Annex IV

Law of the Republic of Kazakhstan No. 23-III ZRK, December 28th, 2004

On International Commercial Arbitration

The present Law regulates relations arising in the course of activities of the international commercial arbitration within the territory of the Republic of Kazakhstan, as well as the procedure and terms of validation of execution of the international commercial arbitration awards in Kazakhstan.

Section 1. General Provisions

Article 1. Scope of application

The present Law applies with respect to disputes resulting from civil law contracts with involvement of natural and juridical persons to be settled by the international commercial arbitration unless otherwise stipulated by the legislative acts of the Republic of Kazakhstan.

Article 2. Basic conceptions used in the present Law

The following basic terms are used in this Law:

1) arbitration – international commercial arbitration specially established for consideration of particular dispute or operating on permanent basis, as well as an arbitrator solely considering the dispute;

2) arbitrator – a natural person chosen by the parties or appointed in accordance with the procedure agreed by those parties pursuant to the present Law for settlement of dispute by arbitration;

3) arbitral proceedings – examination of dispute by arbitration with making arbitral award;

4) arbitration agreement – written agreement by the parties on reference to arbitration for the examination of a dispute arisen or which may arise; such agreement may be concluded in form of an arbitration clause in a contract or by means of exchange of letters, telegrams, telephone messages, telex, fax messages, e-mail documents or other documents determining the parties and the expression of their wills;

5) arbitral award – decision made by the arbitration;

6) court of reference – a court of the judicial system of the Republic of Kazakhstan which is authorized under the civil procedural legislation of the Republic of Kazakhstan to examine disputes between the parties of respective contract at the first instance;

7) business intercourse usages – established and widely used in the field of civil-law contracts rules of practice consistent with the applicable law regardless of weather such rules are fixed by any document or not;

8) arbitration rule –permanent international commercial arbitration activity organization procedure;

9) commercial organization – a juridical person of the Republic of Kazakhstan or a foreign organization which is mainly aimed at deriving income;

10) public policy of the Republic of Kazakhstan – fundamentals of the state system and social structure established by the legislation of the Republic of Kazakhstan.

Article 3. Legislation of the Republic of Kazakhstan on international commercial arbitration

1. The legislation of the Republic of Kazakhstan on international commercial arbitration is based upon the Constitution of the Republic of Kazakhstan and includes the present Law and other statutory legal acts of the Republic of Kazakhstan.

2. If the international treaty ratified by the Republic of Kazakhstan stipulates rules other than those comprised by this Law, the rules of international treaty shall be applied.

Article 4. Principles of arbitral proceedings

The arbitral proceedings shall be carried out with observance of the following principles:

1) the autonomy of will of the parties, what means that the parties, upon prior co-ordination with each other, are free to independently settle issues on the procedure and terms of arbitral proceedings in respect of a dispute arisen;

2) the legality, what means that arbitrators and arbitrations when making decisions shall be guided only by norms of the law applicable on the agreement by the parties;

3) the controversy and equality of the parties, what means that the parties in arbitral proceedings shall have equal rights and shall bear equal measure of liabilities, shall choose their position as well as ways and means of its vindication independently and without regard to arbitration, other bodies and persons;

4) the justice, what means that arbitrators and arbitrations when settling disputes submitted to them and the parties to arbitral proceedings. shall act bona fide observing the stipulated requirements, moral principles of a society and business ethics rules;

5) the confidentiality, what means that arbitrators are not entitled to divulge the information disclosed in the course of the arbitral proceedings, without consent of the parties or their successors, and may not be interrogated as witnesses in respect of the information disclosed to them in the course of the arbitral proceedings, except for cases when the law directly stipulates for citizen’s duty to report the information to appropriate authority.

Article 5. Inadmissibility of interference in arbitration activity

At settling the disputes referred the arbitrators and arbitrations are independent and make decisions under conditions that exclude any influence of state bodies and other organization upon them.

