

**Arbitration in Algerian Labor Law under the Labor Disputes
Act No. 23-08 and Its Implementing Regulations**

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Date of submission: 30/10/2025 - Date of acceptance: 18/12/2025- Date of publication: 28/12/2025

Abstract : Workers and employers in public and private sectors experience times when their labor relations break down which can lead to collective labor disputes if the conflict remains unresolved. Employers in these situations choose to handle conflicts through peaceful resolution methods which involve dialogue and conciliation and mediation processes. Workers choose to strike when all other communication channels between them and their employers become unresponsive because this method allows them to pressure their employers into making better workplace conditions and granting new rights and decreasing work responsibilities.

The Algerian legislator established new laws to prevent situations which might lead to major national security threats because strikes serve as a powerful disruptive tool that impacts both public and private institutions. After the failure of all negotiation methods the legislator created a quasi-judicial system which operates as an arbitration system to solve collective labor disputes.

The primary dispute resolution system for labor conflicts involving non-strike workers operates through arbitration. The system operates through Law No. 23-08 of 21 June 2023 together with Executive Decree No. 23-364 of 17 October 2023 which establish legal and regulatory frameworks for collective labor dispute prevention and resolution and strike rights.

Keywords: Arbitration, Strike, Collective Labor Disputes, Arbitration Committee, Algerian Labor Legislation.

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Introduction:

Workers from public and private sectors naturally encounter conflicts with their employers about workplace terms and payment rights and work duties. The Algerian legislator has established rules for labor dispute resolution through the Labor Code which unites constitutional provisions with international labor agreements and domestic labor laws and additional labor rules and organizational protocols. The system places great value on collective labor agreements and conventions.

The management of these disputes depends on multiple institutional actors which include the Ministry of Labor and labor unions and labor inspectorates and conciliation bodies and local and national civil service commissions and various dialogue committees. Organizations achieve peaceful resolution of labor disputes through negotiation and conciliation and mediation processes which serve as their primary mechanisms.

Workers will start strikes as their final option to apply pressure on employers when all other dispute resolution mechanisms fail to resolve their collective labor disputes. Strikes serve as lawful protest actions yet their execution at the local level creates adverse effects on institutional productivity and services which sometimes spread to regional and national territories thereby endangering public order and national security.

Consequently, under Article 67 of Law No. 23-08 of June 21, 2023, concerning the prevention and settlement of collective labor disputes and the right to strike, the Algerian legislator has prohibited certain categories of workers from engaging in strike action. These include employees of the national defense and security sectors, civil servants acting on behalf of the state, officials designated by their specific roles,¹ as well as personnel employed in strategic and sensitive sectors vital to state sovereignty² or in sectors where interruption of work could endanger citizens' lives or safety.

Those subject to compulsory settlement procedures, upon failing to resolve their collective labor disputes, are referred—depending on the nature, scope, and region of the dispute—to one of two bodies: the Provincial Arbitration Committee or the National Arbitration Committee. This mechanism is

¹- The Algerian legislator has defined the categories of public employees who are absolutely prohibited from engaging in strikes under Executive Decree No. 23-261, dated 17 October 2023. The decree enumerates twenty-two categories of such employees, namely:

judges; officials appointed by Presidential Decree; officials appointed by Executive Decree; employees assigned to posts abroad; members of security services; internal security agents responsible for the protection of sites and institutions; personnel of the civil protection services; agents of the National Signaling Network Operations Services within the Ministry of the Interior; agents of the same services within the Ministry of Foreign Affairs; field officers of the Customs Administration; members of the Prison Administration Corps; imams of mosques; air traffic controllers; marine traffic controllers; employees working in enterprises containing sensitive and strategic installations; personnel of control and remote-monitoring centers within the national electricity system; personnel of similar centers within the national energy networks; members of the special corps of the Forestry Administration; directors of public educational institutions; inspection staff in the National Education Sector; inspection staff in the Vocational Training Sector; and inspection staff in the Higher Education Sector.

²- Pursuant to paragraph three of Article 8 of Executive Decree No. 23-261, dated 17 October 2023, the Algerian legislator has identified the sectors relatively prohibited from engaging in strikes. These sectors, enumerated in a non-exhaustive manner, include: the justice services, the interior services, the civil protection services, the foreign affairs services, the finance services, the energy services, the religious affairs services, the agricultural services, the education services, the vocational training services, and the higher education services.

