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Norway
International Arbitration

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This country-specific Q&A provides an overview of international arbitration laws and regulations applicable in Norway.

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Norway: International Arbitration

1. What legislation applies to arbitration in your country? Are there any mandatory laws?

The Arbitration Act applies to arbitration that takes place in Norway, regardless of whether the parties are Norwegian or from another country.

The parties may contract out of the non-mandatory provisions of the Norwegian Arbitration Act.

2. Is your country a signatory to the New York Convention? Are there any reservations to the general obligations of the Convention?

Norway ratified the New York Convention on 14 March 1961 and the Convention entered into force 11 June 1961. Norway has made reservations to the Convention so that it applies only to the recognition and enforcement of arbitral awards made in the territory of one of the contracting states. The Convention also does not apply to proceedings where the subject matter is immovable property located in Norway or a right in or to such property. However, in accordance with the Norwegian Arbitration Act, an arbitration award will be enforced and recognized in Norway irrespective of which country it is made.

3. What other arbitration-related treaties and conventions is your country a party to?

In addition to the New York Convention, Norway is a party to several other treaties and conventions relating to arbitration, e.g. the Convention on the Settlement of Investment Disputes Between States and Nationals of Other States (the ICSID Convention) and several bilateral investment protection agreements.

4. Is the law governing international arbitration in your country based on the UNCITRAL Model Law? Are there significant differences between the two?

The Norwegian Arbitration Act is based on the UNICITRAL Model Law, but Norway has not adopted the UNICITRAL Model Law directly. Differences include oral arbitration agreements being valid under the Norwegian Arbitration Act and that the tribunal shall to the extent possible be appointed jointly by the parties.

5. Are there any impending plans to reform the arbitration laws in your country?

No.

6. What arbitral institutions (if any) exist in your country? When were their rules last amended? Are any amendments being considered?

Norway has traditionally favoured ad hoc arbitration rather than institutional arbitration.

The main arbitration institute in Norway is the Arbitration and Dispute Resolution Institute of the Oslo Chamber of Commerce (OCC). The OCC's arbitration rules were last amended with effect from 1 January 2017.

Also worth mentioning is the Nordic Offshore and Maritime Arbitration Association (NOMA). The current NOMA rules are from 2024.

7. Is there a specialist arbitration court in your country?

No.

8. What are the validity requirements for an arbitration agreement under the laws of your country?

Only disputes at the disposal of the parties may be subject to arbitration.

In addition, the ordinary rules and principles of formation and validity under Norwegian contract law apply to arbitration agreements. The Arbitration Act does not prescribe a particular form of the arbitration agreement; it can be made orally or in writing. Certain exceptions and limitations apply to arbitration agreements with consumers.

9. Are arbitration clauses considered separable from the main contract?

Yes, the principle of separability is codified in section 18 (2) of the Arbitration Act, which states that an arbitration agreement which forms part of a contract shall be treated as an agreement independent of the other terms of the contract.

10. Do the courts of your country apply a validation principle under which an arbitration agreement should be considered valid and enforceable if it would be so considered under at least one of the national laws potentially applicable to it?

The Arbitration Act section 43 states that an award may be set aside if the arbitration agreement is invalid under the law which the parties have agreed is applicable to the arbitration agreement or, failing such agreement, under Norwegian law.

11. Is there anything particular to note in your jurisdiction with regard to multi-party or multi-contract arbitration?

The Arbitration Act contains no consolidation clauses. Accordingly, the tribunal cannot consolidate separate arbitral proceedings without the parties' consent.

12. In what instances can third parties or non-signatories be bound by an arbitration agreement? Are there any recent court decisions on these issues?

Pursuant to section 10 of the Arbitration Act, a third party can be bound by an arbitration agreement if the subject matter of the agreement is transferred to such third party. Further, third parties can in some instances be bound by an arbitration agreement if they make direct claims against one of the parties to the agreement based on the agreement. Arbitral awards are binding on third parties to the extent the third parties would have been bound by an agreement regarding the subject matter of the award.

In a recent decision (HR-2023-573-A), the Norwegian Supreme Court held that an insurance company seeking recourse against a supplier was bound by an arbitration clause between the supplier and the insured party.

13. Are any types of dispute considered non-arbitrable? Has there been any evolution in this regard in recent years?

Only disputes concerning legal relations in respect of which the parties have an unrestricted right of disposition are arbitrable. Matters like criminal offences, divorce and adoption can therefore not be subject to arbitration.

14. Are there any recent court decisions in your country concerning the choice of law applicable to an arbitration agreement where no such law has been specified by the Parties?

Not to our knowledge.