Article 6. Referral of a dispute to settlement by arbitration

1. A dispute may be referred to arbitration in the presence of an arbitration agreement concluded by the parties.

2. The arbitration agreement may be concluded by the parties in respect of disputes arisen or which may arise between the parties regarding any particular civil law contract.

3. The arbitration agreement in respect of a dispute being under examination in the court of reference may be concluded before the court makes a decision in respect of the dispute. In that case the court of reference shall determine to leave the application without examination.

4. Disputes resulting from civil law contracts, between natural persons, commercial and other organizations, if at least one party is non-resident of the Republic of Kazakhstan, may be referred to the arbitration upon coordination of the parties.

Section 2. Composition of arbitration

Article 7. Arbitrators

1. A natural person not directly or indirectly interested in the result of a case, being independent from the parties and willing to execute arbitrator’s duties, aged over twenty-five and graduated from institution of higher education may be chosen (appointed) as arbitrator.

2. An arbitrator shall have the higher legal education and at least two years of work experience in legal profession. In case of collective settlement of a dispute, the presiding arbitrator shall have the higher legal education.

3. Arbitrator qualifying standards may be coordinated directly by the parties or determined by the arbitration rules.

4. The following persons are not eligible for an arbitrator:

1) the person elected or appointed for the position of a judge of the court of reference in accordance with the procedure stipulated by the legislative act of the Republic of Kazakhstan;

2) the person declared by the court of reference, in accordance with the procedure stipulated by the law of the Republic of Kazakhstan, as incapable or partially capable;

3) the person having previous not remitted or indemnified convictions;

4) government employee.

Article 8. Number of arbitrators at settlement of a dispute

1. The parties are free to determine the number of arbitrators which shall be the odd number.

2. Unless otherwise agreed by the parties, three arbitrators shall be chosen (appointed) for settlement of the dispute.

Article 9. Composition of arbitration

1. Forming of composition of arbitration shall be conducted by means of election (appointment) of arbitrators (arbitrator).

2. In a permanent arbitration, forming of composition of arbitration shall be conducted in accordance with the rules of the permanent arbitration.

3. For settlement of a specific dispute by arbitration, forming of composition of arbitration shall be conducted in the order as coordinated by the parties.

4. Upon agreement of the parties, a citizen of the Republic of Kazakhstan, a foreigner or an apatride may be chosen as an arbitrator.

5. Unless otherwise agreed by the parties, forming of composition of arbitration for settlement of a specific dispute shall be conducted in the following order:

1) at forming of arbitration consisting of three arbitrators, each party shall appoint one arbitrator, and the two arbitrators thus appointed shall appoint the third arbitrator.

In case if one party fails to appoint the arbitrator within sixty days of receipt of such request from the other party, or when the two appointed arbitrators fail to agree on the third arbitrator within sixty days of their appointment, then the arbitrator may be appointed by the presiding arbitrator of the permanent arbitration;

2) if the dispute is subject to settlement by a sole arbitrator, and the parties fail to appoint the arbitrator within sixty days after one party’s proposal on appointment to the other party, then the arbitrator may be appointed by the presiding arbitrator of the permanent arbitration.

Article 10. Challenge of arbitrator

1. In case when an arbitrator does not satisfy the requirements of Article 7 of this Law, the parties may lodge a challenge of arbitrator.

2. In case of approach to a natural person in connection with his possible election (appointment) as arbitrator, identified person shall inform about the circumstances that may be reasons for his challenge pursuant to Article 7 of this Law. In case when the above circumstances arise in the course of the arbitral proceedings, the arbitrator shall immediately inform the parties and withdraw.

3. A party may challenge the arbitrator chosen by him pursuant to this Article only in case when that party became aware of circumstances which are the reason of challenge after the appointment of such arbitrator.

