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13th Edition

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International Comparative Legal Guides

Litigation & Dispute Resolution 2020

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I. LITIGATION

1 Preliminaries

1.1 What type of legal system has your jurisdiction got? Are there any rules that govern civil procedure in your jurisdiction?

The legal system in Iran is a mixture of Islamic and civil law. Civil procedure is primarily governed by the Code of Civil Procedure 2000 (**CCP**) enacted by the Iranian Parliament (known as the "Islamic Consultative Assembly"). The Law on Formation of Public and Revolutionary Courts 1994 also contains provisions dealing with procedural matters in civil courts.

Dispute Settlement Councils (**DSCs**), established under the Law of Dispute Settlement Councils 2016 (**DSCL**), are competent authorities to hear "small claims", including any claim of which the value does not exceed IRR 200 million (approximately EUR 1,538 at the prevailing market rate in late November 2019), certain family disputes and landlords' applications for eviction of tenants. The DSCL sets out the procedures to be followed in DSCs.

The CCP, the Law on Enforcement of Civil Judgments 1977, and the Law on Enforcement of Financial Judgements 2014 govern enforcement of civil judgments.

1.2 How is the civil court system in your jurisdiction structured? What are the various levels of appeal and are there any specialist courts?

The civil court system in Iran consists of three levels: courts of first instance; Courts of Appeal; and the Supreme Court.

In addition, "small claims" (e.g., claims not exceeding IRR 200 million, approximately EUR 1,538 at the prevailing market rate in late November 2018) must first be brought before DSCs. Rulings of DSCs may be appealed to courts of first instance, whose judgments on small claims are final.

Non-small claim judgments by courts of first instance may be appealed to Courts of Appeal. A direct appeal from a court of first instance to the Supreme Court is possible in exceptional circumstances (for instance, in certain family disputes). Civil decisions of Courts of Appeal may not be appealed to the Supreme Court except in certain family law cases.

There are no specialist civil courts in Iran and courts have general jurisdiction to hear any type of civil claims. Nonetheless, a number of courthouses have, over the years, gained reputation for being more capable of handling certain types of claims, mostly due to the expertise of their judges. For example, a few branches of civil courts in Tehran are viewed better suited to handle complex commercial, real estate, or debt claims and, therefore, such claims are usually allocated to these branches.

1.3 What are the main stages in civil proceedings in your jurisdiction? What is their underlying timeframe (please include a brief description of any expedited trial procedures)?

For small claims, the main stages consist of a hearing at DSCs and a possible appeal to courts of first instance. For other claims, the main stages are first instance, appeal and, in a few types of cases, Supreme Court hearings. In certain circumstances, a retrial may be ordered on appeal.

There is no statutory timeframe imposed on hearing civil cases. A first instance hearing may take nine to 24 months depending on the complexity of the matter and the hearing court's docket.

In general, cases are heard according to the hearing court's schedule and an expedited procedure is exceptional. The date of the first hearing session must be at least five days after the date of the court's invitation notices sent to the parties.

In a few circumstances such as insolvency claims, the law requires courts to hold extraordinary hearing sessions to expedite the process.

1.4 What is your jurisdiction's local judiciary's approach to exclusive jurisdiction clauses?

In general, Iranian courts honour exclusive jurisdiction clauses based on freedom of contract, but accepting the parties' choice of a foreign forum is not always guaranteed. Courts have sometimes taken a broad view of their jurisdiction, especially if they could establish a meaningful nexus between Iran and the subject matter of dispute or the parties.

On exclusive arbitration clauses, since Iran is a party to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 (the **NY Convention**), Iranian law recognises foreign arbitration subject to certain conditions. Government entities must obtain the approval of the Council of Ministers, and in certain cases, including where there is a foreign counterparty, the approval of the Parliament, before they can submit to arbitration.

1.5 What are the costs of civil court proceedings in your jurisdiction? Who bears these costs? Are there any rules on costs budgeting?

The principal costs of a civil proceeding consist of court fees, as well as expert and attorney fees. The court fee is set at 3.5 and 2.5 per cent of the claim value, respectively, for courts of first instance and for DSCs. Court fees in the appeal stage and at the

Supreme Court level are, respectively, 4.5 and 5.5 per cent of the claim value.

The plaintiff must pay court fees at the time of filing its petition unless the court exempts the plaintiff on the ground of insolvency. If a plaintiff succeeds in its main claim against the defendant, the defendant must reimburse the plaintiff for the court fees paid (provided that the plaintiff must have sought such reimbursement in its petition).

