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Mechanisms for the Settlement of Collective Labor Disputes in the Algerian Economic Sector under Labor Disputes Law No. 23-08

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Abstract

In light of the economic transformations pursued by Algeria since 2020 through various reform strategies aimed at developing and diversifying the economy—employing legislative, regulatory, executive, and coordinative mechanisms—the overarching objective has been to reduce dependence on oil rents while achieving economic sovereignty and ensuring political independence both domestically and internationally. However, the government has faced a number of social challenges with direct implications for the Algerian economy, foremost among them collective labor disputes. Law No. 90-02 of 6 February 1990, concerning the prevention of collective labor disputes, together with its implementing regulations, proved inadequate in addressing these new dynamics. Consequently, it was amended by Labor Disputes Law No. 23-08 of 21 June 2023 and its implementing texts, which revised the mechanisms of negotiation, mediation, conciliation, and arbitration. These reforms consolidated a culture of social dialogue and proactive negotiation between workers, while simultaneously strengthening the capacities of labor inspectors, mediators, and arbitrators to align with Algeria's economic transformation strategies. The aim is to strike a balance between safeguarding workers' rights and ensuring the continuity and quality of economic enterprises.

Keywords: Labor Disputes; Negotiation; Arbitration; Mediation; Labor Inspector.

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Introduction

Pursuant to the provisions of Article 5 of Law No. 23/08 of 21 June 2023, concerning the prevention and settlement of collective labor disputes and the right to strike, the Algerian legislator has mandated, for the purpose of preventing collective labor disputes within economic sector institutions, the obligation to hold periodic meetings between employers and workers. The purpose of these meetings is to examine matters relating to the social and professional conditions of employees.

As a general rule, the frequency of such meetings is determined by collective agreements concluded between employers and workers. In the absence of such agreements, however, they must be held at least twice a year as an exception.

Nevertheless, despite these measures, collective labor disputes may arise between employers and workers that cannot be resolved amicably through the designated meetings or through the periodic consultations provided for in collective agreements. In such cases, and in order to overcome the impasse, it becomes necessary to resort to alternative mechanisms. Article 6 of the same Law No. 23/08 stipulates these mechanisms: conciliation, followed by mediation, and finally arbitration, should consensus between employers and workers on the resolution of the collective dispute prove unattainable.

This raises the following central question:

What are the substantive and procedural mechanisms provided by Algerian legislation under Law No. 23/08 and its implementing regulations for resolving collective labor disputes in the economic sector, with a view to avoiding recourse to strikes?

By applying the following methodological approaches—analytical, descriptive, deductive, and inductive—this research will address the issue within the framework of the following academic outline:

– Conciliation
– Mediation
– Arbitration

1. Conciliation

Conciliation constitutes one of the most significant mechanisms of amicable settlement in the majority of comparative labor legislations.[1] It no longer occurs exclusively through the intervention of the labor inspector when amicable negotiations within the economic enterprise fail, but rather now takes place both within and outside the enterprise.[2] Pursuant to Article 7 of Law No. 23/08 of 21 June 2023, relating to the prevention and settlement of collective labor disputes and the right to strike, the Algerian legislator directs the parties to the dispute to proceed to the stage of conciliation, once they have failed to resolve their conflict amicably through the periodic or extraordinary meetings provided for in collective labor agreements and conventions.

The Algerian legislator has dedicated seven articles, from Article 7 to Article 13 of Law No. 23/08, to regulating the procedures of conciliation. From these provisions, one can discern the following mechanisms:

– Conciliation between the disputing parties without the intervention of the labor inspector.

– Initial conciliation between the disputing parties with the intervention of the labor inspector.

– Second-stage conciliation between the disputing parties, also involving the intervention of the labor inspector.

On this basis, the present discussion highlights the process of conciliation through a tripartite division:

– Conciliation sessions between the disputing parties without the intervention of the labor inspector.

– Initial conciliation sessions between the disputing parties with the intervention of the labor inspector.

– Second-stage conciliation sessions between the disputing parties, upon the request of the Minister of Labor.

