

CODE OF CIVIL PROCEDURE, BOOK III, TITLE IV - PORTUGAL

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CHAPTER XII CODE OF CIVIL PROCEDURE, BOOK III, TITLE IV, CHAPTER XII Review of Foreign Arbitral Awards as amended in 1995/1996 ➡

- **Article 1094. Need for review**

1. Unless otherwise provided in treaties or special statutes, no decision on private rights rendered by a foreign court or by arbitrators abroad is effective in Portugal, regardless of the parties' nationality, without first being reviewed and confirmed.
2. No review is necessary when the decision is invoked in a case pending before Portuguese courts as a simple means of evidence, subject to examination by the competent judge.

- **Article 1095. Competent court**

The Court of Appeal of the judicial district where the party against whom the award is to be invoked is domiciled shall be competent for the review and confirmation. Articles 85 to 87 shall apply with the necessary adaptations.

- **Article 1096. Requisites of the confirmation**

For the award to be confirmed it is necessary:

- a. that no doubts exist as to the authenticity of the document that contains the judgment or as to the intelligibility of the decision;
- b. that it has the force of res judicata according to the law of the country where it was rendered;
- c. that it was rendered by a foreign court, the competence of which was not provoked by fraud and does not concern a subject matter for which the Portuguese courts are exclusively competent;
- d. that the same case is not pending before or has not been tried by a Portuguese court, except if it was first brought before a foreign court;
- e. that the respondent was duly summoned, according to the law of the country of origin and that in the proceedings the adversary system and the principle of equity have been observed;
- f. that it contains no decisions the recognition of which leads to a result manifestly incompatible with the principles of Portuguese international public policy.

- **Article 1097. Confirmation of arbitral award**

The previous article is applicable to the arbitral award insofar as it can be applied.

- **Article 1098. Objection and answer**

Once the document containing the decision to be reviewed has been submitted, the party opposing confirmation shall be summoned to contest within fifteen days. The party requesting confirmation may answer within the next ten days after the period for the submission of the objection has lapsed.

- **Article 1099. Debate and trial**

1. After the written pleadings have been submitted and the research that the reporting judge considers necessary has been done, the parties and the Ministério Público shall be entrusted with the file for a period of fifteen days each, during which they may submit their trial briefs.
2. The trial shall take place according to the procedure for appeal proceedings [agravo].

- **Article 1100. Grounds for contesting the request for confirmation**

1. The request for confirmation may only be contested on the grounds of lack of any of the requisites specified in Article 1096 or if the reasons for the review of a final decision stated in Article 771(a), (c) and (g) occur.
2. If the decision was rendered against a person or a corporate body of Portuguese nationality, the confirmation may also be contested on grounds that the result of the proceedings would have been more favourable to that person or body if the foreign court had applied Portuguese substantive law, when the issue should have been decided by this law, according to Portuguese conflict of laws rules.

- **Article 1101. Ex officio activity of the court**

The court shall ex officio examine whether the conditions specified in Article 1096(a) and (f) are fulfilled; it shall also deny ex officio the confirmation whenever, through the examination of the proceedings or through information obtained in the course of performing its functions, finds that one of the conditions required by Article 1096(b), (c), (d) and (e) is not fulfilled.

- **Article 1102. Appeal from the final decision**

1. The decision of the Court of Appeal may be appealed.
2. Even if it is not a principal party, the Ministério Público may appeal on the grounds of breach of Article 1096(c), (f) and (g).

CODE OF CIVIL PROCEDURE, BOOK III, TITLE IV, CHAPTER XVIII **SECTION XX Determination of the object of the dispute to be** **submitted to arbitration ➡**

- **Article 1508. Application**

In the event that the parties do not reach agreement as to the determination of the object of the dispute to be submitted to arbitration under the terms of the provisions of Article 14(4) of Law No. 31/86 of 29 August, any of the interested parties may apply to the courts to overcome the disagreement, providing grounds for the request, presenting the necessary evidence and demonstrating that the time limits provided in Article 12(2) of the said law have expired.

- **Article 1509. Opposition**

The opposing party is served notice to reply within 20 days of the request submitted.

- **Article 1510. Subsequent procedures**

1. Whether or not any reply is given the judge shall decide after collecting the evidence and other necessary elements.

2. Should the judge so deem necessary, he/she may convene the parties for a preliminary hearing with a view to the conciliation or discussion of the positions of the parties with regard to establishing the object of the dispute.
3. An appeal against the decision may be lodged immediately with the Court of Appeal.
4. The case and the appeals envisaged in this section are of an urgent nature.