

LAW NO. 02/L-75

ON ARBITRATION

The Assembly of Kosovo,

Pursuant to the Chapters 5.1 (d), and 9.1.26 (a) of the Constitutional Framework for Provisional Self-Government in Kosovo (UNMIK Regulation No. 2001/9 of 15 May 2001),

For the purpose of establishing a set of modern rules, that govern arbitration and the recognition and enforcement of arbitration awards made inside and outside of Kosovo, and that are in line with recognized European and international arbitration standards,

Hereby adopts the following:

LAW ON ARBITRATION

**Chapter I
GENERAL PROVISIONS**

**Article 1
Scope of Application**

The present Law sets forth the rules that apply to arbitration agreements, arbitration proceedings and the recognition and enforcement of arbitral awards made inside and outside of Kosovo.

**Article 2
Definitions**

“Arbitration Agreement” shall mean an agreement between two or more persons to submit to arbitration all or certain legal disputes, which have arisen or which may arise between them.

“Award” shall mean all orders issued by the arbitral tribunal whether interim, partial, procedural, substantial or final as to all matters including costs.

“Consumer” shall mean any natural person who concludes a contract for purposes which are outside his trade, business or profession.

“Person” shall include natural and legal persons. The term “legal persons” shall include legal persons of private law and legal persons of public law.

“Court” is used in the present Law, reference is made to the court designated in the arbitration agreement or, in the absence of such determination, to the Economic Court.

“Tribunal” shall mean the Arbitral Tribunal.

**Article 3
Jurisdiction of Courts**

No court in Kosovo may intervene in arbitration proceedings, unless otherwise provided for in this Law.

**Article 4
Notice and Calculation of Periods of Time**

4.1. Any notice, including a notification, communication or proposal, is deemed to have been received if it is delivered physically or by registered mail to the addressee or if it is delivered at his/her habitual residence, place of business or mailing address. If none of these can be found after making reasonable inquiry, a notice

shall be deemed received at the addressee's last known residence or place of business. A notice shall be deemed to have been received on the day it is so delivered. The provisions of this paragraph shall not apply to notices and communications in court proceedings.

4.2. Any period of time referred to in this Law shall begin to run on the day following the day when a notice is received. If the last day of such period is an official holiday or a non-business day at the residence or place of business of the addressee, the period shall be extended until the first business day which follows. Official holidays or non-business days occurring during the running of the period of time shall be included in calculating the period.

Chapter II ARBITRATION AGREEMENT

Article 5 Arbitrability

5.1. One dispute can be settled by the arbitration only if it exists in the party's agreement, whereby they accept the dispute to be settled by the arbitration.

5.2. All disputes related to the civil-judicial and economic-judicial requests may be the subject of an arbitration agreement, unless prohibited by law.

Article 6 Arbitration Agreement

6.1. The arbitration agreement shall be concluded in writing.

6.2. This requirement is deemed to have been respected even if the conclusion of the arbitration agreement is recorded by means of an exchange of letters, telefaxes, telegrams or other means of telecommunication or electronic communication, by means of a bill of lading if the latter contains an express reference to an arbitration clause, or in the event of an exchange of statements of claim and defence, in which the existence of an agreement is alleged by one party and not denied by the other.

6.3. If a consumer is a party to an arbitration agreement, the arbitration agreement is considered to be concluded in writing only if all parties to the arbitration agreement personally sign the document containing the arbitration clause. The signature referred to in this paragraph may be substituted by an electronic signature subject to compliance with the relevant legislation on electronic signatures.

6.4. Any non-compliance with the form requirements set out in Paragraph 2 and 3 of this Article shall not be considered by an arbitration tribunal if the parties initiate arbitration proceedings.

Article 7 Claims before Courts

A court before which an action is brought concerning a matter that is the subject of an arbitration shall reject the action as inadmissible if the defendant in his statement of defense invokes the arbitration agreement, unless the court finds that the arbitration agreement is null and void or that the disputed subject matter is not covered by the arbitration agreement.