Expert and attorney fees are borne by the party who engages them. The fee range here could vary significantly depending on the nature of work and the experience of the relevant expert or attorney. If the court directly engages an expert, the plaintiff must pay the fee (subject to possible reimbursement by the defendant if the plaintiff wins the main claim). If one of the parties object to the opinion by the court-appointed expert and the matter is referred to a subsequent expert or panel of experts, the objecting party must pay the additional fee. A plaintiff seeking an expert opinion may request reimbursement for the expert fee in its petition.

There is no rule on costs budgeting in Iran.

1.6 Are there any particular rules about funding litigation in your jurisdiction? Are contingency fee/conditional fee arrangements permissible?

There is no particular rule dealing with funding litigation. Litigation may be funded based on contractual arrangements between a financier and a plaintiff. An insolvent plaintiff who cannot afford court fees may request an exemption, in which case the court will first examine the insolvency claim. Iranian law provides for *pro bono* access to attorneys for those who cannot afford to hire one.

Contingency and conditional fee arrangements are permissible and are governed by contractual arrangements between parties.

1.7 Are there any constraints to assigning a claim or cause of action in your jurisdiction? Is it permissible for a non-party to litigation proceedings to finance those proceedings?

The law is silent on these matters, although some practitioners are of the view that assignment of an ongoing court action is not permissible. Some legal commentators have further argued that assignment of an underlying right entitling a plaintiff to file a claim would be permissible; but again, the assignee may not pursue proceedings initiated prior to the assignment, and must instead initiate a separate action.

There is nothing in the law prohibiting financing of litigation by a non-party.

1.8 Can a party obtain security for/a guarantee over its legal costs?

Except for the special case discussed below, obtaining security for, or guarantee over, legal costs is not available.

In civil and commercial cases, a person sued by a foreign national may ask for security from the plaintiff in relation to the costs the plaintiff could be ordered to pay to the defendant (including attorney fees) should the plaintiff lose the case.

2 Before Commencing Proceedings

2.1 Is there any particular formality with which you must comply before you initiate proceedings?

No such formality exists.

2.2 What limitation periods apply to different classes of claim for the bringing of proceedings before your civil courts? How are they calculated? Are time limits treated as a substantive or procedural law issue?

Except for a few types of claims discussed below, there are no limitation periods in civil cases.

Under Commercial Code 1932, claims against guarantors and endorsers in relation to financial instruments (such as bills of exchange, promissory notes and cheques) issued by merchants or issued for commercial purposes are subject to a five-year time limit, starting from the date of the issuance of a notice of protest or from the date of the last judicial measure taken, whichever is earlier. After the expiry of this five-year period, the plaintiff may not bring a claim against the guarantors or endorsers, but may pursue its claim against the issuer of the instrument.

In circumstances where the law expands any liability arising from transactions of a company to its stockholders, a five-year limitation period applies to third-party claims against former stockholders (or their heirs). The limitation period starts, as the case may be, from the publication date of the company's dissolution notice in the Official Gazette, or the publication date of notice of dismissal (if applicable) or exit of the stockholder in the Official Gazette. Regardless of the foregoing, if the dispute is over a payment that becomes due after such publication dates, the five-year period starts from the payment due date.

Finally, claims for damages against carriers of goods may only be raised within one year from the delivery date, or from the expected delivery date if the goods are lost or destroyed.

3 Commencing Proceedings

3.1 How are civil proceedings commenced (issued and served) in your jurisdiction? What various means of service are there? What is the deemed date of service? How is service effected outside your jurisdiction? Is there a preferred method of service of foreign proceedings in your jurisdiction?

Civil proceedings commence upon filing a petition (including all supporting documents) with a competent courthouse and payment of court fees (or alternatively, obtaining an insolvency exemption). The court clerk then serves the petition (including any supporting documents) to the defendant and notifies both parties of the date of the first hearing. If the defendant is an Iranian national (including a legal person) registered in the Judiciary's portal, the court clerk sends the documents electronically via the portal. If the defendant is an Iranian not registered in the portal or is a foreign national domiciled in Iran, the documents will physically be served at its address. If sent electronically, the documents are deemed to have been served once received at the recipient's electronic account. If mailed inside Iran, the documents will be served to the address provided by the plaintiff or requested by the recipient. In any case, the court clerk must initiate the service process within two days after filing a complete petition and payment of court fees by the plaintiff.

If a plaintiff is not aware of the address of an Iranian individual defendant, the notice of the petition must be published in a mass circulation newspaper, and the time period between the publication date and hearing session must not be less than one month.