1.1 Conciliation Sessions Between the Disputing Parties Without the Intervention of the Labor Inspector

A dispute may arise within an economic enterprise between workers and their representative trade union on the one hand, and the employer on the other, for social, health-related, or economic reasons. Such disputes often concern the interpretation or application of a legislative or regulatory provision of labor law,

1- Nadia Yahiaoui, *Conciliation as a Means of Settling Labor Disputes under Algerian Legislation*, Master's thesis in Law, specialization in Professional Liability Law, Faculty of Law, Mouloud Mammeri University, Tizi Ouzou, 2014, p. 20.
2- El-Bachir Hedfi, *A Concise Explanation of Labor Law: Individual and Collective Labor Relations*, Dar Rihaneh for Publishing and Distribution, Algeria, 1st ed., 2002, p. 194.

or a provision related to the collective labor agreements concluded between them.[3] In accordance with Article 7 of Law No. 23/08 of 21 June 2023, concerning the prevention and settlement of collective labor disputes and the right to strike, the Algerian legislator requires the disputing parties to convene a conciliation session in accordance with the conciliation procedures stipulated in collective labor agreements and conventions.

Notably, the law does not specify the number of sessions required, as the primary objective is not procedural formality but rather the substantive resolution of the collective labor dispute. Should the parties fail to achieve resolution through conciliation, the party with the most urgent interest may refer the subject of the dispute to the territorially competent labor inspector, as stipulated in paragraph two of Article 7 of Law No. 23/08.[4]

1.2 The Initial Reconciliation Sessions Between the Parties to the Dispute Under the Supervision of the Labor Inspector

Upon notification of the territorially competent Labor Inspector of a collective labor dispute between the employer and the workers by the party most urgently concerned—pursuant to paragraph two of Article 7 of Law No. 23/08—the inspector initiates reconciliation sessions between the parties.

The first reconciliation session must, by law, be held within a maximum period of eight days from the date of notification. This requirement is expressly set out in paragraph two of Article 8 of the same Law No. 23/08. The first session serves as a preliminary stage, providing insight into the positions of both parties concerning the contested issues. The inspector is vested with full authority to conduct any necessary investigation with the employer and the labor union in order to establish the facts that may facilitate reconciliation and resolve the ongoing collective dispute. In this respect, the legislator has called upon the parties to the dispute to respond positively to the inspector's requests, as stipulated in paragraph four of Article 8 of Law No. 23/08.

The territorially competent Labor Inspector may convene several reconciliation sessions between the disputing parties within a period not exceeding fifteen days from the date of the first session. This provision is affirmed in paragraph one of Article 11 of the same law. During these sessions, the Labor Inspector undertakes the following responsibilities:

– Appointment of Representatives: Each party to the dispute designates, in writing, their freely chosen representatives empowered to participate in reconciliation negotiations and to conclude the reconciliation agreement. To facilitate this process, the legislator granted the inspector full authority to determine the number of negotiators for the purpose of reconciliation, as set out in paragraph three of Article 9 of Law No. 23/08.[5]

– Notification and Summoning of Parties: The territorially competent Labor Inspector formally notifies and summons the disputing parties to attend any scheduled reconciliation session using legally verifiable means. Attendance is mandatory, as stipulated in paragraph one of Article 9 of Law No. 23/08. Nevertheless, either or both parties may fail to attend, whether with justification or without. In such cases, and by mandatory rule, the legislator has required, through paragraph four of Article 9 of Law No. 23/08,

3- Slimane Ahmia, *Mechanisms for the Settlement of Labor and Social Security Disputes under Algerian Law*, University Publications Office, Algeria, 3rd ed., 2005, p. 92.

4- Labor disputes in Algeria reached their peak during the 1990s. For further details, see: Khaled Hamed, Labor Disputes in the Context of Socio-Economic Transformations in Algeria, University Publications Office, Algeria, 6th ed., 2011, p. 239.

5- In most cases, collective labor disputes arise due to obstinacy or negligence in the application of labor law, its implementing regulations, or the provisions of collective labor agreements and conventions concluded between workers and their union with the employer. For further information on this subject, see: Rachid Wadhah, *Labor Relations in the Context of Economic Reforms in Algeria*, Houma Publishing and Distribution House, Algeria, 1st ed., 2002, p. 180.

that the inspector issue a second summons within a period not exceeding seventy-two hours from the date of absence.

– Addressing Non-Compliance: If the Labor Inspector determines that the dispute arises from the failure of one or both parties to fulfill a legal,[6] regulatory, or contractual obligation, the inspector is empowered, within the scope of his or her legal authority, to compel the responsible party or parties to comply with said obligation. This competence is affirmed in paragraph five of Article 8 of Law No. 23/08.