Article 8 Preliminary Orders

Irrespective of an arbitration agreement or the commencement of arbitration proceedings, a court of competent jurisdiction may issue a preliminary order if this is requested by a party who gives credible evidence that immediate or irreparable injury, loss or damage will result to the party if no preliminary order is granted.

Chapter III COMPOSITION OF THE ARBITRAL TRIBUNAL

Article 9

Number and Appointment of Arbitrators

9.1. The arbitral tribunal shall be composed of either a single arbitrator or a panel of arbitrators, provided that the panel is composed of an odd number of arbitrators.

9.2. The parties may agree on a procedure for appointing the arbitrator or arbitrators.

9.3. If the parties do not agree on the number of arbitrators or on the procedure for the appointment of the arbitrator or arbitrators within fifteen days after the receipt by the respondent of the notice of arbitration, the arbitral tribunal shall consist of a panel of three arbitrators to be appointed pursuant to paragraphs 4 of this Article.

9.4. In the event referred to in paragraph 3 above, each party shall appoint one arbitrator. The two arbitrators thus appointed shall appoint the third arbitrator who shall act as the chairman of the arbitral tribunal. If a party fails to appoint the arbitrator within thirty days of the receipt of a request to do so, or if the two arbitrators fail to agree on the third arbitrator within thirty days of their appointment, the relevant appointment shall be made by the Court upon the request of a party.

9.5. Unless otherwise agreed by the parties, shall be bound by its appointment of an arbitrator from the moment the other party has received notice of the arbitrator appointment.

9.6. When appointing an arbitrator, the Court shall have due regard to the qualifications an arbitrator is required to have pursuant to the arbitration agreement and it shall make sure that the appointed arbitrator is independent, impartial and does not have a conflict of interest.

Article 10 Challenge of Arbitrators

10.1. A prospective arbitrator when approached by a party or a Court shall disclose any circumstances likely to give rise to justifiable doubts as to his impartiality or independence. An arbitrator, once appointed, shall disclose such circumstances to the parties unless they have already been informed by him of these circumstances.

10.2. Any arbitrator may be challenged by either party if circumstances exist that give rise to justifiable doubts as to the arbitrators impartiality or independence, or if the arbitrator does not have the qualifications agreed to by the parties. A party may challenge the arbitrator appointed by it only for reasons of which it becomes aware after the appointment has been made. The relevant party must make the challenge as soon as it becomes aware of the circumstances giving reason for the challenge.

Article 11 Procedure for the Challenge of Arbitrators

11.1. The parties may agree on a procedure for challenging an arbitrator. Paragraphs 2, 3 and 4 of this Article shall apply, if the parties do not agree on such procedure.

11.2. The party which intends to challenge an arbitrator shall within fifteen days after the appointment of the arbitrator or after the circumstances listed in Article 10, paragraph (2), became known to that party send notice of its challenge to the other party and the other members of the arbitral tribunal. The notification shall be in writing and shall state the reasons for the challenge.

11.3. Unless the challenged arbitrator withdraws from office or the other party does not agree to the challenge, the Arbitral Tribunal shall decide on the challenge.

11.4. If a challenge under any procedure agreed upon by the parties or under the procedure of Paragraph (2) and (3) of this Article is not successful, the challenging party may request, within fifteen days after having received notice of the decision rejecting the challenge, the Court to decide on the challenge, which decision shall not be subject to appeal. While such a request is pending, the arbitral tribunal, including the challenged arbitrator, may continue the arbitral proceedings and make an award.

Article 12
Failure to Act

12.1. If an arbitrator becomes de jure or de facto unable to perform his functions or for other reasons fails to act without undue delay, his mandate shall terminate if he resigns or if the parties agree on the termination his mandate. If the arbitrator does not resign or if the parties do not agree on the termination, upon the request of any party or member of the tribunal, the Court shall decide on the termination of the arbitrator's mandate. Against the Court decision the claim is not allowed.