4. In permanent arbitration the procedure of challenge of arbitrator may be determined by its rules.

5. In arbitration for settlement of specific dispute the procedure of challenge of arbitrator may be agreed by the parties.

6. If the procedure of challenge of arbitrator is not agreed by the parties or is not determined by the rules of the permanent arbitration, then a written motivated

application of challenge of arbitrator shall be submitted by a party to arbitration within thirty days after that party became aware of circumstances which are the reason of challenge.

If an arbitrator to whom challenge is declared, refuses to comply with it, or if either party does not agree to challenge of the arbitrator, then the issue of challenge shall be settled by the arbitrators from the composition of arbitration within ten days upon receipt of a written motivated application of a party.

The issue of challenge of sole arbitrator shall be settled by that arbitrator.

If the sole arbitrator refuses to comply with application of one or both parties concerning challenge, or if one of the parties does not agree to challenge the arbitrator, the issue of challenge shall be settled by means of agreement by the parties on termination of arbitral proceedings.

Article 11. Termination of authority (mandate) of arbitrator

1. Arbitrator's mandate may be terminated upon agreement of the parties on the grounds stipulated by this law, as well as in case when the arbitrator is permanently unable to perform his functions because of his illness or death.

2. In case of termination of mandate of the arbitration or the sole arbitrator the procedure regarding the dispute under examination shall be suspended until another arbitration is chosen (appointed).

3. Arbitrator's mandate shall be terminated after making the award on specific case. In cases stipulated by Article 30 of the present Law the arbitrator's mandate shall be resumed, and then terminated after execution of proceedings as stipulated by the above stated Article.

Article 12. Substitution of an arbitrator

In case of termination of arbitrator's mandate another arbitrator shall be elected (appointed) according to the rules that were applicable to the election (appointment) of the arbitrator being replaced.

The elected (appointed) by replacement arbitrator has a right to call the retrial of the case.

Section 3. Expenses connected with settlement of the dispute by the arbitration

Article 13. Expenses connected with settlement of the dispute by the arbitration

1. Expenses connected with the settlement of the dispute by the arbitration shall include:

the fee for arbitrators;

the expenses incurred by the arbitrators in connection with participation in arbitral proceedings including expenses for travelling to the place of examination of the dispute, the accommodation and board;

the amounts due to experts and interpreters;

the expenses incurred by arbitrators in connection with examination and investigation of written evidences and exhibits at the place of their location;
the expenses incurred by witnesses;
the expenses for payment of representative services by the party in which favor arbitral award was made;
the expenses for organizational and logistical support of the arbitral proceedings.

2. In the permanent arbitration, the amount of fees for the arbitrators shall be determined by the composition of arbitration in accordance with the scale of fees for arbitrators as stipulated by the rules of the permanent arbitration.

If the rules of the permanent arbitration do not stipulate for the fixed amount of fees, the arbitration may determine the amount of fees for the arbitrators in each specific case of the proceedings, taking into account the value of claim, dispute complexity, time spent by the arbitrators for the arbitral proceedings and any other circumstances relating to the case.

3. In arbitration for settlement of a specific dispute, the amount of fees for arbitrators shall be determined by agreement of the parties, and if failing such agreement, by the arbitration for settlement of the specific dispute in the order provided for the permanent arbitration.

Article 14. Allocation of expenses related to settlement of a dispute by the arbitration

1. Allocation of expenses related to settlement of a dispute by the arbitration between the parties shall be made by the arbitration in accordance with the agreement of the parties, and if failing such agreement, pro rata to sustained and dismissed claims.

2. Expenses for payment of the representative services by the party in which favor arbitral award was made, as well as other expenses related to the arbitral proceedings, may be charged to the other party if the claim to reimburse the incurred expenses was lodged in the course of the arbitral proceedings and sustained by the arbitration.

3. Allocation of expenses related to settlement of the dispute by the arbitration shall be stated in the arbitral award or determination.

