



Arbitration Guide
IBA Arbitration Committee

SENEGAL

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I. Background

- (i) **How prevalent is the use of arbitration in your jurisdiction? What are seen as the principal advantages and disadvantages of arbitration?**

Arbitration has been fast growing in Senegal, as an alternative to judicial methods of dispute resolution.

The principal advantages of arbitration are the freedom parties enjoy to appoint arbitrators and the short time to get an award in comparison with the state justice system.

The main disadvantages consist of the high costs and the tendency of lawyers representing the parties to treat arbitrations like judicial proceedings.

- (ii) **Is most arbitration institutional or ad hoc? Domestic or international? Which institutions and/or rules are most commonly used?**

Most arbitration proceedings in Senegal are institutional and domestic. In 1998, Senegal established the Centre of Arbitration and Mediation at the Dakar Chamber of Commerce. The Centre's Rules are mandatory for domestic arbitration. International arbitration clauses generally refer to the International Court of Arbitration of the International Chamber of Commerce (ICC).

- (iii) **What types of disputes are typically arbitrated?**

The majority of arbitrations relate to cases arising out of commercial contracts.

- (iv) **How long do arbitral proceedings usually last in your country?**

Though there is no mandatory time frame for the conclusion of arbitration proceedings, domestic arbitration proceedings are generally concluded within six months. International arbitrations last longer depending on the parties, the arbitrators and the complexity of the case.

- (v) **Are there any restrictions on whether foreign nationals can act as counsel or arbitrators in arbitrations in your jurisdiction?**

There are some restrictions for foreign nationals to act as counsel or arbitrator in domestic arbitration proceedings, such as certain political or security restrictions. For international arbitration, the standard requirement is that an arbitrator should not be of the same nationality as a party or the parties.

II. Arbitration Laws

- (i) **What law governs arbitration proceedings with their seat in your jurisdiction? Is the law the same for domestic and international arbitrations? Is the national arbitration law based on the UNCITRAL Model Law?**

The domestic sources of arbitration law in Senegal consist of the following texts:

- The OHADA Uniform Act on Arbitration dated 11 March 1999, which derives from an international treaty in force in the 17 OHADA countries, including Senegal. OHADA refers to the ‘Organisation pour l’Harmonisation en Afrique du Droit des Affaires’, formed in 1993. Article 35 provides that the Uniform Act on Arbitration is considered as the national arbitration law of each member state;
- The Decree No 98-492, which replaces articles 795 to 820 of the Code of Civil Procedure; and
- The Arbitration Act No 98-30 dated 14 April 1998 (‘Arbitration Act’), which provides the specifics for arbitration in Senegal, in line with the principles stated in the OHADA Uniform Act on Arbitration. The Senegalese Arbitration Act is mostly based on the UNCITRAL Model Law.

The sources of international arbitration rules in Senegal consist of:

- the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards; and
- the 1965 Washington International Convention on the Settlement of Investment Disputes (ICSID).

- (ii) **Is there a distinction in your arbitration law between domestic and international arbitration? If so, what are the main differences?**

The Arbitration Act defines domestic arbitration as one related to the resolution of domestic or internal disputes.

International arbitration is the proceeding aimed at resolving disputes arising out of international economic transactions.

There are two major differences. First, in international arbitration, parties have great freedom as to the applicable law, the seat of arbitration and the language of the proceedings. Second, domestic arbitration awards can be appealed before the

Court of Appeal in the state judicial system, while in international arbitration there are limited grounds to challenge an award before the Court of Appeal.

(iii) What international treaties relating to arbitration have been adopted (eg, New York Convention, Geneva Convention, Washington Convention, Panama Convention)?

The international treaties relating to arbitration that have been adopted by Senegal include:

- The 1958 New York Convention on the Recognition & Enforcement of Foreign Arbitral Awards;
- The 1965 Washington International Convention on the Settlement of Investment Disputes (ICSID); and
- The Hague Convention for the Pacific Settlement of International Disputes, which established the Permanent Court of Arbitration (PCA).