12.2. If, under Paragraph 1 of this Article or Article 11, Paragraph (2), an arbitrator withdraws from office or a party agrees to the termination of the mandate of an arbitrator, this shall not imply acceptance of the validity of any ground referred to in this Article or Article 11, paragraph 2.

Article 13
Replacement of an Arbitrator

In the event the mandate of an arbitrator is terminated in accordance with Articles 11 or 12 or because of the arbitrator's resignation from office, a replacement arbitrator shall be appointed in compliance with the provisions applicable to the appointment of an arbitrator, unless the parties agree on another procedure.

Chapter IV
JURISDICTION OF THE ARBITRAL TRIBUNAL

Article 14
Jurisdiction

14.1. The arbitral tribunal shall determine whether it has jurisdiction over the dispute presented to it and whether the arbitration agreement is valid. For that purpose, an arbitration clause, which forms part of a contract, shall be treated as an agreement independent of the terms of the contract.

14.2. An objection that the arbitral tribunal does not have jurisdiction shall be raised by a party not later than with the submission of the statement of defense. A party shall not be precluded from raising such an objection because it has appointed or has participated in the appointment of an arbitrator.

14.3. An objection that the arbitral tribunal has exceeded its jurisdiction shall be raised by a party as soon as the matter became known to that party.

14.4. In the cases referred to in Paragraphs (2) and (3) of this Article, the arbitral tribunal may admit a later objection if it considers that the party has reasonable justification for the delay.

14.5. Any party may request the Court to review the decision of the arbitral tribunal that it has or has not jurisdiction over the dispute. Such request shall be made to the court within thirty days after having received written notice of the decision. Such request shall not prevent the arbitration tribunal from continuing, where appropriate, with the arbitral proceedings and from making an award.

Article 15
Preliminary Orders

15.1. Unless otherwise agreed by the parties, the arbitral tribunal may, at the request of a party, can issue preliminary order if that party gives credible evidence that immediate or irreparable injury, loss or damage will result to the party if no preliminary order is granted. The arbitral tribunal may require any party to provide appropriate security in connection with such preliminary orders.

15.2. At the request of a party, the court may order the enforcement of a preliminary order issued by the arbitral tribunal pursuant to Paragraph (1) of this Article unless such party has requested a preliminary order pursuant to Article 8 on the same matter.

15.3. If a preliminary order issued by the arbitral tribunal according to paragraph (1) of this Article proves to be unjustified, the party in whose favor the preliminary order was issued shall compensate the damages incurred by the other party as a result of the enforcement of the preliminary order. The arbitral tribunal shall have

jurisdiction to decide on the justification of the preliminary order and matters related to the compensation of damages referred to above.

Chapter V ARBITRAL PROCEEDINGS

Article 16 General Rules

16.1. The parties shall be treated equally and each party shall be given at every stage of the proceedings full opportunity to present its case.

16.2. The parties may freely choose their representatives to act as their authorized representatives during the arbitration proceedings. No duly authorized representative by the party may be excluded from the arbitration proceedings.

16.3. Subject to the mandatory provisions of this law, the parties may agree upon an arbitration procedure.

16.4. In the absence of an agreement by the parties on the procedure and in the absence of relevant provisions in this law, the arbitral tribunal shall determine by itself the arbitration rules applying the dispute procedures or applying arbitrary rules of an institution of the permanent arbitration.

Article 17 Place of Arbitration

17.1. Unless the parties have agreed on the place where the arbitration is to be held, such place shall be determined by the arbitral tribunal taking into consideration the circumstances of the case and the convenience of the parties and the tribunal .

17.2. Without prejudice to paragraph (1) of this Article, and unless otherwise agreed by the parties, the arbitral tribunal may meet at any place it considers appropriate for hearing parties, witnesses or experts, holding meetings for consultations among its members and the inspection of goods, other property or documents.

Article 18 Commencement of Arbitral Proceedings

Unless otherwise agreed by the parties, the arbitral proceedings in respect of a particular dispute commence on the date on which a request for the dispute to be referred to arbitration is received by the respondent.