– Conclusion of the Legal Timeframe: At the end of the legally prescribed period—fifteen days at most from the date of the first reconciliation session—the territorially competent Labor Inspector shall draft either.

1.2.1 Official Report of Violation and Report of Absence

In cases where one of the parties fails to respond to the second summons,[7] the labor inspector draws up both an official violation report and a report of absence, which serve as evidence of the absence of conciliation. This procedure is stipulated in Article 10 of Law No. 23-08.[8] Copies of these reports are to be sent to:

– the Minister in charge of labor,

– the territorially competent Wali (Governor),

– the territorially competent judge,

– the parties to the collective labor dispute,

– while the territorially competent labor inspector retains a copy in the inspectorate's archives.

1.2.2 Conciliation Report

When the parties reach agreement on all disputed matters, the labor inspector records the details of the settlement in a conciliation report, signed by both parties to the dispute. The party with the greater urgency is responsible for submitting the conciliation report to the registry of the territorially competent court.

1.2.3 Partial Conciliation Report

A partial conciliation report is treated as a report of non-conciliation. This occurs when the parties to the collective labor dispute agree to settle certain issues while leaving others unresolved. In this case, the territorially competent labor inspector prepares the partial conciliation report, specifying the unresolved matters as well as the issues successfully settled, which become binding on both parties. The party with the greater urgency must submit the partial conciliation report to the registry of the territorially competent court. As stipulated in Article 11 of Law No. 23-08, copies of the report must also be provided to each party to the dispute. Furthermore, in accordance with Article 12 of the same law, additional copies are sent to the territorially competent Wali and to the Minister of Labor.

1.2.4 Report of Non-Conciliation

6- For a dispute to qualify as collective, it must involve all or a group of workers. By contrast, disputes that arise between an individual worker and the employer are considered individual labor disputes, which are subject to settlement through distinct legal, regulatory, and contractual frameworks. For further information on this subject, see: Mustafa Ahmed Abu Amro, *Collective Labor Relations (Collective Bargaining, Labor Unions, Collective Labor Agreements, Collective Labor Disputes, Strikes, Arbitration, Mediation, Negotiation) in Light of the New Labor Law No. 12 of 2013*, Dar Al-Jami'a Al-Jadida Publishing, Alexandria, 2005, p. 283.

7- The period between the first and second summons is 72 hours, that is, a full three days.

8- This is expressly stipulated in Article 12 of Law No. 23/08.

When all attempts and procedures of conciliation fail, the territorially competent labor inspector prepares a report of non-conciliation. This report documents the unresolved issues as well as all procedures and details of the conciliation process. Copies of the report are to be sent to:

– the Minister in charge of labor,

– the territorially competent Wali,

– the territorially competent judge,

– the parties to the collective labor dispute,

– while the territorially competent labor inspector retains a copy in the inspectorate's archives.

1.3 Second Conciliation Sessions for the Parties to the Dispute at the Request of the Minister of Labor

Since collective labor disputes may arise in any economic sector and within the scope of any ministry, their repercussions can extend beyond the boundaries of a single economic enterprise. In particular, when all attempts at conciliation have failed, the minister responsible for the sector in which the collective labor dispute has occurred must notify the Minister of Labor within a maximum of eight days from the date of the official record of non-conciliation. In this situation, three scenarios may be distinguished:

First scenario: The Minister of Labor may assign a labor inspector[9] to conduct a second conciliation session concerning all or part of the issues in dispute. The inspector is responsible for summoning the parties to the dispute and obtaining their views regarding this conciliation initiated by the Minister of Labor. As a general rule, conciliation procedures must be completed within five days from the date of receipt of the Minister's request.[10] Exceptionally, this period may be extended at the request of the disputing parties.

At the conclusion of the process, the territorially competent labor inspector issues a report of conciliation or non-conciliation and provides copies to the following:

– The Minister of Labor, who in turn informs the minister responsible for the sector in which the dispute has arisen of the outcome (conciliation or non-conciliation).

– The territorially competent Wali (Governor).

– The territorially competent judge.

– Both parties to the collective labor dispute.

– The labor inspectorate's own archives, where the original copy is retained.

Second scenario: The minister responsible for the sector in which the dispute arises may refrain from notifying the Minister of Labor. This possibility is inferred from the wording "may" used in paragraph one of Article 13 of Law No. 23/08 of 21 June 2023 concerning the prevention and settlement of collective labor disputes and the right to strike.