If a plaintiff is not aware of the address of an Iranian defendant who is a corporate entity, the notice of the petition must be served to the defendant's last registered address with the Corporate Registrar Office.

If a defendant (including a legal person) is domiciled in a foreign jurisdiction, the court clerk must serve the documents through the Iranian consulate or embassy in such jurisdiction, and the time period between service date and hearing session must not be less than two months.

Finally, where the defendant is a foreign legal person having a branch domiciled in Iran, court documents can be served to its branch.

There is no preferred method of serving documents in Iran in relation to foreign proceedings.

3.2 Are any pre-action interim remedies available in your jurisdiction? How do you apply for them? What are the main criteria for obtaining these?

In a number of circumstances, a plaintiff may ask for interim remedies in relation to the defendant's assets and properties either prior to or during a claim. The remedies include temporary freezing of assets and properties, or injunctions preventing the defendant from doing specific acts or omissions. To obtain such interim orders, the plaintiff must *prima facie* prove the grounds for its claim and must further show there is an element of urgency that warrants such order (e.g., the risk that debt recovery would be jeopardised by a defendant transferring its assets to third parties).

Interim remedies are considered "subordinate" to the judgment over the principal claim. These remedies must be requested through a petition but if the need for an interim remedy arises simultaneously with the principal claim, the application may be included within the petition.

Iranian law does not provide for summary proceedings.

3.3 What are the main elements of the claimant's pleadings?

Civil proceedings commence with a plaintiff filing a petition, which at the minimum must contain the following: names and addresses of the parties (as well as those of the plaintiff's attorney, if the petition is filed by the attorney); head(s) of claim; grounds for the plaintiff's claim(s); list of evidence and supporting documents; and a brief statement of claim. The petition must be signed by the plaintiff or its attorney, and supporting documents must be attached to the petition.

3.4 Can the pleadings be amended? If so, are there any restrictions?

The claim amount may be reduced and heads of claim may also be removed at any time during the proceeding, but adding to or changing the existing head(s) of claim or increasing the claim amount is only permissible before the end of the first hearing session provided that any addition or change must be related to the initial claim and must have the same origin (e.g., both arising from enforcement of a single agreement).

3.5 Can the pleadings be withdrawn? If so, at what stage and are there any consequences?

Pleadings may be withdrawn at any time during the first instance proceedings, although the consequence of withdrawal varies depending on its timing:

(i) If a plaintiff withdraws its pleading prior to the conclusion of the proceedings at the court of first instance (i.e., before handing down a judgment), the court would close the proceedings but the plaintiff may file a similar claim in future.

(ii) A plaintiff may also withdraw its pleading after the conclusion of the proceedings but only with the consent of the defendant(s), in which case the plaintiff may raise a similar claim later on but on a different ground. If the defendant's consent cannot be obtained, the plaintiff must withdraw its claim in its entirety, and such withdrawal will have a *res judicata* effect based on which the plaintiff will be prevented from filing a similar claim on any ground.

4 Defending a Claim

4.1 What are the main elements of a statement of defence? Can the defendant bring a counterclaim(s) or defence of set-off?

A defence may be submitted verbally at the hearing session or may be in writing. There is no requirement under the law as to the content of a statement of defence. However, if a statement contains new evidence not previously submitted by the plaintiff, true certified copies of supporting documents must be attached to the defence statement and the originals must be submitted to the court. If a defendant does not have sufficient time to prepare its defence or supporting documents, it may ask for an extension from the court.

A defendant can submit a counterclaim petition before the end of the first hearing session. The court will accept a counterclaim if the claim and the counterclaim are "completely" related, or if the claim and the counterclaim have the same cause.

Under the CCP, a defence of set-off may also be raised by a defendant.

4.2 What is the time limit within which the statement of defence has to be served?

A defendant may submit its statement of defence in relation to the merits of the claim at any time during the proceedings. Since the first hearing session bears a significant impact on the whole proceedings, defendants in practice submit their main defences prior to or during the first hearing session. With respect to procedural matters, a defendant must submit its objection(s) at the first hearing session.

4.3 Is there a mechanism in your civil justice system whereby a defendant can pass on or share liability by bringing an action against a third party?

A defendant may request the lower or appeal court to summon third parties. To do this, the defendant must submit a request no later than the end of the first hearing session (in the court of first instance) or the first examination session (in the court of appeal). A petition containing the claim grounds and supporting documents must then be filed within three days after submitting such request.