Article 19 Language

19.1. Unless the parties have agreed otherwise, the arbitral tribunal shall, promptly after its appointment, determine the language or languages to be used in the proceedings. The agreement of the parties or, respectively, the determination of the arbitral tribunal shall apply to any written statement and request submitted by a party, any hearing and any award, decision or other communication by the arbitral tribunal.

19.2. The arbitral tribunal may order that any documents submitted in the course of the proceedings delivered in their original language shall be accompanied by a translation into the language or languages agreed upon by the parties or determined by the arbitral tribunal. The arbitral tribunal shall only accept translation produced by a translator who is certified or otherwise approved by a court.

Article 20 Statements of Claim, Defense and Counter-Claims

20.1. Within the period of time agreed by the parties or, in the absence of such agreement, within the period determined by the arbitral tribunal, the claimant shall state his claim and the facts supporting the claim, and the respondent shall state his defense in respect to the claim and supporting facts. The parties shall submit together with their statements all documents they deem relevant and shall add a reference to all other evidence they will submit.

20.2. Unless otherwise agreed by the parties, either party may amend or supplement its claim or defense during the course of the arbitral proceedings, unless the arbitral tribunal considers it inappropriate to allow such amendment due to delay in making the amendment.

20.3. In the statement of defense, or at a later stage in the arbitral proceedings if the arbitral tribunal decides that the delay was justified under the circumstances, the respondent may make a counter-claim arising out of the same contract or rely on a claim arising out of the same contract for the purpose of a set-off. Paragraphs (1) and (2) of this Article apply accordingly to such counter-claims.

Article 21 **Oral Hearings and Written Proceedings**

21.1. In the absence of an agreement between the parties, the arbitral tribunal shall decide whether to hold oral hearings or whether the proceedings shall be conducted on the basis of documents and other written materials, or a combination of both procedures. Unless the parties have agreed that no hearings shall be held, the arbitral tribunal shall hold such hearings at an appropriate stage of the proceedings, if so requested by a party. Hearings shall not be public, unless all parties agree otherwise.

21.2. The parties shall be given sufficient advance notice of any hearing and of any meeting of the arbitral tribunal for the purpose of taking evidence.

21.3. All statements, documents or other information supplied to the arbitral tribunal by one party shall be communicated to all other parties. Also, any expert report or evidentiary document on which the arbitral tribunal may rely in making its decision shall be communicated to all parties.

21.4. The arbitral tribunal shall make arrangements for the translation of oral statements made at a hearing and for a record of the hearing if either is deemed necessary by the arbitral tribunal under the circumstances of the case, or if the parties have agreed thereto and have communicated such agreement to the arbitral tribunal at least fifteen days before the hearing. The parties shall bear the cost of the translation.

Article 22 **Closure of Hearings**

22.1. After the submission of the proofs according to the Article 20, Paragraph 1, the arbitral tribunal may inquire of the parties if they have any further proof to offer or witnesses to be heard or submissions to make, and, if there are none, it shall declare the hearings closed.

22.2. The arbitral tribunal may, if it considers it necessary due to exceptional circumstances, decide on its own initiative or upon an application of a party, to reopen the hearings at any time before the award is made.

Article 23 **Evidence**

23.1. Each party shall have the burden of proving the facts relied on to support its claim or defense.

23.2. The arbitral tribunal shall determine the admissibility, relevance, materiality and weight of the evidence offered.

23.3. The arbitral tribunal shall decide on the approval or rejection of the requests on proofs. Arbitral tribunal can collect proofs if he considers it necessary, and make their evaluation freely and impartially.

23.4. At any time during the proceedings the arbitral tribunal may require the parties to produce documents, exhibits or other evidence within such a period of time as the arbitral tribunal shall determine.

Article 24 **Witnesses**

24.1. If witnesses are to be heard, at least fifteen days before the hearing each party shall communicate to the arbitral tribunal and to the other party the names and addresses of the witnesses he intends to present, the subject upon and the language in which such witnesses will give their testimony.