Third scenario: Even after being notified by the minister responsible for the sector affected by the collective labor dispute, the Minister of Labor may choose not to instruct the labor inspector to conduct a second

9- The legislator did not specify in this regard whether the same regional labor inspector should remain in charge or whether another inspector may be appointed. This ambiguity arises because the personality of the inspector, as well as their style of dialogue and approach to dispute resolution, differs from one individual to another. This variation is also observable in mediation, arbitration, and even in judicial proceedings, as the quality of negotiation differs from one individual to another.

10- Pursuant to paragraph three of Article 13 of Law No. 23/08 of 21 June 2023 on the prevention and settlement of collective labor disputes and the right to strike.

conciliation session concerning all or part of the disputed issues. This interpretation also derives from the wording “may” contained in paragraph one of Article 13 of Law No. 23/08.

2. Mediation

According to Article 14 of Law No. 23/08 of 21 June 2023 on the prevention and settlement of collective labor disputes and the right to strike, the Algerian legislator requires the parties to a collective labor dispute to move to the stage of mediation once conciliation efforts have failed.

The legislator has devoted six articles of Law No. 23/08—Articles 14 through 19—to the regulation of mediation procedures. From these provisions, the stages of mediation may be discerned as follows:

- Selection of the mediator by the disputing parties.
- Mediation procedures.
- Outcomes of mediation.

On this basis, this section will examine the institution of mediation by dividing the discussion into three subsections:

- Selection of the mediator by the disputing parties
- Mediation procedures
- Outcomes of mediation

2.1 Selection of the Mediator by the Parties to the Dispute

Pursuant to Article 14 of Law No. 23/08 of 21 June 2023, concerning the prevention and settlement of collective labor disputes and the right to strike, the Algerian legislator requires the parties to resort to mediation when conciliation fails, within a maximum period of fifteen (15) days from the date of the report recording either absence or failure of conciliation.

The disputing parties shall, by mutual agreement, select a mediator from the official list of mediators designated by the Minister of Labor.[11] In the absence of consensus, the competent sectoral minister concerned with the collective labor dispute, the Wali (Governor), or the Mayor, depending on the territorial scope of the dispute, shall automatically appoint a mediator from the same list. This appointment depends on whether the impact of the collective labor dispute is confined to the municipality, extends across multiple municipalities, or affects more than one Wilaya (province). This mechanism is expressly provided for in Article 15 of the same law.

2.2 Mediation Procedures

According to Article 16 of Law No. 23/08 of 21 June 2023, the mediator undertakes the following tasks:

- Conducting inquiries by examining the situation of both the workers and the employer separately.

11- The list of mediators is determined by the Minister of Labor after consultation with the most representative trade union organizations at the national level. These mediators are individuals possessing legal and social expertise, in addition to personal qualities such as charisma in dialogue, neutrality, integrity, and a commitment to social justice. The Minister of Labor communicates this list to the following:

- Members of the government
- The authority in charge of the civil service
- The Governors (Walis)
- The Mayors
- The provincial labor inspectorates

– Carrying out investigations to identify all causes underlying the collective labor dispute.

– Requesting the complete collective labor dispute file from the territorially competent labor inspector.

– Requesting from the disputing parties any information or documents useful for resolving the dispute.

– Seeking assistance from third parties such as experts.

– Requesting assistance from the territorially competent labor inspector, particularly in matters related to labor legislation and regulation.

Ultimately, and in accordance with Article 17 of Law No. 23/08, the mediator must present proposed solutions to the dispute in the form of reasoned recommendations within a maximum of ten (10) days from the date of receiving the collective labor dispute file. By way of exception, this period may be extended by no more than eight (8) additional days, provided such an extension is agreed upon by both parties to the dispute.

The mediator shall also transmit their proposals and recommendations, for the purpose of review and follow-up, to the territorially competent labor inspector.

2.3 Outcomes of Mediation

Under Article 18 of Law No. 23/08 of 21 June 2023, regarding the prevention and settlement of collective labor disputes and the right to strike, the parties to the dispute are obliged to respond to the mediator's recommendations within a maximum of eight (8) days. In this context, three scenarios can be distinguished.

