted for committing a deliberate crime; one of the party's or his/her representative's spouse, child, mother, father, sister or brother.

A person's shall give consent to his appointment to the office of arbitration in writing.

#### **Article 9.**

Arbitration shall be composed of one or several arbitrators. The number of arbitrators and the rules of their appointment shall be defined by the parties. The parties shall appoint an equal number of arbitrators. An arbitration agreement shall not be valid if it gives one of the parties a privileged position with regard to the appointment of arbitrators. The number of arbitrators shall not be even. If the arbitration agreement provides for an even number of arbitrators, an additional arbitrator shall be appointed within five days of the establishment of arbitration. If the parties have not settled the number of arbitrators themselves, the arbitration shall be composed of three arbitrators.

If the parties do not *specify* the procedure of appointment of arbitrators themselves, the parties shall under the rule defined in this Law appoint an equal number of arbitrators, and an additional arbitrator shall be appointed by already appointed arbitrators.

If the parties and the permanent arbitration do not agree otherwise, the number of arbitrators and a method of their appointment shall be defined by the permanent arbitration in accordance with its statute.

#### **Article 10**

A party may delegate the right to appoint an arbitrator to a third person.

#### **Article 11**

Each party shall appoint an arbitrator within the period defined in the agreement. Where

the period has not been defined, the party shall appoint an arbitrator within ten days after the receiving of the demand of other party.

If the party or arbitration has not appointed the arbitrator within the period defined by the agreement or law, at the request of either party the judicial authority shall appoint an arbitrator within five days. The judicial authority's decision on the appointment of arbitrator shall be final and shall not be subject to appeal.

#### **Article 12**

A party has no right to replace an arbitrator appointed by him, unless the parties have agreed otherwise.

#### **Article 13**

Where the appointed arbitrators are more than one in number, they shall appoint one of themselves to be chairman of arbitrator.

The arbitration shall appoint the chairman of arbitration within five days after the establishment of the arbitration or at the first meeting of the arbitration, unless the parties have agreed otherwise.

#### **Article 14**

If the arbitrator is replaced, a new arbitrator shall be appointed in accordance with the same procedure governing the appointment of the replaced arbitrator.

#### **Article 15**

A party has the right to demand replacement of an arbitrator if there exists the grounds indicated in paragraph 2 of Article 8 of this Law or other grounds which give rise to reasonable doubts with regard to the arbitrator's impartiality or independence, or if the arbitrator does not know the language of the proceedings or lacks competence defined by the parties by the agreement. A party has the right to challenge an arbitrator appointed by him only on a ground of which the party becomes aware after the appointment.

A person appointed as an arbitrator shall give notice to the parties and the arbitration on the existence of the circumstances which may give rise to doubt on his impartiality and independence. The challenge procedure shall be defined by the agreement of the parties. Unless there is not an appropriate agreement between the parties, the party who intends challenging of an arbitrator shall submit a statement of challenge in writing within 10 days from the appointment of this arbitrator or from the date on which he/she becomes aware of the ground of challenge. The statement shall state the reasons of challenge.

If the arbitrator, on whom the matter of challenge has been arisen, has not resigned, or if the other party objects his/her resignation, the matter of challenge shall be decided by the arbitration.

#### **Article 16**

If an arbitrator cannot perform his office, he/she may be replaced at his own or either party's request by the arbitration or by mutual agreement of the parties.

The arbitration shall at the arbitrator's request decide on his/her resignation only if

there is any reasonable ground.

The award of arbitration envisaged in paragraphs I and 2 of this Article may be recoured before the Judiciary.

The judicial authority's decision on the arbitrator's removal from office shall be final and shall not be subject to recourse.

## **Chapter III**

### **Arbitrage Proceedings**

#### **Article 17**

The ground for commencing the consideration of a dispute between the parties (the arbitrage proceedings) is a party's arbitrage claim, which shall be delivered to the other party and the chairman of the arbitration, or to all the appointed arbitrators where the chairman of the arbitration has not been appointed yet. The arbitrage proceedings shall commence within 10 days after the arbitrage claim has been presented before the arbitration. If, in presenting the arbitrage claim, the composition of the arbitration has not been yet formed, the arbitrage proceedings shall commence within 10 days after all the arbitrators have been appointed, unless the parties have agreed otherwise.