(iv) Is there any rule in your domestic arbitration law that provides the arbitral tribunal with guidance as to which substantive law to apply to the merits of the dispute?

There is no such a rule. Parties have the freedom to select the substantive law to govern their contract and related disputes.

III. Arbitration Agreements

(i) Are there any legal requirements relating to the form and content of an arbitration agreement? What provisions are required for an arbitration agreement to be binding and enforceable? Are there additional recommended provisions?

Arbitration agreements should be in writing.

There are two forms of arbitration agreements:

- (1) one that is included in a commercial contract, either directly or by reference (*clause compromissoire*); and
- (2) one that is drafted and agreed between parties after the dispute has arisen (*compromis*).

Both forms are enforceable as long as the parties have expressly accepted to be bound.

- (ii) **What is the approach of courts towards the enforcement of agreements to arbitrate? Are there particular circumstances when an arbitration agreement will not be enforced?**

Courts in Senegal are respectful of arbitration clauses, that is, whenever a party to a dispute invokes the existence of an arbitration clause, the judge will grant a stay of proceedings.

Agreements to arbitrate should relate to commercial disputes; otherwise they are not enforceable.

If a party wrongfully submits the dispute to the court despite the existence of an arbitration agreement, the other party should ask the court for a stay of proceedings. Otherwise, a party who takes action to defend its cause in court will not be able to enforce the arbitration agreement afterward.

- (iii) **Are multi-tier clauses (eg, arbitration clauses that require negotiation, mediation and/or adjudication as steps before an arbitration can be commenced) common? Are they enforceable? If so, what are the consequences of commencing an arbitration in disregard of such a provision? Lack of jurisdiction? Non-arbitrability? Other?**

Multi-tier dispute resolution clauses are common and enforceable in Senegal. Commencing arbitration in disregard of such a provision could lead the arbitration tribunal to order a stay of proceedings until the conditions precedent to arbitration are fully satisfied. If parties fail to satisfy the multi-tier clause, the arbitration tribunal will still keep its jurisdiction over the dispute, and the arbitration will resume once the conditions are satisfied.

- (iv) **What are the requirements for a valid multi-party arbitration agreement?**

The Arbitration Act does not provide specific requirements for the validity of a multi-party arbitration agreement.

- (v) **Is an agreement conferring on one of the parties a unilateral right to arbitrate enforceable?**

Such an agreement would be enforceable provided that the other party agrees to be bound by that agreement, as the arbitration agreement is a contract per se.

- (vi) **May arbitration agreements bind non-signatories? If so, under what circumstances?**

An arbitration agreement is not, in principle, binding on a non-signatory.

However, in exceptional circumstances, a non-signatory can be bound through cross-referenced documents; but in such a case, the non-signatory must expressly consent to be bound by the arbitration agreement.

IV. Arbitrability and Jurisdiction

- (i) **Are there types of disputes that may not be arbitrated? Who decides – courts or arbitrators – whether a matter is capable of being submitted to arbitration? Is the lack of arbitrability a matter of jurisdiction or admissibility?**

According to the Arbitration Act, only disputes arising out of commercial matters can be arbitrated. Only courts may decide whether a matter is capable of being submitted to arbitration.

The lack of arbitrability is a matter of jurisdiction rather than of admissibility.

- (ii) **What is the procedure for disputes over jurisdiction if court proceedings are initiated despite an arbitration agreement? Do local laws provide time limits for making jurisdictional objections? Do parties waive their right to arbitrate by participating in court proceedings?**

When a court proceeding is initiated despite the existence of an arbitration agreement, the arbitration tribunal should continue to handle the case. The opposing party should submit to the competent local judge an application to stay the court proceeding on the basis of the arbitration agreement.

Though the Arbitration Act does not provide a time limit, jurisdictional objections should be made as early and promptly as possible.

If the opposing party participates in the court proceeding by filing a defence, then its right to arbitrate is deemed totally waived.