Since collective labor disputes may arise in any economic sector and within the jurisdiction of any ministerial department, and given that the effects of such disputes may extend beyond the boundaries of the economic enterprise—particularly when all attempts at conciliation have failed—the Minister of Labor must be notified by the competent sectoral minister concerned with the collective labor dispute. This notification must occur within a maximum of eight (8) days from the date of the report establishing the failure of conciliation. In such cases, three distinct outcomes may be identified.

2.3.1 Explicit Acceptance of the Mediator's Recommendations

According to paragraph three of Article 18 of Labor Law No. 23/08, the legislator stipulated that, in the event of the explicit acceptance of the mediator's recommendations, a collective labor agreement shall be drafted and signed by the disputing parties, who are then obliged to implement it under the agreed conditions and deadlines. This agreement must subsequently be deposited, by the party most urgently concerned, with both the territorially competent Labor Inspector and the registry of the territorially competent court.

The legislator, however, did not specify who is responsible for drafting the agreement: whether it should be the mediator, the Labor Inspector, or one of the parties to the collective labor dispute.

Ultimately, pursuant to Article 19 of Labor Law No. 23/08, the mediator is required to prepare a detailed report on the explicit acceptance of his or her recommendations by the parties within a maximum of forty-eight hours from the date of acceptance. Copies of this report must be sent to:

– The Minister of Labor

– The Minister of the sector concerned by the collective labor dispute

– The territorially competent Labor Inspectorate

2.3.2 Explicit Rejection of the Mediator's Recommendations

According to paragraph four of Article 18 of Labor Law No. 23/08, the legislator stipulated that, in the event of failed mediation resulting from the explicit rejection of the mediator's recommendations by one or both

disputing parties, such rejection must be communicated to the mediator and to the territorially competent Labor Inspector within a maximum of eight days from the date on which the recommendations were received.

At this stage, the disputing parties may also agree to resort to arbitration, as expressly provided for in the final paragraph of Article 18 of the same law.

Furthermore, pursuant to Article 19 of Labor Law No. 23/08, the mediator is obliged to prepare a detailed report on the explicit rejection of his or her recommendations by the parties within a maximum of forty-eight hours from the date of rejection. Copies of this report must be sent to:

- The Minister of Labor
- The Minister of the sector concerned by the collective labor dispute
- The territorially competent Labor Inspectorate

2.3.3 Implicit Rejection of the Mediator's Recommendations

According to paragraph two of Article 18 of Labor Law No. 23/08, the legislator provided that if one or both disputing parties remain silent and fail to respond to the mediator's recommendations and proposals within a maximum period of eight days from the date on which they were received, such silence shall be deemed as an implicit rejection of the mediator's recommendations. This, in turn, necessitates recourse to arbitration.

Similarly, pursuant to Article 19 of Labor Law No. 23/08, the mediator is required to prepare a detailed report on the implicit rejection of his or her recommendations within a maximum of forty-eight hours from the date on which such implicit rejection is deemed to have occurred. Copies of this report must be sent to:

- The Minister of Labor
- The Minister of the sector concerned by the collective labor dispute
- The territorially competent Labor Inspectorate

3. Arbitration

Pursuant to Article 20 of Law No. 23-08 of 21 June 2023, concerning the prevention and settlement of collective labor disputes and the right to strike, the Algerian legislator provided the disputing parties with a non-mandatory mechanism for resolving conflicts, namely arbitration.[12] It is important to note that the legislator has made conciliation and mediation compulsory stages before the parties may proceed, by mutual agreement, to arbitration. While conciliation and mediation are governed in terms of subject matter and procedures by labor law, arbitration is subject to the Code of Civil and Administrative Procedure as a general rule, and only exceptionally to labor law provisions.

Arbitration thus constitutes a form of private adjudication, with the arbitrator acting as a private judge. For this reason, the Algerian legislator established arbitration as an optional path, to be pursued only when the parties fail to resolve their dispute amicably during the regular or extraordinary meetings provided for in collective labor agreements, and also fail to resolve it through mediation and conciliation. In this sense, arbitration is a specialized mechanism for the settlement of collective labor disputes, organized under the Code of Civil and Administrative Procedure, through which the legislator allows disputing parties to resort to private adjudication rather than to state judicial bodies.[13] Ultimately, arbitral awards are binding on the parties.

12- For further information on arbitration, see: Abderrahmane Khalfi, *A Concise Study of Labor and Social Security Disputes*, Dar Al-'Uloom, Annaba, 2008.

13- In the ordinary judiciary, there is a specialized division responsible for adjudicating labor disputes in accordance with the procedures set forth in the Labor Law.

