

Arbitration and Conciliation under Ethiopian Law: New Rules for Commercial Disputes

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Ethiopia is now a more credible seat and enforcement forum for commercial arbitration, but the benefit depends on how the dispute clause is drafted: the seat, the number of arbitrators, the institution and the appeal position all need to be deliberate.

Ethiopia has placed its alternative dispute resolution regime on a modern footing in two steps. Proclamation No. 1184/2020 ratified the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, and Proclamation No. 1237/2021, the Arbitration and Conciliation Working Procedure Proclamation, published in the Federal Negarit Gazette (27th Year, No. 21) on 2 April 2021, replaced the dated rules of the Civil Code and the Civil Procedure Code. Its preamble stresses lower cost, confidentiality, expert decision makers, party autonomy and alignment with international practice, particularly for investment and commercial disputes. As Kiya & Associates Law Office, we have prepared this note to explain what has changed and what businesses should do about it.

At a Glance

- Foreign awards: the New York Convention took effect on 13 March 2020 (Proclamation No. 1184/2020).
- Framework: Proclamation No. 1237/2021 governs national arbitration, international arbitration seated in Ethiopia, and conciliation.
- Default tribunal: three arbitrators, with court appointment if the parties or arbitrators fail within thirty days.
- Awards: final and enforceable as a judgment; set-aside within thirty days on listed grounds.
- Conciliation: voluntary, and a signed settlement is final, non-appealable and executed as a judgment.

Recognition of Foreign Awards: The New York Convention

Following approval by the House of Peoples' Representatives on 13 February 2020, the ratification Proclamation took effect on publication on 13 March 2020. Ethiopia made two declarations and one reservation. The Convention applies only to awards made in the territory of another contracting state, and only to disputes regarded as commercial under Ethiopian law. It also applies only to arbitration agreements concluded and awards rendered after Ethiopia's accession, so older agreements and awards remain outside it. The Attorney General is authorised to take the steps needed to implement the Convention.

Scope, Arbitrability and the Arbitration Agreement

Proclamation No. 1237/2021 governs commercial national arbitration, international arbitration seated in Ethiopia and national conciliation, while certain provisions, including those on interim measures and on enforcement of awards, also reach foreign-seated arbitration. An arbitration is international where the parties' places of business are in different countries, where the seat or the place of performance lies abroad, or where the parties expressly agree that the subject matter touches more than one country.

The agreement must be in writing; an oral or conduct-based agreement counts only if it is recorded and signed by all parties and two witnesses, and electronic agreements are recognised. Family and succession matters, criminal and tax cases, bankruptcy, the dissolution of business organisations, all land matters including leases, competition and consumer protection, and administrative disputes cannot be arbitrated, and administrative contracts are excluded unless the law permits otherwise.

Courts may not intervene except as the Proclamation provides. A court must dismiss a suit covered by an arbitration agreement if the defendant raises a preliminary objection, but failure to raise it at that stage causes the agreement to be treated as void.

The Tribunal, Procedure and Interim Relief

The number of arbitrators must be odd, with three as the default. Unless the parties agree otherwise, each side appoints one arbitrator and those two choose the presiding arbitrator; if a party or the two arbitrators fail to act within thirty days, the First Instance Court appoints, without appeal. Arbitrators must disclose conflicts of interest promptly, and a challenge goes first to the tribunal within fifteen days, then to the court within thirty days.

The tribunal rules on its own jurisdiction, and the arbitration clause survives invalidity of the main contract. Jurisdictional objections must be raised before the merits, may be taken to the First Instance Court within one month, and do not suspend the proceedings. The tribunal may order interim measures to preserve evidence, goods, assets or the status quo, may grant an ex-parte precautionary order lasting thirty days, and may demand security, with the requesting party liable for damage if an order proves unjustified. Such orders bind regardless of where they were issued, and courts may also grant interim relief without breaching the agreement. Proceedings are confidential unless the law or the parties provide otherwise.

Awards, Challenge and Enforcement

An award is rendered by majority, in writing and with reasons, unless the parties agree otherwise or the award records a settlement. A copy must reach each party within fifteen days, and the award has the effect of a court judgment. No appeal lies unless the arbitration agreement allows it, although a cassation petition is available for a fundamental error of law unless the parties have excluded it.

A party may apply to set an award aside within thirty days of receiving it on listed grounds, such as incapacity, an invalid agreement, lack of notice, partiality or bribery, excess of mandate or irregular procedure, and the court may also do so where the subject matter is not arbitrable or the award offends public morality, policy or security. No application is admissible once the award has been enforced.

Awards are enforced under the Civil Procedure Code before the competent court on production of the agreement and an authenticated award. Foreign awards are recognised under ratified treaties or, failing that, subject to refusal grounds including lack of reciprocity, with applications going to the Federal High Court.

Conciliation

Conciliation is voluntary and starts when the invited party accepts, silence for thirty days being treated as rejection. A single, independent and impartial conciliator is the default, and the conciliator may propose terms. A settlement agreement is final and non-appealable and is executed as a judgment, while it may be challenged only for nullity, lack of clarity, contrariness to good conduct or policy, or incapacity. Proposals and admissions made during conciliation cannot be used as evidence, a conciliator may not later act as arbitrator, counsel or witness in the same matter, and court fees are refunded where a suit is withdrawn in favour of conciliation.

Other Notable Points

- Arbitration centres: licensed and supervised by the Federal Attorney General under criteria to be set by a Council of Ministers regulation; existing centres may continue.
- Transition: agreements signed and proceedings begun before the Proclamation remain under the former law, although parties may opt into the new regime.
- Repeals: Civil Code Articles 3318 to 3346 and the arbitration provisions of the Civil Procedure Code are repealed.

What This Means Going Forward

Together, these instruments make Ethiopia a more credible seat and enforcement forum, but the benefits depend on careful drafting. Businesses should review their dispute clauses and confirm the formalities for a written agreement, the seat, the number of arbitrators, the language, the institution and whether appeals are to be allowed. They should raise jurisdictional objections at the first opportunity, and confirm that any foreign-seated award they expect to enforce comes from a contracting state and concerns a commercial dispute.

Drafting Checklist

- Put the arbitration agreement in writing and have it signed by all parties and two witnesses if it is not documentary.
- Choose the seat, the language and the institution deliberately, and state the number of arbitrators.
- Decide expressly whether appeals or cassation are available.
- Confirm the subject matter is arbitrable under Article 8 of the Proclamation.
- Raise any jurisdictional objection before the merits are argued.
- Diarise the thirty-day deadline for a set-aside application and keep an authenticated copy of the award for enforcement.

We will monitor the implementing regulation and directive on arbitration centres, and Kiya & Associates Law Office is glad to assist clients with clause drafting, proceedings and enforcement. For related reading, see our insights on [mergers and acquisitions in Ethiopia](#) and [banking-sector foreign investment](#).

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