4.4 What happens if the defendant does not defend the claim?

If a defendant does not defend a claim, the court will continue with the proceedings and may issue a judgment against the defendant based on the evidence and supporting documents submitted by the plaintiff. The defendant may then appeal subject to relevant laws.

4.5 Can the defendant dispute the court's jurisdiction?

A defendant may dispute the court's jurisdiction no later than the end of the first hearing session. If a defendant claims lack of jurisdiction, the court must first decide on its jurisdiction before dealing with the merits of the case. If the defendant's position is accepted, the court would refrain from hearing the case. Courts are not obliged to examine late jurisdictional objections separately and prior to proceedings on the merits of the case.

5 Joinder & Consolidation

5.1 Is there a mechanism in your civil justice system whereby a third party can be joined into ongoing proceedings in appropriate circumstances? If so, what are those circumstances?

A third party who has direct interest in the proceedings (meaning that it is directly affected by the proceeding or whose interest is affected upon the prevailing of one of the disputing parties) may join the proceedings either at the first instance or appeal stages by filing a joinder petition. Joinder petitions are usually submitted prior to the end of the last hearing session (in the court of first instance) or conclusion of the court's review (in the appeal stage).

5.2 Does your civil justice system allow for the consolidation of two sets of proceedings in appropriate circumstances? If so, what are those circumstances?

If two claims are considered relevant enough, the proceedings may be consolidated by the approval of the judicial authority in the courthouse in charge of referring cases to court branches (see the answer to question 6.1 below).

Automatic consolidation occurs in the event of a counterclaim (see the answer to question 4.1), a joinder (see the answer to question 5.1) or summoning third parties to proceedings (see the answer to question 4.3).

5.3 Do you have split trials/bifurcation of proceedings?

If a court concludes the first hearing session while some aspects of the case need to be further examined, the court may, if possible based on the nature of the claim, split the trial while issuing a judgment on matters already examined and resolved.

In the event of demise or incapacitation of one of the parties, if such circumstances do not affect the proceedings in relation to the other parties, the court will split the proceedings in relation to the parties, and will stay the proceedings with respect to the demised or incapacitated person until such time its heirs or successors become available for the continuation of the proceedings.

6 Duties & Powers of the Courts

6.1 Is there any particular case allocation system before the civil courts in your jurisdiction? How are cases allocated?

Cases are allocated to courts or to DSCs by the referring authority of the competent courthouse in which the claim has been filed. Jurisdiction of a courthouse depends on a number of factors including the defendant's domicile, location of any real property at dispute or, in the event a defendant is not domiciled in Iran, the plaintiff's domicile.

Although civil courts have general jurisdiction over all civil matters and the law does not provide for specialised courts, a number of courthouses have, over the years, gained a reputation for being more capable of handling certain types of claims, mostly due to the expertise of their judges.

6.2 Do the courts in your jurisdiction have any particular case management powers? What interim applications can the parties make? What are the cost consequences?

There is no distinct case management system in Iran. Cases are managed by judges and court clerks (who are in charge particularly in relation to procedural matters).

With respect to examining the merits of a case, the presiding judge has the authority to manage the case and the hearings. With respect to investigations, courts usually follow an inquisitorial approach and conduct any investigation and examination the court may deem necessary (including by seeking expert opinion, making inquiries from public authorities such as the land register or the corporate registrar, and examining witnesses).

Interim application in relation to case management is only available in the following circumstances: (i) request by either party to delay the proceedings (which request is subject to the consent of the other party); and (ii) request by either party for time extension to prepare responses and supporting documents (which request is subject to the approval of the judge).

Courts schedule internal review sessions from one court session to another in order to monitor the implementation of any issued orders and to make inquiries.

6.3 What sanctions are the courts in your jurisdiction empowered to impose on a party that disobeys the court's orders or directions?

Consequences of disobeying a court order vary based on the nature of the order. If, for instance, a plaintiff refuses to rectify defects in its petition in due course per a court order (e.g., by failing to submit supporting documents, to provide the correct address of the defendant, or to submit the official translation of foreign language documents), the judge or the court clerk may dismiss the petition.

Non-compliance with some, less significant orders (such as an order for amicable negotiations between the parties) may not result in any sanctions.

A judge may also order a party who is disrupting the hearing session to leave the court or even order such person to be confined for a limited period of time.

6.4 Do the courts in your jurisdiction have the power to strike out part of a statement of case or dismiss a case entirely? If so, at what stage and in what circumstances?