Given that the Algerian legislator referred the regulation of arbitration in collective labor disputes to the Code of Civil and Administrative Procedure, the present analysis will address this framework through the following subsections:

- The Concept of Arbitration in Collective Labor Disputes
- Conditions of Arbitration in Collective Labor Disputes
- Effects of Arbitration in Collective Labor Disputes
- Arbitration Procedures in Collective Labor Disputes under Labor Law

3.1 The Concept of Arbitration in Collective Labor Disputes

Arbitration as a means of dispute resolution is not confined to the national context; it has a long-standing presence internationally and historically. One of the most significant types is international commercial arbitration, which is regulated by numerous international agreements. By contrast, arbitration in collective labor disputes is a domestic mechanism explicitly recognized by the Algerian legislator in Article 20 of Law No. 23-08 of 21 June 2023, concerning the prevention and settlement of collective labor disputes and the right to strike.

From the perspective of this law, arbitration in collective labor disputes constitutes an alternative to public adjudication, specifically to labor courts or what is known as social jurisdiction. It is a form of private justice, in which the arbitrator assumes the role of a private judge, and thus the process itself is elective rather than compulsory. In other words, the parties to a collective labor dispute are free either to accept or to refuse arbitration. This is explicitly stated in the first paragraph of Article 20: *"When the two parties agree to submit their dispute to arbitration ..."*. This stands in contrast to conciliation and mediation, which are mandatory stages.

Once the parties agree to arbitration, the arbitral agreement acquires the force of a final judicial ruling, binding on both parties. As a result, no further judicial action may be brought regarding collective labor disputes already subject to an arbitral agreement, except in one circumstance: when both parties mutually consent to litigation following arbitration. In such cases, the judge cannot raise the issue of arbitration ex officio. Mutual consent thus implies the implicit rejection of the arbitral agreement by the disputing labor parties. Conversely, any judicial action aimed at resolving a collective labor dispute that has already been addressed through arbitration must be dismissed, provided that one of the parties invokes the prior existence of arbitration.

3.2 Conditions of Arbitration in Collective Labor Disputes

Since the Algerian legislator, under Article 20 of Law No. 23/08 of 21 June 2023 on the prevention and settlement of collective labor disputes and the right to strike, referred the issue of arbitration in collective labor disputes to the Code of Civil and Administrative Procedure as a general rule—while also providing for certain specific provisions under Law No. 23/08—the conditions for arbitration in such disputes may be summarized as follows:

3.2.1 Consent

The requirement of mutual consent refers to the necessity that both parties agree to submit their collective labor dispute to arbitration. The legislator did not make arbitration compulsory for the parties, just as conciliation and mediation are not mandatory. Instead, arbitration remains an optional path, as indicated in paragraph one of Article 20: *"When the parties agree to submit their dispute to arbitration ..."*.

Accordingly, if both parties do not consent—or if only one party agrees while the other refuses—arbitration cannot serve as a means of resolving the dispute. Thus, the convergence of the parties' wills regarding arbitration is indispensable. This mutual consent may take one of the following forms:

– Inclusion in prior collective agreements or conventions: where arbitration clauses are expressly stipulated.

– An explicit written agreement between the disputing parties, concluded prior to arbitration in cases where no prior agreements contain such clauses. In this case, a specific arbitration agreement must exist.

– Acknowledgment by the arbitrator of the parties' mutual consent, recorded formally in the arbitration agreement.

It is therefore essential that the arbitrator remind the parties to the collective labor dispute that any decision issued through arbitration will be binding upon them both. In this sense, the arbitrator acts as a *private judge*. Consequently, no legal action may be brought before the social court unless both parties agree to do so.

3.2.2 The Subject Matter

The subject matter of the arbitration agreement in collective labor disputes must satisfy the following conditions:

– It must be possible and not impossible.

– It must be lawful.

– It must not contravene public morals.

– It must not contravene public order.

– It must not conflict with labor law.

– It must not conflict with the Code of Civil and Administrative Procedure.

Thus, the subject matter of the arbitration agreement or contract is equivalent in nature to a private judicial ruling.

3.2.3 Cause

The cause for resorting to arbitration must be legitimate from several perspectives, including:

– The failure of all forms of negotiation between the parties to the collective labor dispute.

– The failure of conciliation with the intervention of the territorially competent labor inspector.

