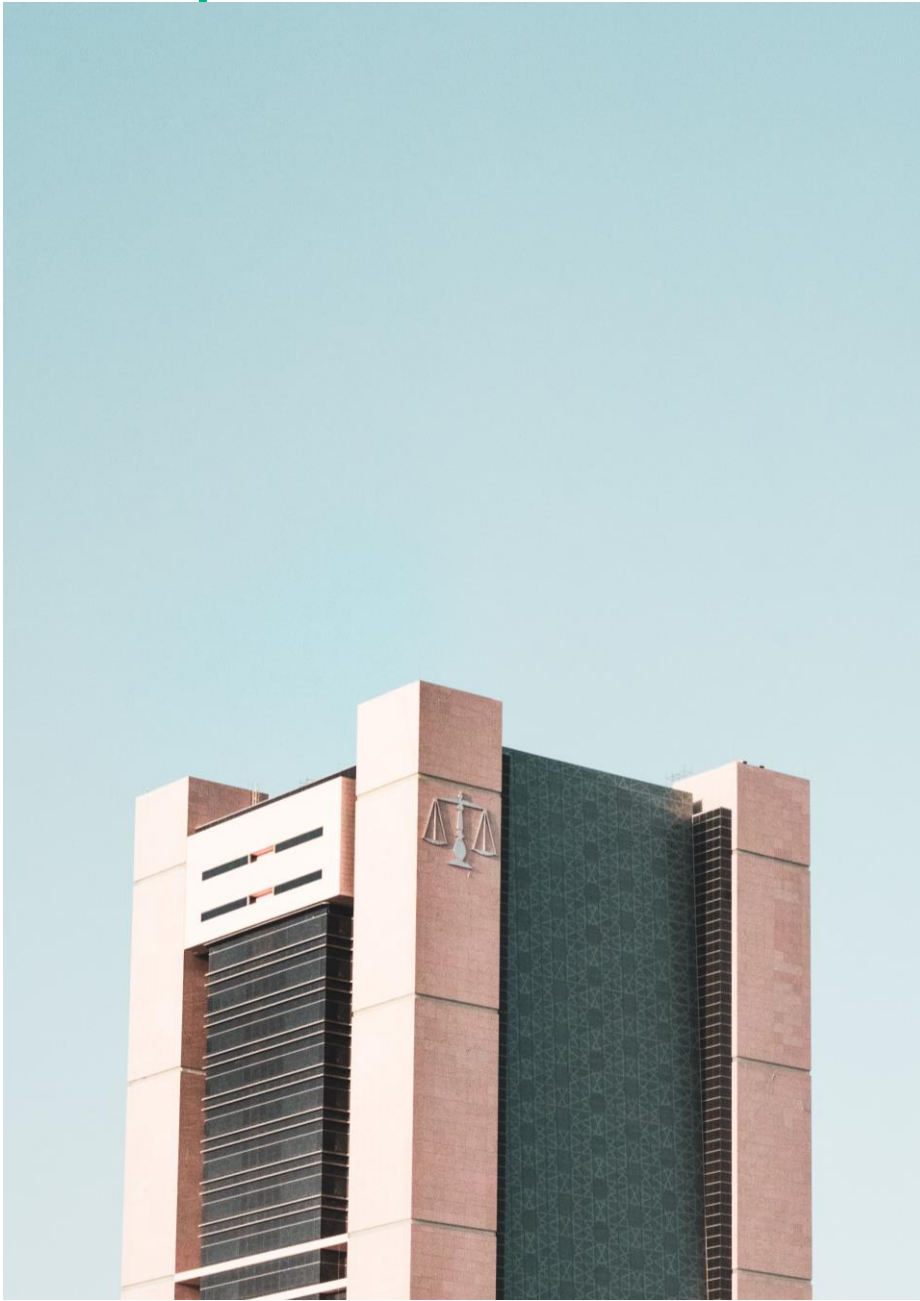


LITIGATION & ARBITRATION

NEW VOLUNTARY
ARBITRATION REGIME

VdA EXPERTISE

April 2021



Law no. 6/2021, of 31 March (“Law 6/2021”), which enacts the voluntary arbitration law (“VAL”) and for the first time amends the Code on Civil Procedure (“CCP”), was published in the Timor-Leste Official Gazette.

• **Temporal and material scope of application**

Under the transitional rule foreseen in Article 4 of Law 6/2021, the VAL applies to arbitration proceedings launched from 1 April 2021 onwards, even in cases where the arbitration agreement has been entered into before such date.

The VAL applies to (i) voluntary domestic and international arbitrations held in Timor-Leste, (ii) the enforcement of national interim measures and arbitral awards as well as to (iii) the confirmation and enforcement of foreign interim measures and arbitral awards (article 2 (1)).

The submission to arbitration of disputes arising out of or in connection with labour contracts is subject to a specific law (article 2.(5)).

• **Arbitrability**

Parties can submit any disputes concerning economic interests (*interesses de natureza patrimonial*) to voluntary arbitration – save where these have been reserved to the State courts’ jurisdiction – the same being said of any disputes concerning non-economic interests (*interesses de natureza não patrimonial*) so long as parties are allowed by law to settle the disputed right as per article 1169 of the Civil Code (article 4).

• **Principle of judicial non-intervention**

State courts are generally inhibited from interfering in matters subject to the VAL, except where the VAL grants them jurisdiction to that effect (article 7)

• **Arbitration agreement**

The VAL requires that arbitration agreements be drafted in writing. Should this written form not be abided by, the relevant arbitration agreements will be deemed null and void (article 8). The possibility for public entities to enter into arbitration agreements is also foreseen (article 9). There are rules on the applicable law, depending on whether arbitrations are domestic or international (article 11). The VAL regulates the effects of the arbitration agreement on judicial proceedings (article 12) and the compatibility between an existing arbitration agreement and the request for interim measures before State courts (article 13).

• **Arbitration proceedings and the enforcement of arbitral awards**

The VAL contains chapters dedicated to the setting-up (articles 14 et seq.), rights and duties (articles 22 et seq.) and the jurisdiction of the arbitral tribunal (articles 26 et seq.). Rules on the possibility to grant interim measures and preliminary orders are also foreseen in the VAL (articles 29 et seq.).

The VAL also establishes rules on the beginning, conduct and development of the arbitration proceedings (articles 40 et seq.), the arbitral award and the end of the arbitration proceedings (articles 52 et seq.), the setting-aside of the arbitral award before State courts (articles 59 et seq.), the enforcement of domestic arbitral awards by State courts (articles 65 et seq.) and the procedure of confirmation and enforcement of foreign arbitral awards (articles 68 et seq.).

The creation of institutional arbitration centers is dependent on a Government resolution issued to this effect (article 73).

Articles 671 and 694 of the CCP are modified and adapted to the new legal framework on the enforcement of arbitral awards.

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