Courts may strike out any part of the statement of claim they consider irrelevant to the claim or not supported by the evidence. In certain circumstances, such as where *res judicata* (claim preclusion) applies, where the plaintiff has no legal capacity to file the lawsuit, where the plaintiff has no interest in the claim, or where the claim has no relevance to the defendant, courts are empowered to dismiss a case entirely.

Dismissal of a case or striking out parts of a statement may occur at any stage in the proceedings.

6.5 Can the civil courts in your jurisdiction enter summary judgment?

There is no summary judgment under Iranian law.

6.6 Do the courts in your jurisdiction have any powers to discontinue or stay the proceedings? If so, in what circumstances?

Under certain conditions, courts may stay the proceedings. For instance, a court may stay the proceeding in case of demise or incapacitation of the plaintiff until such time that its heir or legal guardian, as the case may be, is introduced to the court. If the introduction is unreasonably delayed, the court may dismiss the case altogether.

Where a court decision in a dispute is contingent upon the result of other proceedings before other courts (e.g., criminal courts), the court would stay the proceedings until the other judgment is handed down.

7 Disclosure

7.1 What are the basic rules of disclosure in civil proceedings in your jurisdiction? Is it possible to obtain disclosure pre-action? Are there any classes of documents that do not require disclosure? Are there any special rules concerning the disclosure of electronic documents or acceptable practices for conducting e-disclosure, such as predictive coding?

Disclosure in civil cases is limited to those documents referred to by the parties during the proceedings. Such documents must be disclosed to the court and to the other party(ies). Documents not used in the proceedings need not be disclosed unless the court orders otherwise.

In general, obtaining pre-action disclosure is not possible. However, a potential plaintiff may seek a preservation order with respect to any evidence which may not be available later from DSCs (regardless of whether the dispute is over a small claim or not). To decide whether a preservation order is warranted, a DSC will appoint an expert to examine the matter and report back.

Although under the Electronic Commerce Act 2004 electronic evidences are deemed valid, there is no established practice in relation to e-disclosure. A court may refer the case to experts to examine the veracity of electronic evidence should any party challenge those evidences.

7.2 What are the rules on privilege in civil proceedings in your jurisdiction?

Although there is no privilege available to be invoked in civil proceedings, one party cannot be compelled to disclose evidence. Eventually the court will rule based on the evidence available to it and what it has found independently through available sources.

7.3 What are the rules in your jurisdiction with respect to disclosure by third parties?

Third parties may be ordered by the court to provide documents they possess in relation to a dispute, to disclose to the court or designated judicial expert any evidence in their possession, or to preserve such evidence. If a third party does not comply with the court order, the court may engage enforcement officers to retrieve the documents or evidence.

7.4 What is the court's role in disclosure in civil proceedings in your jurisdiction?

Courts may order and compel disclosure of information and evidence on their own initiative or at the request of one of the disputing parties. If requested by a party, the court must first decide whether disclosure of the information or evidence in question would be necessary for deciding the case.

7.5 Are there any restrictions on the use of documents obtained by disclosure in your jurisdiction?

There are no specific restrictions with respect to the use of disclosed documents in a proceeding. To the extent that the recipient of disclosed documents is not subject to confidentiality obligations by contract or by law (e.g., under data privacy rules), it may use such information or documents.

8 Evidence

8.1 What are the basic rules of evidence in your jurisdiction?

The burden of proof with respect to a claim rests on the claimant. Therefore, a plaintiff must submit evidence in support of its claim, which may then be rejected based on the defendant's evidence, in which event the case will be dismissed.

8.2 What types of evidence are admissible, and which ones are not? What about expert evidence in particular?

Different types of evidence have different levels of dispositive strength or quality. The strongest types of evidence are confessions, documentary evidence (especially official documents), witness testimonies and oaths. These types of evidence are called "persuasive" evidence.

Expert opinions, field investigations or the judge's knowledge, on the other hand, are considered circumstantial (or "presumptive") evidence. For instance, a court has the discretion to ignore an expert opinion.

There is no type of evidence that the law regards inadmissible.

8.3 Are there any particular rules regarding the calling of witnesses of fact, and the making of witness statements or depositions?

Testimony by witnesses who have an interest in the dispute is not acceptable. Testimony of adolescents under the age of 15 is considered to be "presumptive" evidence, which can be prevailed over by "persuasive" counterevidence.

There are also gender discrimination rules under Iranian law with respect to witnesses, and specific numbers of witnesses (based on their gender) may be required under the CCP and the Civil Code in different disputes. In general, and subject to the strength of any counterevidence, civil claims can be proved by the testimony of two male witnesses, one of whom may be substituted by two female witnesses.