24.2. Evidence of witnesses may also be presented in the form of written statements signed by the witness, provided that the witness is made available to parties, if one of the parties requests the examination of the witness.

Article 25 Experts

25.1. Unless otherwise agreed by the parties, the arbitral tribunal may appoint one or more experts to report to it in writing on specific issues to be determined by the arbitral tribunal.

25.2. The arbitral tribunal may order a party to give the expert any relevant information to prepare or to provide access to any relevant documents or property for his inspection. Upon receipt of the expert's report, the arbitral tribunal shall communicate a copy of the report to the parties who shall be given the opportunity to express in writing their opinion on the report.

25.3. Unless otherwise agreed by the parties, if requested by a party or if the arbitral tribunal considers it necessary, the expert shall, after delivery of his written report, be heard at a hearing where the parties shall have the opportunity to be present and to interrogate the expert. At this hearing, parties may present its expert in order to give their opinion on the points at issue.

Article 26 Default of a Party

26.1. If the claimant has failed to communicate his claim in accordance with Article 20, paragraph (1), without showing sufficient cause for such failure, the arbitral tribunal shall terminate the proceedings.

26.2. If the respondent has failed to communicate his statement of defense in accordance with Article 20, paragraph (1), the arbitral tribunal shall continue with the proceedings. Failure to communicate the statement of defense by the respondent shall not be considered as an admission of the claimant's allegations.

26.3. If one of the parties, duly notified pursuant to the provisions of this law, fails to appear at a hearing or to produce documentary evidence within the established period of time, the arbitral tribunal may continue with the proceedings and make an award on the basis of the evidence available.

Article 27 Waiver of Right to Object

A party that knows that a provision of this law or agreement with the other party has not been complied with and yet proceeds with the arbitration without promptly stating his objection to such non-compliance shall be deemed to have waived his right to object.

Article 28 Court Assistance

28.1. The arbitral tribunal, or any party after having obtained prior approval of the arbitral tribunal, may request from the court assistance for the purpose of collecting evidence or performing other judicial acts which the arbitral tribunal is not authorized to carry out.

28.2. Unless the court considers such application to be inadmissible, it shall execute the request according to its procedural rules.

CHAPTER VI AWARDS

Article 29 Applicable Law

29.1. In cases related to international issues, the arbitral tribunal shall apply the law designated by the parties as applicable to the substance of the dispute. Failing such designation by the parties, the arbitral tribunal shall apply the right determined by the rules of private international rights. In all other cases, arbitral tribunal shall apply Kosovo legislation.

29.2. The arbitral tribunal shall decide ex aequo et bono or as amiable compositeur only if the parties have expressly authorized it to do so.

29.3. In all cases, the arbitral tribunal shall decide in accordance with the terms of the contract and shall take into account the usages of the trade applicable to the transaction.

Article 30 Decision-Making Procedure

30.1. In arbitral proceedings with more than one arbitrator, any award of the arbitral tribunal shall be made by a majority of all its members, unless otherwise agreed by the parties.

30.2. In the case of questions of procedure, the chairman may decide on his own, if so authorized by the parties or all members of the arbitral tribunal.

Article 31 Form and Effect of the Award

31.1. The award of arbitral tribunal shall be made in writing and shall be final and binding on the parties. The award shall have the same effect between the parties as a final and binding court decision.

31.2. The award shall state the reasons upon which it is based, unless the parties have agreed that no reasons are to be given.

31.3. An award shall be signed by the arbitrator or arbitrators, and it shall contain the date and place on which the award was made. In arbitral proceedings with more than one arbitrator, the signatures of the majority of all members of the arbitral tribunal shall be sufficient, provided that the award states the reasons for the absence of signature.

31.4. Copies of the award signed by the arbitrators shall be delivered to both parties, subject to the prior receipt of any outstanding fees.