15. How is the law applicable to the substance determined? Is there a specific set of choice of law rules in your country?

Pursuant to section 31 of the Arbitration Act, the principal rule is that the arbitral tribunal shall apply the substantive law that has been agreed by the parties. In the absence of an agreement between the parties the arbitral tribunal shall apply the substantive law determined by Norwegian private international law.

16. In your country, are there any restrictions in the appointment of arbitrators?

The Arbitration Act section 13 requires that arbitrators must be impartial and independent from the parties and qualified for the task. Before accepting an appointment, each arbitrator must disclose any circumstances likely to give rise to justifiable doubts about his impartiality or independence. The parties are free to agree on other requirements in the arbitration agreement.

17. Are there any default requirements as to the selection of a tribunal?

Unless the parties agree otherwise, the tribunal shall consist of three arbitrators.

A novel feature of the Norwegian Arbitration Act is that the parties shall to the extent possible jointly appoint the arbitrators. This normally works quite well and has the advantage of giving the parties command over the choice of the chairperson, as well as increasing the independence of the tribunal.

If the parties fail to agree on the nomination of three arbitrators, they must each nominate one arbitrator within one month of the other party's request. The nominated arbitrators will then jointly appoint the chairperson.

18. Can the local courts intervene in the selection of arbitrators? If so, how?

If a party fails to appoint an arbitrator or the appointed arbitrators fail to appoint the chairperson, the parties can ask the ordinary courts to appoint the remaining arbitrators. The court's nomination of an arbitrator cannot be appealed.

19. Can the appointment of an arbitrator be challenged? What are the grounds for such challenge? What is the procedure for such challenge?

The appointment of an arbitrator can be challenged if there are circumstances that give rise to justifiable doubts about their impartiality or independence or if they do not possess the qualifications agreed on by the parties.

Unless the parties have agreed to a different procedure, a challenge of an appointment shall be submitted in writing to the arbitral tribunal within 15 days after the party became aware of the appointment of the arbitrator and the circumstances on which the challenge is based.

If a challenge is unsuccessful and the parties have not agreed on a different procedure, the challenging party may bring the issue before the courts within one month after it received notice of the decision rejecting the challenge.

20. Have there been any recent developments concerning the duty of independence and impartiality of the arbitrators, including the duty of disclosure?

In a recent split decision (LH-2024-1638) by Hålogaland Court of Appeal, the majority ruled that an arbitrator who was a partner in a law firm which represented one of the parties to the arbitration in a separate matter, did not give rise to justifiable doubts about his impartiality and independence. The arbitrator had failed to disclose the relationship prior to being appointed.

21. What happens in the case of a truncated tribunal? Is the tribunal able to continue with the proceedings?

Save for any agreement to the contrary, new arbitrators will be appointed pursuant to the same appointment procedure (see question 17 and 18 above).

22. Are arbitrators immune from liability?

No, arbitrators must perform their tasks pursuant to their appointment agreements. The agreements are subject to general contract law principles and thus, arbitrators may in principle be held liable for breach of contract.

23. Is the principle of competence-competence recognised in your country?

Yes, section 18 of the Arbitration Act states that the tribunal decides whether the dispute may be referred to arbitration and objections over the existence or validity of the arbitration agreement.

The parties may appeal a decision to refer a dispute to arbitration to the ordinary courts within one month. An objection concerning the jurisdiction of the tribunal may be raised as grounds for setting aside the award or challenging the enforceability of the award.

24. What is the approach of local courts towards a party commencing litigation in apparent breach of an arbitration agreement?

Pursuant to the Arbitration Act section 7, the courts shall dismiss an action that is the subject of arbitration if a party so requests no later than in his first submission on the merits of the dispute. The court shall hear the case if it finds that an arbitration agreement is null and void or that the agreement for other reasons cannot be performed.

If arbitration has been commenced when court proceedings are initiated, the case shall only be heard if the court finds it obvious that the arbitration agreement is null and void or that the case for other reasons cannot be resolved by arbitration.

25. What happens when a respondent fails to participate in the arbitration? Can the local courts compel participation?

If the respondent fails to submit a defence without reasonable cause, the arbitral tribunal will continue the proceedings. Failure to submit a defence will not be deemed as an acceptance of the claimant's claim. If the respondent does not appear at the hearing or fails to submit evidence, the tribunal may decide the case based on the facts presented. The arbitral tribunal and local courts cannot compel the parties to cooperate.

26. Can third parties voluntarily join arbitration proceedings? If all parties agree to the intervention, is the tribunal bound by this agreement? If all parties do not agree to the intervention, can the tribunal allow for it?