Each party may challenge an opponent's witness, in which case the court must decide on the credibility or qualification of the witness.

Calling of witnesses is by way of invitation to a hearing session, where the witness deposition (verbal or written) is obtained by the judge who asks questions to the witness. Where an invited witness is not able to attend the hearing session in person, a judge may obtain the witness statement outside the court.

8.4 Are there any particular rules regarding instructing expert witnesses, preparing expert reports and giving expert evidence in court? Are there any particular rules regarding concurrent expert evidence? Does the expert owe his/her duties to the client or to the court?

In complex matters where a judge needs an expert opinion, the judge may refer his questions to an odd number of qualified judicial expert(s). The judge would select and appoint the expert(s) and communicate the mandate as well as the scope of investigations to them.

The judge also determines the timeframe within which the expert(s) must render the opinion. The judge may extend the timeframe if requested by the expert(s). The expert(s) fee will also be determined by the judge based on applicable fee regulations and depending on the complexity of the matter.

The expert fee for an opinion requested by the court must be paid by the plaintiff while the fee for other opinions must be paid by the party who has requested such opinion.

If a party has objections to the expert(s) opinion, it must submit its objection within seven days after the opinion is officially served. If the court accepts the objection, the matter will be referred to a panel where additional experts will be engaged. For example, if objection to an opinion rendered by one expert is accepted, the court will refer the matter to a panel of three experts, and if the opinion by such panel is also rejected, the court will engage a panel of five experts and so on. There is no cap under the law with respect to the number of experts, which will be determined at the appointing judge's discretion, but a panel of more than seven experts is extremely rare.

Iranian law does not have any specific provision dealing with concurrent expert evidence, although in the event multiple experts are involved, they may agree among themselves to set up meetings prior to the proceedings and prepare a joint opinion. Once an expert opinion is ready, the court usually schedules a hearing session to receive the opinion and to arrange for it to be officially served on the parties.

Experts used by courts are judicial experts who owe their duties to the court.

9 Judgments & Orders

9.1 What different types of judgments and orders are the civil courts in your jurisdiction empowered to issue and in what circumstances?

Court rulings may be in the form of a writ or judgment. A writ normally deals with procedural aspects of the claim (such as ordering a plaintiff to rectify defects in its petition, or dismissal of a claim on grounds such as lack of jurisdiction, *res judicata*, or incapacity of plaintiff), manner of investigations (such as referring the case to experts or conducting field investigations) as well as interim protective measures (such as injunctions). A judgment, in contrast, is issued in relation to the merits of the case.

9.2 What powers do your local courts have to make rulings on damages/interests/costs of the litigation?

Provided that the plaintiff makes a request in its petition, a court can award damages, contractual or legal interest as well as costs of litigation. The quantum of damages as well as the amount of any accrued interest are usually determined with the help of experts who consider, among other things, the types of damages and the contributing factors. Litigation costs include court fees, expert fees, costs of conducting field investigations as well as attorney fees.

9.3 How can a domestic/foreign judgment be recognised and enforced?

A domestic or foreign judgment can be enforced pursuant to the Law on Enforcement of Civil Judgments 1977 (**LECJ**). Domestic judgments are enforceable once they become final. Foreign judgments can be enforced only after they are recognised by Iranian courts according to the LECJ.

Iran is a party to the NY Convention, which was ratified subject to the following reservations: (i) that it applies exclusively to disputes arising from contractual or non-contractual legal relations that are regarded to be commercial under the laws of Iran; (ii) that the application of the NY Convention is conditional on the reciprocal treatment in the jurisdiction of the Member States of the NY Convention in which the award was handed down; and (iii) the application of Article 139 of the Iranian Constitution (which relates to claims involving government property).

Recognition and enforcement of foreign courts judgment (and, equally, arbitral awards) is subject to the satisfaction of the conditions set forth under LECJ, the most important of which are:

- reciprocity in the country in which the judgment is handed down;
- the judgment being final and enforceable in the country in which it has been handed down;
- a writ of enforcement has been issued from the relevant foreign authorities;
- content of the judgment not being contrary to the Iranian public order or good morals;
- enforcement of the judgment is not contrary to the specialised laws of Iran and treaties to which Iran is a member;
- absence of a judgment in Iran contrary to the judgment of which enforcement has been sought; and
- absence of exclusive jurisdiction of Iranian courts (for example, in relation to real properties in Iran or rights attached thereto).