31.5. The award may be made public only with the consent of all parties.

Article 32 Settlement

32.1. If, before the award is made, the parties agree on a settlement of the dispute, the arbitral tribunal shall terminate the proceedings.

32.2. If requested by the parties, it shall record the settlement in the form of an arbitral award on agreed terms, unless the contents of such settlement are in violation of public policy (ordre public). Such award shall have the same effect as any other award on the merits of the case.

Article 33 Termination of Proceedings

33.1. The arbitral proceedings are terminated by the issuance of the final award or by an order of the arbitral tribunal in accordance with paragraph (2) of this Article.

33.2. The arbitral tribunal shall issue an order for the termination of the arbitral proceedings if:

1. the claimant:
 - a) fails to communicate his claim according to Article 20, paragraph (1);

- b) withdraws his claim, unless the respondent objects thereto and the arbitral tribunal recognizes a legitimate interest on the respondent's part in obtaining a final settlement of the dispute;
- 2. the parties agree on the termination of the proceedings; or
- 3. the parties fail to pursue the arbitral proceedings despite a request by the arbitral tribunal to pursue proceedings or if the continuation of the proceedings has for any other reason become impossible or unnecessary.

33.3. The mandate of the arbitral tribunal shall end with the termination of the arbitral proceedings, unless otherwise provided by law.

Article 34 Decision on Costs

34.1. Unless the parties have agreed otherwise, the arbitral tribunal shall fix the costs of arbitration in its award. Such costs shall include:

- a. the fees of the arbitral tribunal;
- b. arbitrator's costs;
- c. cost of expert advice and of other assistance required by the arbitral tribunal and agreed to by the parties;
- d. travel and other expenses of witnesses to the extent such expenses are approved by the arbitral tribunal;
- e. cost of (legal) representation and assistance of the successful party if such costs were claimed during the arbitral proceedings, and only to the extent that the arbitral tribunal determines that the amount of such cost to be reasonable; and
- f. any fees and expenses of the court when acting as the appointing authority of arbitrators.

34.2. The fees of the arbitral tribunal shall be reasonable in amount, taking into account the amount in dispute, the complexity of the subject-matter, the time spent by the arbitrators and any other relevant circumstances of the case. In the event of a dispute as to the extent or amount of the fees to be paid to the arbitral tribunal, the Court shall have jurisdiction to settle such dispute.

34.3. Unless otherwise agreed by the parties, the cost of arbitration shall be borne by the unsuccessful party. The arbitral tribunal may apportion each of the costs listed in Paragraph (1) of this Article between the parties if the arbitral tribunal determines that apportionment is reasonable under the circumstances of the case.

Article 35 Correction and Interpretation of Award; Additional Award

35.1. Unless otherwise agreed by the parties, within thirty days after the receipt of the award, either party, with notice to the other party, may request that the arbitral tribunal:

- a. give an interpretation of the award;
- b. correct in the award any errors in computation, any clerical or typographical errors or any errors of similar nature; or
- c. make an additional award as to claims presented in the arbitral proceedings but omitted from the award.

35.2. The arbitral tribunal may within thirty days after the communication of the award make such corrections on its own initiative. The arbitral tribunal shall make the correction or give the interpretation in writing within thirty days from the receipt of the request.

35.3. If the arbitral tribunal considers the request for an additional award to be justified, and considers that the omission can be rectified without any further hearings or evidence, it shall complete its award within sixty days after the receipt of the request. Article 30 applies to such additional award.

Chapter VII JUDICIAL PROCEDURES

Article 36 Judicial Remedies

36.1. A party may request the Court to set aside an arbitral award in the cases listed in paragraphs (2) and (3) of this Article.