Section 4. Competence of the arbitration

Article 15. Right of arbitration to make decision about its competence

1. Arbitration shall independently decide the issue on presence or absence of its mandate (jurisdiction) to examine the referred dispute, including in the event when one of the parties raises objection to the arbitral proceedings because of nullity of arbitration agreement.

2. A party has a right to declare the absence of arbitration’s mandate to examine the referred dispute until it lodges the first claim to the point of the dispute.

3. A party has a right to declare the excess of mandate by the arbitration if in the course of the arbitral proceedings such an issue becomes the subject-matter of the arbitration proceeding, examination of which is not stipulated by the arbitration agreement, or which may not be subject of the arbitral proceedings in accordance with the norms of the law applicable to the procedure, or with the rules of the arbitral proceedings.

4. Within ten days period the arbitration shall consider the claim made pursuant to paragraphs 2 and 3 of this Article. Based on the results of consideration of the claim, determination shall be made.

5. When during the consideration of the issue on its competence the arbitration determines that the arbitration does not have the authorities to examine the dispute, then the arbitration can not examine the dispute to the point.

Section 5. Conduct of arbitral proceedings

Article 16. Determination of the rules of the arbitral proceedings

1. The permanent arbitration carries out the arbitral proceedings in accordance with its rules.

2. For settlement of a specific dispute the arbitration carries out the arbitral proceedings in accordance with the rules agreed by the parties.

The regulations of the arbitral proceedings, not stipulated by the rules of the permanent arbitration as well as by the provisions of the present Law and not agreed by the parties, shall be determined by the arbitration.

Article 17. Place of arbitration

The parties are free to agree on the place of arbitration. Failing such agreement, the place of arbitration shall be determined by the arbitration having regard to the circumstances of the case, including the conveniences of the parties.

Article 18. Statement of claim and comment of the statement of claim

1. The claimant states its demands in the statement of claim which is submitted to the arbitration in the written form. A copy of the statement of claim is communicated to the respondent.

2. The statement of claim shall include:

1) the date of submission of the statement of claim;
2) the names of parties, their postal addresses and bank details;
3) the grounds of the referral to the arbitration;
4) the claimant’s demands;
5) the circumstances upon which the claimant builds its demands;
6) the evidences supporting the grounds of the claim;
7) the price of the claim if the claim is subject to appraisal;
8) the list of documents and other papers attached to the statement of claim.

The statement of claim shall be signed by the claimant or its representative and the original of the power of attorney or other document evidencing the authority of the representative, shall be attached to the statement of claim.

3. Additional requirements to the contents of the statement of claim may be stipulated by the rules of the arbitration.

4. The respondent has a right to submit to the claimant and to the arbitration comment of the statement of claim stating his defense. The comment of the statement of claim shall be submitted to the claimant and to the arbitration in the order and within terms stipulated by the arbitration rules.

If the arbitration rules does not determine the period of time for submitting the comment of the statement of claim, the comment shall be submitted at least ten days prior to the first hearing of the arbitration unless otherwise established by the present Law.

5. During the course of the arbitral proceedings a party may amend or supplement his claim or defense.

Article 19. Commencement of the arbitral proceedings

Unless otherwise agreed by the parties, the arbitral proceedings in respect of a particular dispute commence on the day of receipt by the respondent of the notice on submission of the dispute to the arbitration.

Article 20. Return of the statement of claim

1. The arbitration returns the statement of claim when:
1) there is no arbitration agreement between the parties;
2) the claim was referred to the arbitration which is not stipulated by the arbitration agreement;
3) the subject of claim falls outside the scope of the arbitration agreement;
4) the statement of claim is signed by a person not authorized to sign it;
5) the claimant submits request of return of the statement of claim;
6) there is a case of dispute between the same parties, on the same subject and for the same reasons being processed by that arbitration or another arbitration.