- (iii) **Can arbitrators decide on their own jurisdiction? Is the principle of *competence-competence* applicable in your jurisdiction? If yes, what is the nature and intrusiveness of the control (if any) exercised by courts on the tribunal's jurisdiction?**

Arbitrators can decide on their own jurisdiction. Not only does the principle *competence-competence* apply in Senegal, but also Senegalese courts have no

control whatsoever over the arbitration tribunal's jurisdiction throughout the arbitration proceedings.

V. Selection of Arbitrators

(i) How are arbitrators selected? Do courts play a role?

The arbitration agreement should determine the mode of selection of arbitrators. In the case of a three-arbitrator tribunal, if there is no selection procedure specified by the parties, each party shall designate an arbitrator and the two arbitrators will appoint the third arbitrator. If the arbitration is international and the two arbitrators have not agreed on the selection of the third arbitrator within a limited time, the parties shall refer to the appointing institution to effect the appointment.

In a domestic arbitration, if a party or the arbitrators fail to appoint an arbitrator or the third arbitrator within a limited time, the appointment shall be made by the court on the application of any of the parties to the arbitration.

(ii) What are the requirements in your jurisdiction as to disclosure of conflicts? Do courts play a role in challenges and what is the procedure?

In the process of selecting an arbitrator, any party who knows of circumstances that could affect the arbitrator's integrity, impartiality or independence is obliged to disclose such circumstances. The appointed arbitrator also has the duty to disclose such circumstances. The duty to disclose remains throughout the arbitration proceedings.

Parties have the right to challenge an arbitrator suspected of partiality or lack of independence. The courts play a limited role in that regard.

A party's right to challenge must be exercised within a short period of time, generally 15 days after the appointment of the arbitrator it wishes to challenge. The challenge must be in writing and indicate the reasons that justify it. It must be served to the other party and to the other members of the arbitral tribunal.

After the challenge has been received, the other party and the challenged arbitrator may agree to the withdrawal of the challenged arbitrator from the tribunal.

In domestic arbitration, if the challenged arbitrator refuses to withdraw, the court shall decide on the challenge if the local arbitration centre is not able to settle the matter. In international arbitration, the challenge is resolved according to the Rules of the arbitration centre selected by the parties.

- (iii) **Are there limitations on who may serve as an arbitrator? Do arbitrators have ethical duties? If so, what is their source and generally what are they?**

There are no specific limitations as to who can serve as an arbitrator. It is up to the parties to determine in their agreement who can qualify as an arbitrator. If the agreement is silent on qualifications, the arbitrator can be any person who meets the requirements of any legislation of the country where the arbitration will take place or of the appointing institution (for example, the Centre arbitrage et de Mediation de Dakar). The main ethical duties imposed on an arbitrator are integrity, impartiality and independence.

- (iv) **Are there specific rules or codes of conduct concerning conflicts of interest for arbitrators? Are the IBA Guidelines on Conflicts of Interest in International Arbitration followed?**

The rules of conduct for arbitrators concerning conflicts of interest are of a general nature and usually drawn from courts' and bar associations' ethical rules. The IBA Guidelines on Conflicts of Interest in International Arbitration have recently started to be used as best practices.

VI. Interim Measures

- (i) **Can arbitrators issue interim measures or other forms of preliminary relief? What types of interim measures can arbitrators issue? Is there a requirement as to the form of the tribunal's decision (order or award)? Are interim measures issued by arbitrators enforceable in courts?**

Arbitrators can grant interim measures or other forms of preliminary relief. These interim measures must be in connection with the disputed subject matter and can include orders for the preservation of assets, the deposit of an amount with a third party, or the sale of perishable goods.

Based on contract law principles, interim measures are enforceable in court, as the parties have voluntarily empowered the arbitration tribunal to grant such measures.

- (ii) **Will courts grant provisional relief in support of arbitrations? If so, under what circumstances? May such measures be ordered after the constitution of the arbitral tribunal? Will any court ordered provisional relief remain in force following the constitution of the arbitral tribunal?**

Courts can grant provisional relief in support of arbitration before the arbitral tribunal is in place, if urgent measures are needed to protect vital interests related to the dispute. Once the arbitral tribunal has been constituted, courts may not, in principle, order provisional relief.