The legislator has thus established these sectors in a relative, rather than absolute, manner, meaning that the list is not fixed. This intention is made evident through the introductory phrase used in the decree, namely “notably” (*la si ma...* / “لا سيما”), which signals that other sectors may also be encompassed within this restriction as deemed necessary by law.

Arbitration in Algerian Labor Law under the Labor Disputes Act No. 23-08 and Its Implementing Regulations

stipulated in Article 68 of Law No. 23-08 of 21 June 2023, concerning the prevention and settlement of collective labor disputes and the right to strike.

The same applies to collective labor disputes that remain unresolved after exhausting all stages of settlement, culminating in the stage of a lawful strike. In such cases, whether the dispute affects the economic or public administrative sector, it may be referred to either the Provincial or the National Arbitration Committee, as provided by Article 70 of the same law (No. 23-08 of 21 June 2023).³

This raises key questions:

- What is the nature of these arbitration committees?
- What is their central role in resolving collective labor disputes, particularly in the context of strikes?

To address these questions, this study will follow the structure below:

- I. Composition of the National and Provincial Arbitration Committees
- II. Jurisdiction of the National and Provincial Arbitration Committees
- III. Organization of the National and Provincial Arbitration Committees

The research will employ both analytical and descriptive methodologies.

This study is relatively recent, given the timing of the enactment of the relevant legislation and regulations, which coincided with the end of 2023.

I. Composition of the National and Provincial Arbitration Committees

The Algerian legislator established the composition of both the National and Provincial Arbitration Committees in Law No. 23-08 of 21 June 2023, concerning the prevention and settlement of collective labor disputes and the right to strike⁴. Their formation is further detailed in the implementing regulation, namely Executive Decree No. 23-364.

Accordingly, this section will address the following points:

- I.1. Definition of the National and Provincial Arbitration Committees
- I.2. Composition of the National and Provincial Arbitration Committees
- I.3. Conditions for Membership in the National and Provincial Arbitration Committees

³- Article 70 of Law No. 23-08, dated 21 June 2023, provides that:

“In the event of a continuing strike, the Minister of the relevant sector, the Wali (Governor), or the President of the concerned Municipal People’s Assembly may, after consultation with the employer and the workers’ representatives, submit the collective labor dispute, as appropriate, to the National Arbitration Committee or to the Provincial Arbitration Committee established under the provisions of this Law, when compelling economic or social necessities so require, or when the strike concerns the sectors of activity referred to in Article 62, the interruption of which would endanger the life, safety, or health of citizens, or threaten the national economy.”

⁴ Samer Ahmed Moussa, Legal Research on Strikes by Public Utilities Workers (A Study in the Palestinian, French, and Algerian Legal Systems), Palestine Legal Portal, Palestine, 2007, p. 32.

I.1. Definition of the National and Provincial Arbitration Committees

The National Arbitration Committee and the Provincial Arbitration Committees established in each province are quasi-judicial bodies presided over by a judge. These committees serve as the final stage for resolving labor disputes within sectors where strikes are prohibited, as well as those sectors whose strikes pose continuous regional or inherent risks. They also address cases where economic or social considerations justify intervention due to the potential dangers involved.

I.2. Composition of the National and Provincial Arbitration Committees

The composition of the Provincial Arbitration Committees, established in each province, mirrors that of the National Arbitration Committee in terms of the equal number of permanent and alternate members. However, they differ in terms of their territorial jurisdiction and the number and status of their members. These differences will be examined in the following two subsections:

- II.1.1: Composition of the National Arbitration Committee
- II.1.2: Composition of the Provincial Arbitration Committee

I.1.1 Composition of the National Arbitration Committee

According to Article 73 of Law No. 23-08 of 21 June 2023, concerning the prevention and settlement of collective labor disputes and the right to strike, and Article 2 of Executive Decree No. 23-364, the National Arbitration Committee, established within the Supreme Court, is composed of the following members:

- The Chairperson of the National Arbitration Committee, a judge from the Supreme Court appointed by the President of the Supreme Court.
- One member representing the Ministry of Justice.
- One member representing the Ministry of the Interior.
- One member representing the Ministry of Finance.
- One member representing the Ministry of Labor.
- One member representing the authority responsible for the civil service.
- Five members representing the most representative national trade union organizations of workers.
- Five members representing the most representative national employers' organizations.

