

Republic of Tunisia
Local and International Arbitration Center
“AL-INSAF”

SITE WEB : WWW.AL-INSAF.COM.TN



Decree N°.02-2006 dated on April 1st 2006 relative to the creation of the Basic Arbitration Court ‘AL-INSAF’ and its attributions in local arbitration on the analogy of the jurisdictional competence of Tunisian judiciary First Instance Courts.

Considering the by-laws of the Local and International Arbitration Center “AL-INSAF” established on May 24, 1995.

Considering the provision of the code of the Tunisian Arbitration promulgated under the terms of the law No.93-42 dated April 26th 1993 bearing organization of the local and International arbitration, and in particular articles 2, 13, 19, 33, 7, and 46.

Considering the provisions of the code of internal conciliation and arbitration regulations “AL-INSAF”, registered at Tunis International digitalizing service under no ISBN: 9973-9765-0-9, having been the subject of deposit at the Tunisian competent authorities in accordance with the Tunisian law N° 1994-36 dated on February 24th 1994 relative to copyright protection and in particular articles 1, 3 and 94.

Considering the provisions of the Tunisian code of civil and commercial regulations promulgated under the terms of the law No 59/130 dated October 5th 1959, and in particular articles 3, 40, 50, 213, 214, 322, and 330 relating to the jurisdictional competence of the Tunisian National Cantonal Courts.

Considering the law No 94-56 dated May 16, 1994 relating to the exemption of the arbitration acts from registration and the fiscal stamp.

Article 1: the denomination “CENTER” mentioned within the Code of internal conciliation and arbitration regulations mentioned above was substituted by the term **ARBITRATION COURT “AL-INSAF”**. However, such a change of denomination shall not affect the arbitration authority that could include the arbitration conventions and clauses, since the essential matter consists in resorting to the arbitration court “AL-INSAF” jurisdictionally competent.

Article 2: we decided the creation of the basic Arbitration Court “AL-INSAF”, which deals with all the civil and commercial proceeding that fall within its competence on the analogy of the jurisdiction attribution of the Tunisian national judicial first instance courts, and this in accordance with the provisions

of the second chapter of the Code of Arbitration and the provisions of the code of internal arbitration and conciliation regulations, according to the following elements, except distinct contrary provisions of the law.

1- The basic Arbitration Court “**AL-INSAF**” deals in first or last resorts with all civil and personal acts as well as with the movable actions and the actions in payment in closed sessions, including damages resulting from crimes, misdemeanors, and infractions, on the analogy of jurisdictional attributions of the national cantonal courts, except distinct contrary provisions of the law.

2- It also deals with injunctions to pay in first and last resorts.

3- It also deals with urgent reports provided that the Arbitration committee actually seized upon the litigation on the merits and unless the president of the qualified arbitration court did not rule about it, without taking account of the assumption of responsibility of the litigation by the arbitration committee.

4- It also deals with sequestrators provided that the arbitration committee actually seized upon the litigation on the merits and unless the president of the qualified arbitration court did not rule about it, without taking account of the assumption of responsibility of the litigation by the arbitration committee, in accordance with the article 322 of the Tunisian Code of Civil and Commercial Procedures.

5- It also deals with garnishments whenever the commission of the arbitration actually seized the litigation on the merits and unless the President of the qualified arbitration court did not rule about it, without taking account of the assumption of responsibility of the litigation by the arbitration committee, and this in accordance with the article 330 of the Tunisian Code of Civil and Commercial Procedures.

6- It also deals with the difficulties arising out of the enforcement of judgments passed by it on the merits even when revoked or recalled.

7- It also deals with requests for summary procedure stipulated by article 201 of the Tunisian Code of Civil and Commercial Procedures.

8- It also deals with commercial businesses matters whose chairmanship is allotted to the President of the Basic Arbitration court “**AL-INSAF**” or to his substitute, in accordance with the decree relating to the creation of the commercial chambers as well as with article 46 of the Arbitration Code. Is considered commercial, according to Article 40 ‘new’ of the Tunisian code of civil and commercial procedures, any action relative to litigation between tradesmen with regard to their commercial activity, in accordance with article 16 of the Tunisian arbitration code.

In the composition of the arbitration commercial chamber, the two assessors or the members of the arbitration commission appointed in the litigation by the parts within a collective composition of arbitration or under the terms of the code of arbitration of the qualified arbitration court, will be replaced by two tradesman having advisory opinions and named for one three years period per decision emanating of the President of the basic arbitration Court “**AL-INSAF**”, with two substitutes or more who will have to replace the titular tradesman in

the event of absence, of prevention or in the case of defects affecting the conditions of his assignment.

The aforementioned department is composed of a board of three referees or more in addition to the two tradesmen cited in the paragraph above when dealing with litigations referring to their direction, activity or dissolution.

The commercial board of referees does not postpone to rule in the event of commercial prevents of the two members or the one of them.

The conditions and procedures of the commercial nomination will be fixed by decision emanating from the President of the Basic arbitration Court “AL-INSAF” unless parties agreed otherwise.

Each tradesman registered on the list aimed by the sixth paragraph of article 40’new’ of the Code of Civil and Commercial Procedures has had to enjoy his political and civil rights and to be registered with the trade register for no less than ten years.

The President of the commercial board of referees can charge one of its members to proceed to an account of conciliation among the parts, who can, at any phase of the procedure, to rule on the litigation according to the rule of justice and equity in accordance with article 14 of the Code of the Arbitration.

9- To rule on the provisional or preliminary means whenever the free arbitration court institutes the procedures, in accordance with articles 7 and 19 of the Code of the Arbitration.

10- To rule on the member nomination of the free arbitration or their president as well as on their challenge or their substitution by decision in summary procedure in accordance with articles 7, 18, 21 and 22 of the Code of the Arbitration

Article 3: all basic Procedures extending to the actions coming under the authoritative and jurisdictional responsibility of the basic arbitration court “AL-INSAF” will be applied to equal those into force by the Tunisian national courts of first instance, in accordance with the provisions of second chapter of the arbitration code, and the provisions of the code of internal arbitration and conciliation regulations, except what is relative to territorial competence.

Article 4: all private deeds relating to the arbitration and arbitration decisions and sentences resulting from it remain exempted from registration and revenue stamp.

Article 5: the designation of a lawyer in the arbitration actions coming under the authoritative and jurisdictional responsibility of the Basic Arbitration court “AL-INSAF” constitutes an optional condition.

Article 6: The current decision relating to the introduction of the arbitration actions before the president of the basic Arbitration Court “AL-INSAF” comes into force as of may 24, 2006.

Tunis April 01, 2006
Secretary General
Ameur Yahiaoui