Court-ordered provisional relief should remain in force following the constitution of the arbitral tribunal unless modified or terminated by the arbitral tribunal.

- (iii) To what extent may courts grant evidentiary assistance/provisional relief in support of the arbitration? Do such measures require the tribunal's consent if the latter is in place?**

Courts may grant evidentiary assistance in support of the arbitration proceedings. The arbitral tribunal's consent is not required.

VII. Disclosure/Discovery

- (i) What is the general approach to disclosure or discovery in arbitration? What types of disclosure/discovery are typically permitted?**

As a civil law country, Senegal does not use discovery in domestic proceedings. However, in support of their respective positions, parties are allowed to produce documents and other evidence within a limited time frame. The production of evidence shall be conducted by the arbitral tribunal based on the standard legal principles of equal treatment of parties, transparent exchange of evidence, fair hearing etc.

- (ii) What, if any, limits are there on the permissible scope of disclosure or discovery?**

The arbitral tribunal shall limit the nature and form of evidence to be produced by the parties according to what is relevant to the dispute at hand. Documents out of the scope of disclosure include documents exchanged between a lawyer and his or her client, documents relating to ongoing negotiations and documents that parties have agreed not to use in the proceedings. These shall be considered as subject to privilege.

In a case where parties mediate before arbitrating, parties are not allowed to produce in the arbitration proceedings points of negotiation that were used in the mediation proceedings, unless all parties consent to do so.

- (iii) Are there special rules for handling electronically stored information?**

Neither the Senegal Arbitration Act nor the Arbitration Rules of the Dakar Arbitration and Mediation Centre ('Dakar Centre Rules') address electronically

stored information. However, Article 34 of Law No 2008-10 dated 25 January 2008 relating to electronic commerce confirms the admissibility of electronically stored information.

VIII. Confidentiality

(i) Are arbitrations confidential? What are the rules regarding confidentiality?

Article 9 of the Dakar Centre Rules reaffirms the paramount principle that arbitration is confidential. Consequently, hearings are not public and arbitrators should not disclose to third parties anything relating the arbitration proceedings. Without the consent of the parties, the arbitration award should not be made public.

(ii) Are there any provisions in your arbitration law as to the arbitral tribunal's power to protect trade secrets and confidential information?

No, there are not any such provisions in the Arbitration Act. However, given the confidential nature of the arbitration proceedings, all information submitted or exhibited during the arbitration is protected, including trade secrets and other confidential information.

(iii) Are there any provisions in your arbitration law as to rules of privilege?

No, there are not any provisions in the Arbitration Act dealing specifically with privilege.

IX. Evidence and Hearings

(i) Is it common that parties and arbitral tribunals adopt the IBA Rules on the Taking of Evidence in International Arbitration to govern arbitration proceedings? If so, are the Rules generally adopted as such or does the tribunal retain discretion to depart from them?

It is not common that parties and arbitral tribunals adopt the IBA Rules on the Taking of Evidence in International Arbitration ('IBA Rules') to govern arbitration proceedings. However, for international arbitration, initiatives are being taken to include the IBA Rules in the revision process of the Dakar Centre Rules.

(ii) Are there any limits to arbitral tribunals' discretion to govern the hearings?

Yes. The parties' agreement frames the arbitral tribunal's discretion over the conduct of the hearings. Further, the tribunal must ensure that fair and equal treatment is provided to all parties in the dispute.

- (iii) How is witness testimony presented? Is the use of witness statements with cross examination common? Are oral direct examinations common? Do arbitrators question witnesses?**

As a civil law country, Senegal does not practice cross examination as it is used in common law countries. However, witness testimony and oral direct examinations are common in arbitration proceedings. In addition, arbitrators can question witnesses in order to clarify or better understand the testimony.

- (iv) Are there any rules on who can or cannot appear as a witness? Are there any mandatory rules on oath or affirmation?**

There are no rules on who can or cannot appear as a witness.

There are no mandatory rules on oath or affirmation.