The nominal list of committee members is determined by an order issued by the First President of the Supreme Court for a five-year term, renewable once. Procedures for renewing membership must begin three months before the end of the current mandate, as stipulated in Article 4 of Executive Decree No. 23-364.

In the event of a vacancy due to loss of membership, the alternate member assumes the position until the expiry of the committee's mandate, in accordance with the final paragraph of Article 11 of the same executive decree.

Arbitration in Algerian Labor Law under the Labor Disputes Act No. 23-08 and Its Implementing Regulations

I.1.2. Composition of the Provincial Arbitration Committee

Pursuant to Article 74 of Law No. 23-08 of 21 June 2023, concerning the prevention and settlement of collective labor disputes and the right to strike, and Article 5 of Executive Decree No. 23-364, the Provincial Arbitration Committee (Comité de l'arbitrage wilaya) established at the level of each *Court of Justice* (Conseil judiciaire) is composed of the following members:

- The Chairperson of the Provincial Arbitration Committee, a judge from the Court of Justice, appointed by the President of the Court.
- A representative of the Director of Organization and General Affairs.
- A representative of the Provincial Director of Employment.
- A representative of the Provincial Director of Trade.
- A representative of the authority in charge of the Civil Service in the province.
- Four members representing the most representative workers' trade unions at the provincial level.
- Four members representing the most representative employers' organizations at the provincial level.

The nominative list of the committee members is established by order of the President of the Court of Justice for a five-year term, renewable once. Procedures for the renewal of membership must commence three months before the end of the term, as stipulated in Article 7 of Executive Decree No. 23-364.

In cases where a member loses their position, replacement is effected by the alternate member for the remainder of the committee's mandate, in accordance with the final paragraph of Article 11 of the same executive decree.

I.3. Conditions for Membership in the National and Provincial Arbitration Committees

The conditions for membership in both the National Arbitration Committee and the Provincial Arbitration Committees are defined by the regulatory authority in Articles 8 and 9 of Executive Decree No. 23-364 of 17 October 2023, as follows:

- Algerian nationality.
- Possession of a higher education degree.
- At least five years of professional experience in legal, economic, or social fields.
- No criminal conviction inconsistent with the exercise of arbitration duties.

Membership is terminated under the following circumstances:⁵

- Death.
- Retirement.
- Resignation from the member's primary position.

⁵- Articles 8 and 9 of Executive Decree No. 23-364, dated 17 October 2023.

- Dismissal from the member's original employment.
- Loss of trade union representative status (for members representing workers).
- Issuance of a criminal conviction incompatible with the duties of arbitration.
- Dissolution of the trade union organization represented on the national or provincial arbitration committee.
- Acting as a mediator in collective labor disputes, as this role is incompatible with arbitration membership.

II. Jurisdiction of the National and Provincial Arbitration Committees

The Algerian legislator has defined the jurisdiction of both the National and Provincial Arbitration Committees in Article 71 of Law No. 23-08 of June 21, 2023, concerning the prevention and settlement of collective labor disputes and the right to strike. The legislator made a mistake by combining the authorities of the two committees into one legal provision. The two bodies operate within different geographic boundaries because Provincial Arbitration Committees function exclusively inside their provincial territories whereas National Arbitration Committee holds national jurisdiction.

This distinction is explicitly affirmed in paragraph one of Article 75 of the same Law No. 23-08, which states:

“The Provincial Arbitration Committee maintains exclusive authority to resolve collective labor disputes which arise within the provincial boundaries according to Article 75 of the same law.”

The separation between these entities receives official confirmation through Executive Decree No. 23-364 which was issued on October 17. This decree establishes the National Arbitration Committee's authority in Article 12 and grants power to the Provincial Arbitration Committees in Article 14.

The two levels of committees possess different jurisdictional areas which can be studied through the following analysis.