36.2. An arbitral award shall be set aside by the Court only if:

- a). The applicant proves that:
 - (i) a party to the arbitration agreement did not have the capacity to act;
 - (ii) the arbitration agreement is not valid under the law determined as applicable by the parties or the arbitral tribunal or, in the absence of such determination, under the law applicable in Kosovo;
 - (iii) the applicant was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case;
 - (iv) the award deals with an issue 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 so submitted, that part of the award which contains decisions on matters submitted to arbitration may be recognized and enforced; or
 - (v) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the provisions of this Law or a valid arbitration agreement, under the condition that such defect had an impact on the arbitral award; or
- b). The court finds that:
 - (i) arbitration is prohibited by law; or
 - (ii) the enforcement of the award leads to a result which is in conflict with public policy (ordre public).

36.3. Unless the parties have agreed otherwise, a request for setting aside an arbitral award shall be submitted to the Court not later than ninety days after the award was received by the respective party.

36.4. When requested to set aside an arbitral award, the Court may, where appropriate, set aside the award and resubmit the case to the arbitral tribunal to resume arbitral proceedings or to take such other action as in the arbitral tribunal's opinion will eliminate the grounds for setting aside.

Article 37 General Procedural Provisions

37.1. The decisions of the Court shall have the form of court orders. Prior to the issuance of a court order, the Court shall hear the respondent.

37.2. If an appeal is submitted pursuant to Article 36 for setting aside an arbitral award, the Court shall hear all parties.

37.3. Court orders issued in the cases referred to in Article 36, paragraph 2, may be subject to a complaint. Concerning all other court orders issued by the Court in accordance with this Law no complaint shall be permitted.

Chapter VIII
RECOGNITION AND ENFORCEMENT OF AWARDS
OF THE ARBITRAL TRIBUNAL

Article 38
Domestic Arbitral Awards

38.1. An arbitral award made by an arbitral tribunal in Kosovo shall be enforced when declared enforceable by the Court.

38.2. A request to declare an arbitral award enforceable shall be rejected and the award shall be set aside if the Court determines that one or more grounds for setting aside an award pursuant to Article 36, Paragraph (2), are satisfied. A request to declare an arbitral award enforceable shall be accompanied by the arbitral award or a certified copy of it.

Article 39
Arbitral Awards Made Outside of Kosovo

39.1. Kosovo courts shall recognize arbitral awards made outside of Kosovo as effective and enforce them if such awards are recognized and are published as enforced according to paragraph 2 till 5 of this Article.

39.2. The request for recognition and enforcement of an arbitral award made outside of Kosovo shall be submitted to the Economic Court.

39.3. To the request for recognition and enforcement of an arbitral award interested party shall attach:

- a). the authenticated original award or a duly certified copy thereof;
- b). the original arbitration agreement or a duly certified copy thereof; and
- c). a duly certified translation of the arbitration agreement and the arbitral award into an official language of Kosovo if the award or agreement is not made in an official language of Kosovo.

39.4. Recognition and enforcement of the award may be refused, at the request of the party against whom it is invoked, if that party proves that:

- a). a party to the arbitration agreement, under the law applicable to this agreement, did not have the capacity to act; or the arbitration agreement was not valid under the law determined as applicable by the parties or, in the absence of such determination, under the applicable law in the territory where the award was made;
- b). the party against whom the award is invoked was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present its case;
- c). the award deals with an issue 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 so submitted, that part of the award which contains decisions on matters submitted to arbitration may be recognized and enforced;
- d). the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the law applicable to it; and
- e). the award has not yet become binding on the parties, or has been set aside or suspended by a competent authority of the territory in which, or under the law of which, the award was made.

39.5. Recognition and enforcement of an arbitral award shall be refused if the Court finds that:

- a). the subject matter is not capable of a settlement by arbitration under the applicable law in Kosovo; or
- b). the recognition or enforcement of the award would be contrary to the public policy (ordre public) of Kosovo.

**Chapter IX
FINAL PROVISIONS**

**Article 40
Applicable Law**

With the entrance into force of the present law all provisions in the applicable law that are inconsistent with the provisions of this law shall be superseded.

**Article 41
Entry into Force**

The present law shall enter into force one month following adoption by the Assembly of Kosovo and promulgation by the Special Representative of the Secretary-General.

**UNMIK/REG/ 2008/30
05.06.2008**