#### **Article 18**

The rules of the arbitrage procedure shall be defined by the parties. If the parties disagree on the rules of the arbitrage procedure, the dispute shall be decided under the procedure established by the arbitration.

A dispute in the permanent arbitration shall be decided in accordance with its statute, unless the parties and the permanent arbitration have agreed otherwise.

#### **Article 19**

Each party shall have the right to be represented by a defender (an advocate) at any stage of the arbitrage proceedings.

#### **Article 20**

The arbitration shall notify the parties in writing on the date and place of each meeting in advance of 5 days at least, unless the parties established otherwise.

The written notice shall be deemed to be received if handed to the addressee personally or at his/her permanent place of residence or at his/her legal address. The arbitration shall deliver to the party the copies of all statements, documents, requests and other information of another party within two days of their receipt, unless the parties have agreed otherwise.

#### **Article 21**

The arbitration may voluntarily interrogate witnesses and request the presentation of evidence, unless the parties have provided otherwise. If a witness's voluntary appearance or presenting of evidence is impossible, the arbitration shall be authorized to refer to the judicial authority on the appearance of the witness or requesting of evidence. The rights

and duties of a witness summoned shall be specified in accordance with the legislation of Georgia on Civil Procedure.

#### **Article 22**

The arbitration may at a party's request appoint one or several experts on specific issues of the case, unless the parties have provided otherwise. The refusal of arbitration to appoint an expert shall be substantiated. The arbitration shall appoint an expert if so requested by the parties. A party shall, where appropriate decision of arbitration exists, present the expert all available information, objects and documents relating to the case, unless the parties have agreed otherwise. The expert's report shall not be binding upon the arbitration, unless the parties have agreed otherwise.

#### **Article 23**

The arbitration shall on own initiative or at a party's request appeal to the judiciary authority to make decision for providing of evidence.

#### **Article 24**

The arbitrage meetings shall be closed, unless the parties have agreed otherwise. The arbitrage proceedings shall be conducted orally, unless the parties have agreed otherwise.

#### **Article 25**

The arbitrage proceedings shall be conducted on the basis of equality of the parties. The arbitration shall not decide a dispute without having heard the explanations of the parties, except the case where a party evades the appearance before the arbitration for giving the explanations, unless the parties have agreed otherwise.

#### **Article 26**

If without a justified reason, a party does not appear or does not present his case within the period defined by the parties, the arbitration may consider the dispute and make an award, unless the other party requests postponement of the examination of the case.

#### **Article 27**

An arbitrator shall keep information obtained during the arbitrage proceedings confidential, unless the parties have agreed otherwise.

#### **Article 28**

If any provision of this Law, from which the parties may deviate, or any requirement of the arbitration agreement were not observed, and yet the party continues to participate in the arbitrage proceedings without immediately objecting in writing or within the defined period, if any, the party shall be deemed to challenge his/her right to object.

### **Article 29**

The place of the arbitration proceedings shall be defined by an agreement of the parties. In there is no such agreement of parties, the place of the arbitration proceeding shall be the place of the arbitration agreement.

Unless the parties have agreed otherwise, the arbitration may meet at any place for holding consultations with the members, hearing out the witnesses, experts or the parties, for examining evidence.

### **Article 30**

The judicial authority shall have no right to consider a dispute on the issue that is the subject of an arbitration agreement, except the case where the parties request the dispute to be considered by judicial authority, or if the judicial authority finds that the arbitration agreement is not valid or has terminated. A appeal to the judicial authority for invalidation of the arbitration agreement shall not imply termination of the arbitration proceedings or enforcement of an arbitration award.

### **Article 31**

The date on which the arbitration award is made shall be defined under agreement of the parties. If the parties do not define the date on which the award is made, the arbitration award shall be made within one month from the date of the commencement of arbitration proceedings.

If the award is not made within the defined period, the arbitrator shall resign, unless the parties have agreed otherwise. In such case the parties shall within 10 days appoint new arbitrators. If the arbitration established on the basis of paragraph three of this Article fails to make an award within the defined period, the arbitration agreement shall be annulled, unless the parties have agreed otherwise.