- II.1: Jurisdiction of the National Arbitration Committee
- II.2: Jurisdiction of the Provincial Arbitration Committees

II.1. Jurisdiction of the National Arbitration Committee

The National Arbitration Committee is entrusted with the following responsibilities:

- Adjudicating collective labor disputes involving workers who are legally prohibited from striking.
- Resolving collective labor disputes arising within sectors in which strikes are legally prohibited.
- Adjudicating collective labor disputes in sectors where work stoppages may pose a risk to:
 - Public security
 - Public health
 - The lives of citizens

Arbitration in Algerian Labor Law under the Labor Disputes Act No. 23-08 and Its Implementing Regulations

- The national economy⁶
- Handling collective labor disputes that extend across multiple provinces.
- Addressing collective labor disputes that spread nationwide.
- Considering unresolved collective labor disputes that have passed through all stages of settlement without success, ultimately leading to a lawful strike⁷—particularly in cases of significant economic or social necessity.

II.2. Jurisdiction of the Provincial Arbitration Committees

The jurisdiction of the Provincial Arbitration Committees encompasses the following functions:

- Adjudicating collective labor disputes involving workers who are legally prohibited from striking, within the territorial jurisdiction of the province only.
- Resolving collective labor disputes in sectors where strikes are legally prohibited, limited to the provincial level.
- Examining collective labor disputes in sectors where a work stoppage, at the provincial level only, would pose a threat to:
 - Public security
 - The health of citizens
 - The lives of citizens
 - The national economy
- Handling collective labor disputes that extend across several municipalities within the same province.
- Addressing collective labor disputes in the economic sector that occur at the provincial level and where the parties have failed to reach a resolution through all prior stages — from negotiations and reconciliation to mediation. In such cases, the dispute may be submitted to arbitration with the consent of both parties, and the resulting arbitral decision is binding upon them.
- Considering collective labor disputes at the provincial level that have exhausted all settlement procedures without success and have reached the stage of a lawful strike,⁸ particularly when such disputes arise due to economic or social imperatives.

⁶ Rachid Ouadah, *Individual and Collective Labor Disputes under Economic Reforms in Algeria*, Dar Houma, Algeria, 2003, p. 112.

⁷ These provisions apply to both the economic and general administrative sectors, and disputes arising within them may be submitted to either the Provincial or National Arbitration Committee. This procedure is expressly provided for under Article 70 of Law No. 23-08, dated 21 June 2023.

⁸ Article 13 of the same Decree.

III. Organization and Functioning of the National and Provincial Arbitration Committees

The Algerian legislator has outlined the organization and operation of both the National Arbitration Committee and the Provincial Arbitration Committee in Chapter II of Executive Decree No. 23-364, dated 17 October 2023, under Articles 12 through 30.

Accordingly, this section will examine the subject through the following key points:

- III.1: Mechanisms for Referring Cases to the National and Provincial Arbitration Committees
- III.2: Procedures Governing the Operation and Organization of the National and Provincial Arbitration Committees
- III.3: The Arbitral Decision Issued by the National and Provincial Arbitration Committees

III.1 Mechanisms for Referring Cases to the National and Provincial Arbitration Committees

The National and Provincial Arbitration Committees may intervene in certain collective labor disputes only when they are formally referred by a legally authorized individual and when the subject matter of the dispute is eligible for arbitration. This section examines both the persons authorized to initiate such referrals and the types of disputes admissible for arbitration, through the following two subsections:

- III.1.1: Mechanisms for Referring Cases to the National Arbitration Committee
- III.1.2: Mechanisms for Referring Cases to the Provincial Arbitration Committee

III.1.1 Mechanisms for Referring Cases to the National Arbitration Committee

Pursuant to Articles 70 and 72 of Law No. 23-08 of 21 June 2023, concerning the prevention and settlement of collective labor disputes and the right to strike, the following parties are authorized to refer cases to the National Arbitration Committee:

- The Minister responsible for the sector concerned by the collective labor dispute, after consulting the employer and workers' representatives, in cases where a strike continues due to economic or social necessity, or when the strike threatens the economy, public security, or citizens' health.
- Workers' representatives in any sector prohibited from engaging in strikes, as specified in Article 67 of the same law.
- The Minister responsible for the sector concerned, in the case of a sector prohibited from engaging in strikes, as stipulated in Article 67 of the same law.
- The Governor (Wāli), after consulting the employer and workers' representatives, in cases where a strike persists due to economic or social necessity, or when it harms the economy, public safety, or public health.
- The President of the Municipal People's Assembly, after consulting the employer and workers' representatives, when a strike continues for reasons of economic or social necessity, or when it poses risks to the economy, security, or the health of citizens.