- (v) Are there any differences between the testimony of a witness specially connected with one of the parties (eg, legal representative) and the testimony of unrelated witnesses?**

There are no differences between these two types of testimony. It is up to the arbitral tribunal to determine the weight to be attached to a witness' testimony.

- (vi) How is expert testimony presented? Are there any formal requirements regarding independence and/or impartiality of expert witnesses?**

Expert testimony can be presented orally or in writing. While there are no formal requirements in the law or the rules, experts are expected to be independent and impartial.

- (vii) Is it common that arbitral tribunals appoint experts beside those that may have been appointed by the parties? How is the evidence provided by the expert appointed by the arbitral tribunal considered in comparison with the evidence provided by party-appointed experts? Are there any requirements in your jurisdiction that experts be selected from a particular list?**

It is not common in Senegal that the arbitral tribunal appoints its own expert.

There are no requirements that experts be selected from a particular list. Parties can freely select their experts.

- (viii) Is witness conferencing ('hot-tubbing') used? If so, how is it typically handled?**

No. Witness conferencing is not common practice in Senegal.

- (ix) **Are there any rules or requirements in your jurisdiction as to the use of arbitral secretaries? Is the use of arbitral secretaries common?**

The use of arbitral secretaries is not common practice in Senegal. To handle the administrative functions of the tribunal, a special Registrar can be appointed if necessary.

X. Awards

- (i) **Are there formal requirements for an award to be valid? Are there any limitations on the types of permissible relief?**

Article 36 of the Dakar Centre's Rules provides formal requirements for the validity of an award. These requirements include: the award must be in writing; it must be signed by all the arbitrators; if one of the arbitrators has not signed the award, the reason for such absence must be mentioned in the award; the award must indicate the date and place it was issued; the award must mention that it is final and binding on the parties; and the award must contain the legal grounds on which it is based.

- (ii) **Can arbitrators award punitive or exemplary damages? Can they award interest? Compound interest?**

At a party's request, arbitrators can award *dommages-intérêts* (payment intended to repair the damage suffered) if gross negligence or severe misconduct has been established.

Arbitrators can award interest as well as compound interest.

- (iii) **Are interim or partial awards enforceable?**

Article 36 paragraph 1 provides that the arbitral tribunal can issue interim or partial awards.

These awards are enforceable as long as they relate to a relevant aspect of the dispute.

- (iv) **Are arbitrators allowed to issue dissenting opinions to the award? What are the rules, if any, that apply to the form and content of dissenting opinions?**

In Senegal, it is not a common practice, at least in domestic arbitration, to issue a dissenting opinion to the award. The award is issued in the name of the tribunal as a whole even if a minority of arbitrators dissented.

- (v) **Are awards by consent permitted? If so, under what circumstances? By what means other than an award can proceedings be terminated?**

Yes. Awards by consent are permitted when (a) the parties have settled the dispute in the course of the arbitral proceedings, or (b) the tribunal has found it impossible to continue the proceedings before a final award is issued. In the latter case, the tribunal informs the parties and, upon their agreement, terminates the proceedings. In either case, the award by consent is duly signed by all the arbitrators.

- (vi) **What powers, if any, do arbitrators have to correct or interpret an award?**

According to Articles 40 and 41 of the Dakar Centre's Rules, the arbitrators can, at their own initiative or at the request of a party to the dispute, interpret the award or correct any error. However, this must be done within 30 days after the award has been issued.

XI. Costs

- (i) **Who bears the costs of arbitration? Is it always the unsuccessful party who bears the costs?**

The Dakar Centre's Rules prescribe that the costs of arbitration are to be apportioned between parties to the dispute. In their submissions parties can request that the costs of arbitration be borne by the unsuccessful party.

- (ii) **What are the elements of costs that are typically awarded?**

When awarding the costs of arbitration, the tribunal takes into account various elements including, but not limited to, the administrative costs of the institution managing the arbitration, the institution's fees and any other expenses paid by the institution on behalf of the parties to the dispute. In addition, costs may include the costs for legal representation of the successful party. But this latter element should be requested during the submissions of the parties, and the tribunal shall determine whether the amount of the successful party's legal fees is reasonable.