2. When returning the statement of claim, the arbitration delivers the motivated determination.

3. The return of the statement does not prevent the claimant from re-referral to the arbitration with the claim against the same respondent, on the same subject and for the same reasons.

Article 21. Language of the arbitral proceedings

1. The parties are free to agree upon the language or languages to be used in the course of the arbitral proceedings. Failing such agreement the arbitration shall determine the official language, and equally the Russian language or other languages to be used in the course of the arbitral proceedings.

The participants involved in the case not speaking the language of the arbitral proceedings shall be provided with the right to look through the case papers, to participate in the arbitral proceedings through an interpreter, to speak the native language in the arbitration.

2. A party submitting documents and other materials not in the language (languages) of the arbitral proceedings, provides for their translation. At that, additional requirements may be determined by the arbitration rules or the agreement of parties.

3. The arbitration may require from the parties translations of documents and other papers into the language (languages) of the arbitral proceedings.

Article 22. Failure to submit the documents or non-appearance of a party

1. Failure to submit the documents and other papers, including failure to appear at the hearing of the arbitration by either of the parties or their representatives, duly notified about the time and place of the hearing, shall not impede the arbitral proceedings and award-making, provided that the reason of failure to submit the documents and other papers or to appear at the hearing of the arbitration, is considered by the arbitration as invalid excuse.

2. The respondent's failure to produce statement of defense may not be considered as the recognition of the claimant's demands.

Article 23. Rights of the parties

The parties involved in the arbitral proceedings have the following rights:

1) to look through the case papers and to make copies of the papers;
2) to present evidences;
3) to lodge petitions, challenge to arbitrators;
4) to put questions to the participants in the proceedings, to give the oral and written explanations;
5) to produce their arguments in respect of any issues to be arisen in the course of the proceedings;
6) to raise objections against the petitions and arguments of the other party;
7) to request the court of reference to turn the arbitral award to forcible execution in accordance with the legislation of the Republic of Kazakhstan;
8) to appeal the arbitral award in cases as provided by the present Law.

Article 24. Expert appointed by the arbitration

1. Unless otherwise agreed by the parties, the arbitration may:

1) appoint one or more experts to report to it on specific issues to be determined by the arbitration;

2) require a party to give the expert any relevant information, or to produce for inspection by the expert or to give him opportunity to conduct inspection of the documents, goods or other property related to the case.

2. Unless otherwise agreed by the parties, if a party so requests or if the arbitration considers it necessary, the expert shall, after delivery of his written or oral report , participate in a hearing where the parties have the opportunity to put questions to him and to present specialists in order to testify on the points at issue.

Article 25. Court of reference assistance in the provision of security measures and taking evidence

1. The parties to the arbitral proceedings have a right to request the court of reference to take measures on security of the claim.

2. The request of security of the claim examined by the arbitration, is submitted by the party to the court of reference at the place of the arbitral proceedings or location of the property in respect of which security measures may be taken.

3. The court of reference shall consider the request of security of the claim being examined by the arbitration and make determination about the security of the claim or rejection of the security in accordance with the procedure established by the civil procedural legislation of the Republic of Kazakhstan.

4. The determination about the security of the claim being examined by the arbitration may be cancelled by the court of reference that has made the determination, upon request of either party.

5. The arbitration or a party with the approval of the arbitration, may request from the court of reference assistance in taking evidence. The court of reference considers the request in accordance with the legislation of the Republic of Kazakhstan.

Section 6. Making arbitral award and termination of proceedings

Article 26. Rules applicable to the point at issue

1. The arbitration settles the dispute in accordance with the norms of law to be chosen by the parties as applicable for examination of the dispute. Any reference to the law or legal system of any state shall be construed as directly referring to the substantive law of the state, but not to its conflict rules.

2. Failing agreement by the parties on the applicable law, the arbitration determines the applicable law in accordance with the legislation of the Republic of Kazakhstan.