Arbitration in Algerian Labor Law under the Labor Disputes Act No. 23-08 and Its Implementing Regulations

III.1.2 Mechanisms for Referring Cases to the Provincial Arbitration Committee

According to Articles 70 of Law No. 23-08 of 21 June 2023, concerning the prevention and settlement of collective labor disputes and the right to strike, the individuals or entities authorized to refer cases to the Provincial Arbitration Committee (*Comité de l'arbitrage wilaya*) are as follows:

- The Minister of the sector concerned with the collective labor dispute, after consultation with the employer and workers' representatives, in cases where the strike continues and is linked to an economic or social necessity, or when the strike harms the economy, public security, or citizens' health.
- Workers' representatives in any sector prohibited from striking, as specified in Article 67 of the same law.
- Both parties to a collective labor dispute in the economic sector, once all stages of dispute resolution have been exhausted without success.
- The Minister of the sector concerned, in any sector prohibited from striking, as also provided in Article 67 of the law.
- The Wali (Governor), after consulting the employer and workers' representatives, in cases where the continuation of a strike is tied to an economic or social necessity, or when the strike negatively affects the economy, security, or public health.
- The President of the Municipal People's Assembly, after consulting the employer and workers' representatives, under the same circumstances of a prolonged strike that threatens the economy, public order, or citizens' well-being.

It is important to note that the territorial jurisdiction of the Provincial Arbitration Committee extends only to the boundaries of its respective province and cannot exceed them under any circumstances.

However, if the scope of a collective labor dispute expands beyond the territory of a single province to include others, jurisdiction is transferred to the National Arbitration Committee, which is notified by the competent authorities previously mentioned.

III.2 Functioning and Organization of the National and Provincial Arbitration Committees

The Algerian legislator addressed the functioning and organization of the Provincial Arbitration Committee in Chapter Two of Executive Decree No. 23-364 of October 17, 2023, specifically in Articles 14 to 30. In this section, which deals with the same subject matter, we will shed light on the functioning and organization of both the national and provincial committees through the following subsections:

- III.2.1: Functioning and Organization of the National Arbitration Committee
- III.2.2: Functioning and Organization of the Provincial Arbitration Committee

III.2.1. Functioning and Organization of the National Arbitration Committee

The functioning and organization of the National Arbitration Committee can be analyzed through three key aspects:

- III.2.1.1: Internal Organization of the National Arbitration Committee

- III.2.1.2: Procedural Rules Governing the Committee’s Operations
- III.2.1.3: Conditions for the Validity of the Committee’s Arbitration Sessions

III.2.1.1 Internal Organization of the National Arbitration Committee

The National Arbitration Committee is composed of two main bodies:

- A. The Secretariat of the National Arbitration Committee
- B. The National Arbitration Committee (Deliberative Body)

A. The Secretariat of the National Arbitration Committee

Members of the Secretariat are selected from among clerks of the Supreme Court, and this body is entrusted with several essential administrative and logistical functions, including:⁹

- Receiving written petitions submitted to the National Arbitration Committee.
- Registering collective labor disputes brought before the Committee.
- Preparing the logistical arrangements for the Committee’s meetings.
- Ensuring administrative preparation for the Committee’s sessions.
- Collecting all relevant documents and files related to the matters on the Committee’s agenda, including reports submitted by both parties to the collective labor dispute.
- Drafting and organizing the agendas for the Committee’s meetings.

B. The National Arbitration Committee

The National Arbitration Committee is entrusted with the following responsibilities:

- Preparing and approving its internal regulations.
- Examining various issues related to collective labor disputes falling within its subject-matter and territorial jurisdiction, after the relevant case files have been studied by the rapporteur appointed by the Chairperson of the National Arbitration Committee. Decisions are made by vote, and in the event of a tie, the Chairperson’s vote is decisive, pursuant to paragraph 2 of Article 26 of Executive Decree No. 23-364.
- Holding regular periodic meetings as well as extraordinary sessions when necessary.
- Issuing binding arbitral decisions.
- Preparing an annual report on the Committee’s various activities.

III.2.1.2 Procedures Governing the Functioning of the National Arbitration Committee

The National Arbitration Committee is initially seized by the persons authorized under the law to refer disputes that have failed to be resolved through previous mechanisms. The referral must be accompanied by a comprehensive file containing all the facts and documents relevant to the dispute. The Committee

⁹- Paragraph 2 of Article 18 of Executive Decree No. 23-364, Official Gazette No. 67, Wednesday, 18 October 2023.