Neither the Norwegian Arbitration Act nor the most commonly used institutional arbitration rules in Norway (OCC and NOMA rules) allow for the joinder of third parties.

27. What interim measures are available? Will local courts issue interim measures pending the constitution of the tribunal?

Provided that the parties have not agreed otherwise and on the request of one of the parties, the tribunal may grant interim measures necessary, e.g. ordering the preservation of evidence. However, such interim measures cannot be enforced.

Pursuant to section 8 of the Arbitration Act, the parties may request interim measures from the courts before or during arbitral proceedings pursuant to chapters 32 to 34 of the Norwegian Dispute Act. Interim measures ordered by the courts are enforceable.

28. Are anti-suit and/or anti-arbitration injunctions available and enforceable in your country?

No.

29. Are there particular rules governing evidentiary matters in arbitration? Will the local courts in your jurisdiction play any role in the obtaining of evidence? Can local courts compel witnesses to participate in arbitration proceedings?

The parties are responsible for substantiating the case and are entitled to present such evidence as they wish.

The arbitral tribunal may limit the presentation of evidence that is obviously irrelevant to the determination of the case or unreasonably disproportionate to the importance of the dispute.

The courts cannot directly compel witnesses to participate in arbitration proceedings, but pursuant to section 30 of the Arbitration Act, the arbitral tribunal, or a party with the consent of the arbitral tribunal, may ask the court to take testimony from parties and witnesses or order a party to produce documents which are material and relevant to the case.

30. What ethical codes and other professional standards, if any, apply to counsel and arbitrators conducting proceedings in your country?

Counsel and arbitrators who are lawyers are bound by the applicable code of ethics for lawyers.

31. In your country, are there any rules with respect to the confidentiality of arbitration proceedings?

Arbitral proceedings and awards are not subject to confidentiality, unless the parties agree otherwise. However, oral hearings are held in private and third partes are only allowed to be present if the parties agree to this.

32. How are the costs of arbitration proceedings estimated and allocated? Can pre- and post-award interest be included on the principal claim and costs incurred?

Save for any agreement with the parties to the contrary, the arbitral tribunal determines its own remuneration. The parties are jointly liable for the tribunal's costs. The arbitral tribunal may order a party to pay the other party's costs to the extent it deems appropriate.

Unless the parties have agreed otherwise, the tribunal may award interest in accordance with the law applicable to the dispute. The penalty interest rate pursuant to the Norwegian Act on Interest on late payment per 1 July 2024 is 12.5 % p.a. and will apply to both the principal claim and for the costs incurred

33. What legal requirements are there in your country for the recognition and enforcement of an award? Is there a requirement that the award be reasoned, i.e. substantiated and motivated?

Arbitral awards must be made in writing and signed by all the arbitrators. It is sufficient that the majority of the arbitrators have signed the award, provided that the reason for the minority's refusal is stated in the award. It must state the time and place of the award.

Unless otherwise agreed by the parties, the award must also state:

- The reasons on which it is based;
- Whether it is unanimous and if it is not, which arbitrator is dissenting and on what grounds.

Both Norwegian and foreign arbitral awards are enforceable in Norway.

The recognition or enforcement of an arbitral award may be refused if:

- one of the parties to the arbitration agreement lacks legal capacity, or the arbitration agreement is invalid;
- the party against which the arbitral award is being invoked was not given sufficient notice of the appointment of an arbitrator or the arbitration, or was not given an opportunity to present its case;
- the arbitral award falls outside the scope of the tribunal's jurisdiction;
- the composition of the arbitral tribunal was incorrect;
- the arbitral procedure was contrary to the law of the place of arbitration or the parties' agreement, and it is obvious that this may have affected the decision; or
- the arbitral award is not yet binding on the parties, or it has been set aside (permanently or temporarily) by a court at the place of arbitration or by a court in the jurisdiction of the law which has been applied to the dispute.

The courts will ex officio refuse recognition and enforcement of an arbitral award if:

- the dispute cannot be determined by arbitration under Norwegian law; or
- recognition or enforcement of the arbitral award would be contrary to public policy (ordre public).

If the reason for refusing recognition or enforcement affects only part of the award, the court shall only refuse recognition or enforcement of such part.

34. What is the estimated timeframe for the recognition and enforcement of an award? May a party bring a motion for the recognition and enforcement of an award on an ex parte basis?

Normally, we estimate two to three months from the request is sent to the court until security is established in the defendant's assets. The opposite party will be notified of the enforcement proceedings.

35. Does the arbitration law of your country provide a different standard of review for recognition and enforcement of a foreign award compared with a domestic award?