- (iii) **Does the arbitral tribunal have jurisdiction to decide on its own costs and expenses? If not, who does?**

No. In domestic institutional arbitration, by virtue of Article 46 of the Dakar Centre Rules, the costs and expenses are determined in reference to a scale of costs and expenses established by the Management Board of the Dakar Arbitration Centre.

- (iv) **Does the arbitral tribunal have discretion to apportion the costs between the parties? If so, on what basis?**

Yes. The tribunal has power to apportion the costs between the parties, taking into account the circumstances of the dispute. The apportioning of the costs must be reasonable. The tribunal may take into account the behaviour of a party in the course of the proceedings, considering whether the party has caused unnecessary delay in the proceedings or has refused to settle for the same amount than that was finally awarded by the tribunal, etc.

- (v) **Do courts have the power to review the tribunal's decision on costs? If so, under what conditions?**

No. Courts do not have the power to review the tribunal's decision on costs.

XII. Challenges to Awards

- (i) **How may awards be challenged and on what grounds? Are there time limitations for challenging awards? What is the average duration of challenge proceedings? Do challenge proceedings stay any enforcement proceedings? If yes, is it possible nevertheless to obtain leave to enforce? Under what conditions?**

Under the OHADA Uniform Act on Arbitration, once the award has been issued it can be challenged by the aggrieved party by way of an application for setting aside or for annulment. This application is made before the court. The award can also be challenged by a third party by way of *tierce opposition* (third party opposition, which is an action to challenge the award available to anyone who was neither a party to the dispute nor was represented in the original decision, but who has an interest in the matter) before the same arbitral tribunal. The award can also be challenged before the same arbitral tribunal by way of *recours en revision* when the requesting party discovers new facts that would totally change the outcome of the proceedings but were not known by the tribunal at the time of the award.

There are no time limitations for challenging an award. Nevertheless, the time for challenging an award, as well as the duration of the challenge proceedings, must be reasonable.

When challenging the award, the unsuccessful party may request the court to stay enforcement of the award. If granted, no enforcement can take place. No leave to enforce can be obtained until the court decides the challenge.

- (ii) **May the parties waive the right to challenge an arbitration award? If yes, what are the requirements for such an agreement to be valid?**

In principle, parties can agree by a clause of their arbitration agreement to waive their respective right to challenge the award. Such a clause must be unambiguous and in writing.

- (iii) **Can awards be appealed in your country? If so, what are the grounds for appeal? How many levels of appeal are there?**

Article 25 of the OHADA Uniform Act on Arbitration provides that the award is not subject to appeal.

- (iv) **May courts remand an award to the tribunal? Under what conditions? What powers does the tribunal have in relation to an award so remanded?**

Neither the Uniform Act nor the Dakar Centre Rules provide for a court to remand an award to the tribunal.

XIII. Recognition and Enforcement of Awards

- (i) **What is the process for the recognition and enforcement of awards? What are the grounds for opposing enforcement? Which is the competent court? Does such opposition stay the enforcement? If yes, is it possible nevertheless to obtain leave to enforce? Under what circumstances?**

According to Art 30 of the Uniform Act on Arbitration, recognition and enforcement of an arbitral award can only be made by way of exequatur, in which a summary judgment is rendered by the local court where enforcement is sought.

Foreign arbitration awards are recognized and enforced according to the relevant provisions of the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitration Awards, to which Senegal is a party.

The grounds for opposing enforcement are the same as the limited grounds set out in the 1958 New York Convention, including the absence of a valid arbitration agreement, improper composition of the tribunal, an *ultra petita* decision of the tribunal, a violation of public policy, etc.

Once the application to oppose enforcement is filed, the court may decide to stay enforcement pending its determination of that application. In such a case, there is no way to obtain leave to enforce.

- (ii) **If an exequatur is obtained, what is the procedure to be followed to enforce the award? Is the recourse to a court possible at that stage?**

The exequatur equals a judgement. Therefore, when it is granted, the losing party will be notified and compelled to pay the amount awarded.