**Arbitration in Algerian Labor Law under the Labor Disputes
Act No. 23-08 and Its Implementing Regulations**

then convenes a meeting at the Supreme Court. The arbitration procedure before this Committee can be detailed as follows:

- The Secretariat of the National Arbitration Committee receives a written petition concerning the collective labor dispute, submitted by legally authorized persons. The petition must also include explanations and justifications of the urgent economic and social circumstances¹⁰ warranting the Committee's involvement.
- The Chairperson of the National Arbitration Committee appoints, from among the members, a rapporteur for each collective labor dispute within three (3) days following the submission of the petition.¹¹
- The rapporteur examines the admissibility of the petition, taking into account the justifications provided and, when necessary, by conducting hearings with both parties to the collective dispute.¹²
- Upon acceptance of the petition, the rapporteur proceeds to:
 - Study the complete dispute file and all supporting documents submitted by both parties.
 - Request any information or documentation from either party or any relevant authority.
 - Conduct necessary investigations to fulfill the arbitration mandate.
 - Seek assistance from experts or qualified individuals deemed useful for the arbitration process.
- At the conclusion of this stage, the rapporteur prepares a comprehensive and objective report¹³ summarizing the arguments and positions of both parties to the collective dispute.
- The rapporteur submits this report to all members of the National Arbitration Committee.¹⁴
- The rapporteur proposes to the Chairperson of the Committee the date and time of the arbitration session, after consulting:
 - Both parties to the dispute; and
 - The members of the National Arbitration Committee.
- The Chairperson of the Committee then notifies the disputing parties of the date and time of the arbitration session.

¹⁰- Article 19, *ibid.*

¹¹- Article 21, *ibid.*

¹²- Article 22, *ibid.*

¹³- Paragraph 2, Article 22, *ibid.*

¹⁴- Pursuant to Paragraph 1 of Article 23.

III.2.1.3. Conditions for the Validity of Arbitration Sessions before the National Arbitration Committee

For an arbitration session before the National Arbitration Committee to be validly convened, the following conditions must be met:

- Equal representation must be maintained between the workers’ representatives and the representatives of the public administration, regardless of the circumstances.
- No kinship or marital relationship may exist between the committee members themselves or between any committee member and either party to the collective labor dispute.
- The members of the National Arbitration Committee must demonstrate independence, integrity, and impartiality in addressing any collective labor dispute brought before them.
- The quorum for a valid session shall be two-thirds of the total members of the committee.¹⁵ If this quorum is not achieved, the meeting shall be postponed for eight days from the date of the scheduled session. The subsequent meeting shall be considered valid regardless of the number of members present.¹⁶ Furthermore, the law grants the Chairperson of the Committee the authority to summon alternate members in the event the quorum is not met.
- Both parties to the collective labor dispute must attend the arbitration session in person, upon summons by the Chairperson of the Committee.¹⁷ However, if personal attendance is not possible, the parties may be represented by legally authorized delegates. Should one or both parties fail to attend—either personally or through representation—they shall be summoned to a second session within eight days of the initial meeting. In such cases, the Committee shall render an arbitration decision on the dispute in their absence.

III.2.2 Operation and Organization of the Provincial Arbitration Committee

The operation and organization of the Provincial Arbitration Committee can be examined through the following subsections:

- III.2.2.1: Internal Organization of the Provincial Arbitration Committee
- III.2.2.2: Procedures Governing the Functioning of the Provincial Arbitration Committee
- III.2.2.3: Conditions for the Validity of Arbitration Sessions before the Provincial Arbitration Committee

III.2.2.1 Internal Organization of the Provincial Arbitration Committee

The Provincial Arbitration Committee consists of two main bodies:

- A. Secretariat of the Provincial Arbitration Committee
- B. The Provincial Arbitration Committee itself

¹⁵- the members of the National Arbitration Committee are convened to hold either regular or extraordinary meetings, upon a call from the Chairperson of the Committee, at least fifteen (15) days prior to the date of the meeting.

¹⁶- Paragraph 2, Article 23, *ibid*.

¹⁷- Paragraph 2, Article 24, *ibid*.