3. In the absence of norms regulating specific legal relationship, the arbitration makes award in accordance with the usages of business intercourse, applicable to the transaction.

Article 27. Amicable agreement

1. If the parties settle the dispute in the course of the arbitral proceedings, the arbitration terminates the proceedings and, if requested by the parties, records the settlement in the form of arbitral award on agreed terms.

2. The arbitral award on agreed terms shall be made in accordance with the provisions of Article 28 of the present Law. Such arbitral award is the subject to execution as well as any other arbitral award to the point of the dispute.

Article 28. Form and contents of the arbitral award

1. The arbitral award shall be made in writing and shall be signed by the arbitrators being the members of the arbitration, including the arbitrator with

individual opinion whose written position shall be the integral part of the arbitral award. If the arbitral proceedings were carried out collectively, then the arbitral award may be signed by the majority of arbitrators, members of the arbitration provided that the reasonable excuse of absence of other arbitrators' signatures is stated.

2. The arbitral award shall state the date and place of arbitration, the reasons upon which the arbitral award is based.

3. After the award is made by the arbitration, a copy of the award shall be handed over or communicated to each party.

Article 29. Termination of the arbitral proceedings

1. The arbitral proceeding is terminated by determination on termination of the arbitral proceeding for reasons stated in paragraph 2 of this Article.

2. The arbitration shall issue an order for termination of the arbitral proceedings when:

the claimant withdraws his claim and the withdrawal is accepted by the arbitration, unless the claimant raises objections against the termination of the arbitral proceedings in view of claimant's legitimate interest in the settlement of the dispute to the point;

the arbitration has determined that the referred dispute is beyond the scope of its competence;

there is a consummated decision of the court of reference or arbitral award made in respect to the dispute between the same parties, on the same subject and for the same reasons;

the parties agree on termination of the arbitral proceedings;

a commercial organization being a party to the arbitral proceedings has been liquidated;

a natural person being a party to the arbitral proceedings has died (has been declared to be decedent), or if this person has been declared to be untraceable.

Article 30. Correction and interpretation of award. Additional award

1. Within sixty days of receipt of the arbitral award, unless another period of time has been agreed upon by the parties:

1) any of the parties, with notice to the other party, may request the arbitration to correct in the award any errors in computation, any clerical or typographical errors, or any errors of similar nature;

2) any of the parties, with notice to the other party, may request the arbitration to give an interpretation of any specific paragraph or part of the award.

If the arbitration considers the request to be justified, it shall make appropriate corrections or give interpretation within thirty days of receipt of the request. The interpretation of the arbitral award shall be the integral part of the arbitral award.

2. The arbitration may correct any errors stated in sub-paragraph 1) of paragraph 1 of this Article on its own initiative within thirty days of the date of the arbitral award

3. Unless otherwise agreed by the parties any of the parties, with notice to the other party, may request, within sixty days of receipt of the arbitral award, the arbitration to make an additional award as to claims presented in the arbitral proceedings but omitted from the award. If the arbitration considers the request to be justified, it shall make the additional arbitral award within sixty days of the receipt of the request.

4. The arbitration may extend, if necessary, the period of time, but not more than for sixty days, within which it shall make a corrections, shall give interpretation or make an additional arbitral award in accordance with paragraph 1 or 3 of this Article.

Section 7. Recourse against an arbitral award

Article 31. Application for the reversal of the arbitral award

1. Recourse against an arbitral award to the court of reference may be made only by an application of reversal in accordance with paragraphs 2 and 4 of this Article.

2. The arbitral award may be set aside by the court of reference only if:

1) a party making application for reversal of the award produces the proof that:

one of the parties to the arbitration agreement was declared by the court of reference to be incapable, or the arbitration agreement is not valid under the law to which the parties have subjected it, and failing such indication – under the legislation of the Republic of Kazakhstan;

the party was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings, or it was unable to submit its explanations for other reasons which were declared by the court of reference to be valid;

the arbitral award was made regarding a dispute which is not stipulated by the arbitration agreement or is not falling within its terms; or that the arbitral award contains resolutions on matters beyond the scope of the arbitration agreement, as well as because the dispute is beyond the arbitration jurisdiction.