### **Article 32**

The arbitration or a party may request the judicial authority for the assistance in gathering of evidence. The judicial authority shall comply with this request within its jurisdiction and in accordance with the rules established for gathering of evidence.

### **Article 33**

The parties shall be entitled to settle the dispute at any stage of the arbitration proceedings. The arbitration shall make a decision on the termination of the arbitration proceedings within 3 days from the date on which the parties have applied for a settlement.

### **Article 34**

The arbitration composed of more than one arbitrators shall make awards by a majority of the arbitrators voting, unless the parties have agreed otherwise. An arbitrator may not abstain from voting, unless the parties have agreed otherwise.

### **Article 35**

An arbitration award shall be set down in writing and shall contain: the date and place of making the award and the composition of the arbitration; the arbitration agreement on

which basis the arbitration was acted; all the parties of the dispute; the subject-matter of the dispute; the motivation part stating the opinions on the basis of which the arbitration has made an award, except the case where the arbitration agreement directly defines non - existence of such a motivation part; the arbitrage award; the term of the enforcement of award.

#### **Article 36**

An arbitrage award shall be signed by all the arbitrators. If an arbitrator refuses to sign the arbitration agreement, this fact shall be recorded in the award. An arbitrage award shall be notarized.

A copy of the arbitrage award shall be given to each party and the district (city) court within whose jurisdiction the arbitration took place.

An arbitrage award shall be binding upon the parties; An arbitrage award shall not put any liability to a third person.

#### **Article 37**

A decision on the distribution of the expenses of the arbitrage proceedings between the parties shall be made by the arbitration, unless the parties have agreed otherwise.

#### **Article 38**

The parties may agree the case to be reviewed by other arbitration. The review shall be made within 30 days, unless the parties have provided otherwise.

#### **Article 39**

The permanent arbitration shall keep the award within 20 years from the date of its making. After the temporary arbitration has completed the conduct of the proceedings, the entire arbitrage proceedings shall be given for keeping to the district (city) court within whose jurisdiction the arbitration took place.

## **Chapter IV**

### **Recourse Against Award and Enforcement of award**

#### **Article 40**

In the case of existence of an appropriate agreement between the parties, a party may, for the purpose of a more precise definition of the contents of any provision of the award, request the arbitration to interpret any part of the award.

The arbitration shall, within 30 days from receipt of a request for interpretation, give an interpretation or make a decision to refuse interpreting. An arbitrage award's interpretation shall form part of the award, unless the parties have agreed otherwise.

#### **Article 41**

A party shall be authorized to request the arbitration to correct a mistake made in the calculation given in arbitrage award, as well as its written, printed or any similar mistake, unless the parties have provided otherwise.

#### **Article 42**

An arbitrage award which has not been executed voluntarily shall be enforced on the basis of the enforcement inscription on the coming into force of arbitrage award made by the chairman of the arbitration.

The chairman of arbitration shall make the enforcement inscription either on his/her own initiative or on the basis of the request of the arbitration or a party within 5 days from submission of such a request to him/her.

Upon making of an enforcement inscription, an arbitrage award shall be enforced according to the rules defined by the legislation of civil procedure.

#### **Article 43**

An arbitrage award may be contested before a judicial authority and may be changed only if: it contradicts the Code of administrative Offences and the criminal legislation; the arbitration has violated the rules of the arbitrage procedure established under agreement of the parties and the present Law;

an arbitrator has committed an act provided for in Article 189 of the Criminal Code of Georgia that is decided by the judgement entered into legal force, except the case where it has not influenced the making of the arbitrage award.

#### **Article 44**

In the case of recourse against the award the enforcement of arbitrage award shall not be suspended. A district (city) court shall be authorized to suspend enforcement of the recourse arbitrage award if it may cause an irremediable damage to a party.

## **Chapter V Final Provisions**

#### **Article 45**

This Law shall be come into force upon its publication.

President of Georgia  
Eduard Shevardnadze  
Tbilisi,  
17 April ,1997