– The failure of mediation with the intervention of a mediator.

– The exclusion of recourse to ordinary courts.

– The consensual choice of arbitration by the disputing parties.

3.3 Effects of Arbitration in Collective Labor Disputes

The principal effects of accepting arbitration in collective labor disputes are as follows:

– The principle of the lack of jurisdiction of the ordinary courts over the same dispute, as a general rule.

– The obligation of the parties to the collective labor dispute to submit to the jurisdiction of the arbitration tribunal, which functions as a specialized private judiciary rather than the ordinary courts, with the arbitrator acting as a private judge.

– The binding effect of arbitration outcomes on the parties to the dispute.

– The parties are barred from resorting to ordinary courts once they have opted for arbitration as a private judicial mechanism, except by means of a specific and mutual agreement between them, as an exception.

3.4 Arbitration Procedures in Collective Labor Disputes under the Labor Law

According to Article 20 of Labor Law No. 23/08 of 21 June 2023, arbitration procedures in collective labor disputes are governed, as a general rule, by the provisions of the Code of Civil and Administrative Procedure, while also being subject to the specific provisions of Law No. 23/08. These procedures include:

– The issuance of a final arbitration decision within thirty (30) working days, beginning from the date of appointment of the arbitrators.

– Since the legislator did not specify the number of arbitrators, this matter remains subject either to the agreement of the parties to the collective labor dispute or to appointment in the event of their failure to agree. Ultimately, the number of arbitrators must be odd, given that the adoption of decisions requires a collective vote.

– The requirement that the parties to the collective labor dispute—or their legal representatives—appear before the arbitrators, with the arbitration panel responsible for verifying the identity and authority of the parties or their representatives.

Conclusion

The Algerian legislator has directed the parties to a collective labor dispute to hold several reconciliation sessions, in accordance with the provisions of collective labor agreements, as a means to resolve such disputes. Should these sessions fail, the party most urgently concerned may refer the matter to the territorially competent Labor Inspector, who then initiates reconciliation sessions between the parties. These efforts may culminate in either a complete reconciliation, formalized in a reconciliation report, or a partial reconciliation, documented in a partial reconciliation report. Alternatively, the inspector may record the absence of one of the parties, or issue a report noting the failure of reconciliation efforts where all attempts have proven unsuccessful. In cases where the dispute's impact extends beyond the economic enterprise itself, the Minister of Labor may be informed by the Minister of the sector concerned, and the Labor Inspector may be tasked with conducting a second reconciliation attempt. In other cases, the Minister of Labor may not be notified, and the process may proceed directly to mediation.

At this stage, the parties to the dispute may, by mutual agreement, select a mediator from the official list of mediators designated by the Minister of Labor. In the event of disagreement, the Minister of the sector concerned, the governor, or the mayor may intervene to appoint a mediator ex officio from the same list, depending on the territorial scope of the collective labor dispute. The mediator then submits proposals for resolving the dispute in the form of reasoned recommendations, to which the parties are required to respond—either by explicit acceptance, explicit rejection, or implicit rejection through silence, which is deemed a refusal. Following this stage, arbitration may be pursued as a non-mandatory mechanism for dispute resolution. Arbitration is governed as a general rule by the Code of Civil and Administrative Procedure, with limited exceptions under labor law. It constitutes a form of private adjudication, functioning as an alternative to the ordinary courts, particularly the labor courts. In this context, the arbitrator assumes the role of a private judge. Indeed, once the parties to a collective labor dispute resort to arbitration as a private form of adjudication, they are deprived of recourse to the ordinary courts, unless they reach a specific mutual agreement to do so as an exception.

An analysis of the provisions set forth in Law No. 23/08 of 21 June 2023, concerning the prevention and resolution of collective labor disputes and the right to strike, reveals the legislator's flexibility in designing resolution mechanisms. This flexibility is reflected in the availability of multiple optional pathways at each stage of dispute settlement, a feature underscored by the linguistic marker *"may"* (قد) used in the statutory language, which conveys plurality of possibilities. Furthermore, an examination of the actual state of collective labor disputes in Algeria indicates that their frequency has significantly declined since 2020, reaching record lows. This trend may be interpreted in two ways: first, as evidence of the quality of the legal provisions introduced by Law No. 23/08; and second, as a reflection of the improvement in workers' living standards, which in turn mirrors the growth of the Algerian economy from 2020 up to the writing of this article in 2025.

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