9.4 What are the rules of appeal against a judgment of a civil court of your jurisdiction?

Judgments issued by DSCs with a value exceeding IRR 3 million (approximately EUR 23 at the prevailing market rate in late November 2019) can be appealed to courts of first instance, the decision of which will be final and enforceable.

Judgments handed down by civil courts can be appealed to Courts of Appeal, the decisions of which will be final and enforceable (except for few types of family law cases, which may be further appealed to the Supreme Court). An appellant must submit an appeal petition to Courts of Appeal within 20 days of the service of the judgment (the deadline for which is extended to two months for foreign nationals who are not represented by an Iranian attorney, or the service of the judgment on whom is not made to their branch office in Iran). The court will then send a copy of the petition to the other party, who can respond within 10 days of receipt of the appeal petition. Upon expiry of this 10-day period, the appeal process begins by allocating the appeal to one of the Courts of Appeal. The Appeal Court will then examine the case (that is, the plaintiff's petition, the statements of defence, the proceedings conducted by the lower court as well as the appeal petition and any counterstatement by the respondent) and decides on the matter with or without holding a hearing session. If deemed necessary, Courts of Appeal may also conduct additional investigations.

A Court of Appeal may uphold the lower court's decision or reject it in part or in its entirety. In the event of rejecting the lower court's decision, the Court of Appeal will hand down a new judgment replacing the rejected part of the lower court's decision.

An appeal petition must clearly set out the reasons for the appeal and the defects in the judgment of the lower court.

10 Settlement

10.1 Are there any formal mechanisms in your jurisdiction by which parties are encouraged to settle claims or which facilitate the settlement process?

In family law cases, there is a compulsory referral of disputes to family mediators. If mediation fails to resolve the dispute, courts will settle the matter.

In other disputes, civil courts and DSCs may request the parties to try to settle their disputes outside the court system, although the parties will not be obliged to make such settlements and may instead wish to continue the proceedings. Parties to a dispute can settle at any stage during the proceedings, or ask the court to grant them time to negotiate a settlement. If the parties reach a settlement, a binding and enforceable settlement agreement may be entered into before a public notary or, alternatively, before the court.

II. ALTERNATIVE DISPUTE RESOLUTION

1 General

1.1 What methods of alternative dispute resolution are available and frequently used in your jurisdiction? Arbitration/Mediation/Expert Determination/Tribunals (or other specialist courts)/Ombudsman? (Please provide a brief overview of each available method.)

In general, Iranian law recognises parties' agreement on alternative dispute resolution mechanisms. Among these, arbitration is the most prevalent method, and is supported by a statutory framework. Arbitration may be institutional, under the auspices of an arbitration institution, or may be *ad hoc*. An arbitrator's decision is generally final and enforceable unless it is nullified pursuant to the applicable arbitration rules or the general provisions of the CCP (e.g., where an arbitrator has issued an award contrary to his or her authority or where an arbitrator has not complied with mandatory procedural rules such as proper invitation of the parties to a hearing session).

Disputes involving government properties may not be referred to arbitration unless the Council of Ministers approves the arbitration provision in the relevant agreement, and informs the Parliament of the same. Where the counterparty is a foreign national or where important domestic matters are involved, approval by the Parliament for use of arbitration is also necessary.

In some other circumstances, the law requires the use of alternative dispute settlement mechanisms. For instance, in contractor agreements with government entities, an expert panel of the Planning and Budget Organisation hears any disputes against the concerned government entity. Moreover, capital market disputes among issuers, investment advisors, investors, brokers and the regulator must be resolved by the arbitral tribunal of the Securities and Exchange Organisation (**SEO**).

Other forms of dispute resolution, such as mediation or expert determination, may be chosen by the parties but are not institutionally structured or statutorily regulated in a similar manner as arbitration is – with the exception of mandatory mediation in family law matters.

1.2 What are the laws or rules governing the different methods of alternative dispute resolution?

Aside from the arbitration rules of the relevant arbitration institution, Chapter 7 (Articles 454–501) of the CCP, the Law on International Commercial Arbitration 1997 and the Law Approving the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 are the principal laws governing arbitration processes. In *ad hoc* arbitrations, the parties may determine the rules of arbitrations.

The Law on General Terms of Contractor Agreements 1999 governs the settlement of disputes arising from contractor agreements with government entities.

The Securities Market Law 2005 governs capital markets disputes to be settled by a technical committee of the SEO, and eventually by an arbitration committee under the auspices of the SEO.

1.3 Are there any areas of law in your jurisdiction that cannot use Arbitration/Mediation/Expert Determination/Tribunals/Ombudsman as a means of alternative dispute resolution?