If the arbitral awards in matters which are within the scope of the arbitration agreement can be separated from the issues which are beyond the scope of such agreement, then only that part of the arbitral award which contains decisions on matters which are beyond the scope of the arbitration agreement, may be set aside;

the composition of the arbitration or the procedure of the arbitration proceedings were not in compliance with the agreement of the parties and the arbitration rules;

2) the court of reference determines that the arbitral award is in conflict with the public policy of the Republic of Kazakhstan or that the dispute in respect of which the arbitral award was made, cannot be the subject of the arbitral proceedings under the legislation of the Republic of Kazakhstan.

3. The application for reversal may not be made after three months of the date of receipt of the arbitral award by the applying party, and if a request had been made pursuant to Article 30 of the present Law, from the date of the arbitral award in respect of that request.

4. By request of a party the court of reference may suspend setting aside proceedings for a fixed period of time, in order to resume the arbitral proceedings or to take other measures which allow to eliminate grounds of reversal of the arbitral award.

5. The court of reference makes determination on issue of reversal of the arbitral award. That determination may be appealed or protested in accordance with the civil procedural legislation of the Republic of Kazakhstan.

Section 8. Recognition and enforcement of the arbitral awards

Article 32. Recognition and enforcement of arbitral award in the Republic of Kazakhstan

1. The arbitral award shall be declared as binding and, upon a written application to the court of reference, shall be enforced in accordance with the legislation of the Republic of Kazakhstan.

The arbitral award made in a foreign state, shall be recognized by the court of reference and shall be enforced by the authorities of the executive proceedings on reciprocal basis.

2. The party relying upon the arbitral award or applying for its enforcement, shall produce the arbitral award and agreement or their certified copies. If the arbitral award or agreement is made in foreign language, the party shall supply the certified translation of the documents into the national or Russian language.

Article 33. Grounds for refusing recognition or enforcement of the arbitral award

1. The court of reference may refuse the recognition or enforcement of the arbitral award, irrespective of the country in which it was made, for the following reasons:

1) if this party produces to the court of reference the proof that:

one of the parties to the arbitration agreement was declared by the court of reference to be incapable or partially capable;

the arbitration agreement is not valid under the law to which the parties have subjected it;

the party against whom the award was made, was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings, or this party was unable to submit his explanations for other reasons which were declared by the court of reference to be valid;

the arbitral award was made regarding a dispute which is not stipulated by the arbitration agreement or is not falling within its terms; or that the arbitral award contains resolutions on matters beyond the scope of the

arbitration agreement, as well as because the dispute is beyond the arbitration jurisdiction.

If the arbitral awards in matters which are within the scope of the arbitration agreement can be separated from the issues which are beyond the scope of such agreement, then only that part of the arbitral award which contains decisions on matters which are beyond the scope of the arbitration agreement, may be set aside;

the composition of the arbitration or the procedure of the arbitration proceedings were not in accordance with the agreement of the parties or, failing such agreement, were not in accordance with the law of the country where the arbitration took place;

the award has not yet become binding on the parties or has been set aside, or its execution has been suspended by the court of the country under the law of which it was made;

2) if the court of reference finds out that recognition and enforcement of the arbitral award are in conflict with the public policy of the Republic of Kazakhstan or that the dispute in respect of which the arbitral award was made cannot be the subject of the arbitral proceedings under the legislation of the Republic of Kazakhstan.

2. The court of reference makes a determination on the issue of recognition or enforcement of the arbitral award. This determination may be appealed or protested in accordance with the civil procedural legislation of the Republic of Kazakhstan.

President
of the Republic of Kazakhstan

N.NAZARBAYEV