No, the same standard applies to both foreign and domestic awards.

36. Does the law impose limits on the available remedies? Are some remedies not enforceable by the local courts?

No, but the award may be unenforceable in certain instances.

37. Can arbitration awards be appealed or challenged in local courts? What are the grounds and procedure?

An arbitral award cannot be appealed to the courts, but they may be set aside by the courts if:

- one of the parties to the arbitration agreement lacks legal capacity, or the agreement is invalid;
- the party bringing the action for setting aside the award was not given sufficient notice of the appointment of an arbitrator or of the arbitration, or was not given an opportunity to present its case;
- the arbitral award falls outside the scope of the arbitral tribunal's jurisdiction;
- the composition of the arbitral tribunal was incorrect; or the arbitral procedure was contrary to law or the parties' agreement, and it is obvious that this may have affected the decision.

When the issue of an arbitral award's validity is brought before the courts, the court will set aside the award if:

- the dispute was not capable of being determined by arbitration under Norwegian law;
- or enforcement or recognition of the arbitral award is contrary to public policy.

An action to set aside an award must be brought within three months after the award was received by the party.

38. Can the parties waive any rights of appeal or challenge to an award by agreement before the dispute arises (such as in the arbitration clause)?

No.

39. In what instances can third parties or non-signatories be bound by an award? To what extent might a third party challenge the recognition of an award?

According to Norwegian rules on the binding force of judgments, arbitral awards are binding on third parties to the same extent as the third parties would have been bound by an agreement regarding the subject matter of the award.

The Arbitration Act has no specific regulation regarding to what extent a third party may challenge the recognition of an award.

40. Have there been any recent court decisions in your jurisdiction considering third party funding in connection with arbitration proceedings?

Not to our knowledge.

41. Is emergency arbitrator relief available in your country? Are decisions made by emergency arbitrators readily enforceable?

The Norwegian Arbitration Act does not contain provisions concerning emergency arbitration. Such relief will depend on the arbitration agreement.

42. Are there arbitral laws or arbitration institutional rules in your country providing for simplified or expedited procedures for claims under a certain value? Are they often used?

The Arbitration Act has no special regulations for small claims. Both the rules of Oslo Chamber of Commerce and NOMA offer an expedited procedure. To our knowledge, there are no available statistics concerning how frequently the expedited rules are used.

43. Is diversity in the choice of arbitrators and counsel (e.g. gender, age, origin) actively promoted in your country? If so, how?

There are various initiatives in the Norwegian arbitration community to promote increased diversity, particularly increasing the number of women appointed as arbitrators.

44. Have there been any recent court decisions in your country considering the setting aside of an award that has been enforced in another jurisdiction or vice versa?

Not to our knowledge.

45. Have there been any recent court decisions in your country considering the issue of corruption? What standard do local courts apply for proving of corruption? Which party bears the burden of proving corruption?

Not to our knowledge.

46. What measures, if any, have arbitral institutions in your country taken in response to the COVID-19 pandemic?

The rules of the arbitral institutions have been scrutinized to ensure that they do not prevent remote hearings or other measures that proved necessary during the pandemic.

47. Have arbitral institutions in your country implemented reforms towards greater use of technology and a more cost-effective conduct of arbitrations? Have there been any recent developments regarding virtual hearings?

The arbitral institutions have not implemented any

reforms, but the applicable rules have been scrutinized to ensure that they do not prevent remote hearings or the use of various forms of technology.

Our impression is that virtual hearings are used more frequently for smaller cases or deciding preliminary issues, but that physical hearings are still the norm in larger cases.

48. Have there been any recent developments in your jurisdiction with regard to disputes on climate change and/or human rights?

There is an ongoing climate action related to the development of three new oil and gas fields. The action was brought forward by two environmental organizations in 2023. The organizations claimed that the licenses for the three fields were illegal, because they were granted without an environmental impact assessment of the emissions from the extracted oil and gas. The Oslo District Court ruled that granting the licenses was illegal and issued a preliminary injunction prohibiting the government from granting new licenses. The government appealed the verdict, and the case is ongoing.

49. Do the courts in your jurisdiction consider international economic sanctions as part of their international public policy? Have there been any recent decisions in your country considering the impact of sanctions on international arbitration proceedings?

Norway has implemented the EU's sanctions against Russia. In addition, many law firms have adopted a policy of not representing Russian companies in any manner, including arbitration proceedings. To our knowledge, there are no specific decisions concerning this issue.

50. Has your country implemented any rules or regulations regarding the use of artificial intelligence, generative artificial intelligence or large language models in the context of international arbitration?

No.

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