However, the losing party can ask the court to annul the award as well as the exequatur. If such an action is successful, both the award and the judgment granting the exequatur would be nullified.

- (iii) **Are conservatory measures available pending enforcement of the award?**

Yes, they are.

- (iv) **What is the attitude of courts towards the enforcement of awards? What is the attitude of courts to the enforcement of foreign awards set aside by the courts at the place of arbitration?**

Senegal is an arbitration-friendly jurisdiction; therefore courts recognize and enforce arbitral awards.

However, courts would refuse to enforce foreign awards set aside by the courts at the place of arbitration.

- (v) **How long does enforcement typically take? Are there time limits for seeking the enforcement of an award?**

The enforcement of an award depends generally on whether the opposing party has challenged it.

There is not any time limit set for seeking the enforcement of an award.

XIV. Sovereign Immunity

- (i) **Do state parties enjoy immunities in your jurisdiction? Under what conditions?**

As sovereign, state parties enjoy immunity of jurisdiction as well as immunity of execution when they are not engaged in commercial or business-related activities.

- (ii) **Are there any special rules that apply to the enforcement of an award against a state or state entity?**

In Senegal, as for all OHADA states, there are two levels of enforcement. First is enforcement where the losing party agrees to the judgment and the winning party is able to recover its damages voluntarily from the loser after judgment. However,

there is also the concept of '*execution forcée*' where a winner enforces the judgment by seizing assets, freezing bank accounts or calling in the bailiff or public forces to assist. The state supports the winner in executing the claim.

According to Article 30 paragraph 1 of the OHADA Uniform Act on Simplified Procedures and Credit Recovery, it is forbidden to use *execution forcée* for any judgment against an OHADA state or its entity.

While this Article does not expressly mention arbitral awards, in practice the same prohibition on using *execution forcée* against the state applies.

XV. Investment Treaty Arbitration

- (i) Is your country a party to the Washington Convention on the Settlement of Investment Disputes Between States and Nationals of Other States? Or other multilateral treaties on the protection of investments?**

Yes, Senegal has signed and ratified the Washington Convention on the Settlement of Investment Disputes Between States and Nationals of Other States.

- (ii) Has your country entered into bilateral investment treaties with other countries?**

Yes. Senegal has bilateral investment treaties with the United States, United Kingdom, Switzerland, Sweden, Romania, the Netherlands, Mauritius, South Korea, Italy, France, Germany and Argentina. Bilateral investment treaties have been signed with 16 other countries but not brought into force yet.

XVI. Resources

- (i) What are the main treatises or reference materials that practitioners should consult to learn more about arbitration in your jurisdiction?**

The principal arbitration treatises or reference materials that practitioners consult to learn about arbitration in Senegal are in French. One of the most popular is a treatise by Professor Emmanuel Gaillard '*Fouchard Gaillard Goldman on International Commercial Arbitration*'.

- (ii) Are there major arbitration educational events or conferences held regularly in your jurisdiction? If so, what are they and when do they take place?**

Over the last five years, the Senegal Bar Association and the International Union of Lawyers (UIA) have co-organized training sessions on arbitration. In addition, the Dakar Arbitration and Mediation Centre organizes conferences and workshops on arbitration. Most of these events have taken place in the capital city Dakar.

XVII. Trends and Developments

- (i) Do you think that arbitration has become a real alternative to court proceedings in your country?**

Indeed, given the heavy workload of the state judicial system, the lack of specialization of judges and the corruption of some judges, parties and their counsel are resorting more and more to arbitration.

- (ii) What are the trends in relation to other ADR procedures, such as mediation?**

Mediation is gaining popularity among legal professionals due to its flexible and party-driven procedures. Mediation is being accepted as an alternative to the judicial system, as it fits better into our African culture which is based on dialogue and negotiation.

- (iii) Are there any noteworthy recent developments in arbitration or ADR?**

The Arbitration Rules of the Dakar Arbitration and Mediation Centre are being revised.

Draft legislation on mediation is being discussed for incorporation in the Code of Civil Procedure.

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