Disputes involving government properties may not be referred to arbitration unless approved by the Council of Ministers and, in certain cases, the Parliament. Moreover, arbitration may not be used in cases such as bankruptcy claims or family disputes.

1.4 Can local courts provide any assistance to parties that wish to invoke the available methods of alternative dispute resolution? For example, will a court – pre or post the constitution of an arbitral tribunal – issue interim or provisional measures of protection (i.e. holding orders pending the final outcome) in support of arbitration proceedings, force parties to arbitrate when they have so agreed, or order parties to mediate or seek expert determination? Is there anything that is particular to your jurisdiction in this context?

Most arbitration rules of arbitration institutions allow them to issue interim orders or injunctions. As a result, the role of courts is limited here. Courts may play a broader role, however, when it comes to *ad hoc* arbitrations; for instance, by issuing an injunction.

In the absence of an agreement between the parties, courts cannot force the parties to use alternative dispute resolution mechanisms (with narrow exceptions such as mandatory mediation in family law disputes). However, courts may ask or encourage the parties to try to negotiate a settlement outside the court system.

1.5 How binding are the available methods of alternative dispute resolution in nature? For example, are there any rights of appeal from arbitration awards and expert determination decisions, are there any sanctions for refusing to mediate, and do settlement agreements reached at mediation need to be sanctioned by the court? Is there anything that is particular to your jurisdiction in this context?

Any dispute resolution mechanism agreed by the parties is binding on them and will be enforced by courts, subject to applicable laws and regulations. Procedural matters and the possibility of appealing awards of arbitral tribunals, expert committees and the like are subject to the parties' agreement unless they have submitted themselves to the arbitration rules of an arbitration institution. In such cases, an arbitral award may not be generally appealed but may be nullified on certain grounds, such as non-compliance with procedural rules.

If a party declines to submit to arbitration despite an earlier agreement to do so, the other party may request courts (in case of *ad hoc* arbitration) or the head of the arbitration institution (in case of an institutional arbitration) to appoint a mediator or arbitrator on behalf of the non-participating party, so that the arbitration proceedings may commence. Any arbitral award will then be enforceable through enforcement officers of the court if such award is final and enforceable under the contract, law and applicable arbitration rules.

The law is silent with respect to the procedure for mediation, but once again, the parties' agreement to mediate is binding upon them and will be enforced by courts, subject to applicable laws and regulations. We note that there is no clear distinction under Iranian law between arbitration and mediation (except in family law disputes), and many courts view mediation to be equivalent to *ad hoc* arbitration and, therefore, apply general arbitration rules wherever the parties have agreed to mediation. Despite the foregoing, a number of courts have treated mediation as a separate method of dispute resolution resulting in non-binding rulings. Once again, the contractual agreement between the parties can have significant bearings on a court's interpretation and conclusion.

2 Alternative Dispute Resolution Institutions

2.1 What are the major alternative dispute resolution institutions in your jurisdiction?

The Arbitration Centre of Iran Chamber of Commerce and the Tehran Regional Arbitration Centre are the two principal arbitration institutions, usually used in disputes with a cross-border element.

Behnam Khatami is co-founder of Sabeti & Khatami. He is admitted to the Central Bar Association of Iran since 2006. In the past 13 years, Behnam has been advising clients, especially foreign companies, on their business activities in Iran across different industries (including airport, aviation, automotive, e-commerce, fintech, food & beverage, logistics, manufacturing, mining, oil & gas, pharmaceuticals, ports, power, railway, renewables, and telecommunication). As a result, he is well-known to and highly regarded by international participants doing business in the country.

Behnam is well-versed in corporate matters and has advised clients on market entry, mergers & acquisitions, corporate structuring and restructuring, regulatory, foreign investment licences, and drafting and negotiating transaction documents such as JVAs, SPAs, SHAs and merger agreements. He has been involved in a number of high-profile projects and advised sponsors, lenders, financiers and contractors on financing schemes (including project finance, asset/title finance, PPPs and private financing), regulatory matters, sovereign guarantees, foreign investment licences and has drafted and negotiated concession agreements (including BOTs and BOOs) and other project agreements (including IPCs, ECAs, PPAs, offtake, and EPC contracts). On disputes, he has advised and assisted clients and successfully conducted complex commercial disputes before Iranian courts. He has also assisted them through alternative dispute resolution methods (including by acting as the local law expert in ICC arbitration cases). Behnam received a Bachelor of Laws degree from Beheshti University in Tehran and an LL.M. in international commercial law from Beheshti University and Queen Mary University of London in 2007.

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