Arbitration in Algerian Labor Law under the Labor Disputes Act No. 23-08 and Its Implementing Regulations

A. Secretariat of the Provincial Arbitration Committee

The Secretariat of the Provincial Arbitration Committee is composed of court clerks (*greffiers*) from the Court of Justice. This secretariat is entrusted with the following functions :¹⁸

- Receiving written petitions addressed to the Provincial Arbitration Committee.
- Registering collective labor disputes submitted to the committee.
- Preparing the logistical arrangements for committee meetings.
- Carrying out the administrative preparations necessary for the meetings.
- Collecting relevant documents and files related to the matters on the committee's agenda, such as reports submitted by both parties to the collective labor dispute.
- Preparing the agendas of the Provincial Arbitration Committee.

B. The Provincial Arbitration Committee

The Provincial Arbitration Committee performs the following duties:

- Drafting and adopting its internal regulations.
- Examining matters related to collective labor disputes within its material and territorial jurisdiction. These disputes are first reviewed by a rapporteur, appointed by the committee's chairperson, before being submitted for deliberation and decision by vote. In the event of a tie, the chairperson's vote is decisive, in accordance with Article 26, paragraph 2, of Executive Decree No. 23-364.
- Holding regular meetings as well as extraordinary sessions whenever necessary.
- Issuing binding arbitral decisions.
- Preparing an annual report summarizing the committee's various activities.

2.2.2.III: Procedures Governing the Functioning of the Provincial Arbitration Committee

The Provincial Arbitration Committee operates through a procedural framework which starts when an authorized person from the previous list refers the committee. The referral must present the subject matter of the collective labor dispute, after all attempts at settlement have failed, and be accompanied by a complete file detailing the background and circumstances of the dispute. The committee then convenes a meeting at the Court of Justice. The arbitration process before the committee unfolds as follows:

- The Secretariat of the Provincial Arbitration Committee receives a written petition concerning the collective labor dispute from the legally authorized parties. The petition must include

¹⁸- Article 13 of the same Decree.

detailed explanations and justifications of the urgent economic or social¹⁹ reasons that warranted the committee's referral.

- The Chairperson of the Committee appoints, within three days of the petition's submission, a rapporteur from among the committee members to handle the dispute.²⁰
- The rapporteur examines the admissibility of the petition, assessing the supporting justifications, and may, if necessary, hold hearings with both parties to the collective labor dispute.²¹
- Once the petition is deemed admissible, the rapporteur proceeds as follows:
 - Reviews the complete dispute file and all documents submitted by both parties.
 - May request additional information or documentation from either party or from relevant authorities.
 - Conducts any necessary inquiries to fulfill the arbitration mission.
 - May seek assistance from experts or qualified professionals to support the arbitration process.
- The rapporteur prepares a detailed report, providing an objective summary²² of the arguments presented by both parties.
- The rapporteur submits the report to all members of the Provincial Arbitration Committee.²³
- The rapporteur proposes a date and time for the arbitration session to the Chairperson, after consultation with:
 - Both parties to the dispute; and
 - Members of the Provincial Arbitration Committee.
- The Chairperson of the Committee ensures notification of both parties of the date and time of the arbitration session.

III.2.2.3 Conditions for the Validity of Arbitration Sessions of the Provincial Arbitration Committee

For the arbitration session of the Provincial Arbitration Committee to be deemed valid, several essential conditions must be met:

- Equal Representation: The number of representatives of the workers must be equal to that of the representatives of the public administration under all circumstances.
- Absence of Conflicts of Interest: No member of the committee may have a familial or marital relationship with either of the parties to the collective labor dispute.

¹⁹- Paragraph 2, Article 18 of Executive Decree No. 23-364, Official Gazette No. 67, Wednesday, 18 October 2023.

²⁰- Article 19, *ibid.*

²¹- Article 21, *ibid.*

²²- Article 22, *ibid.*

²³- Paragraph 2, Article 22, *ibid.*

Arbitration in Algerian Labor Law under the Labor Disputes Act No. 23-08 and Its Implementing Regulations

- Impartiality and Integrity: Members of the Provincial Arbitration Committee must demonstrate independence, integrity, and impartiality in handling the subject matter of any collective labor dispute.
- Quorum Requirement: The quorum for a valid arbitration session is two-thirds of the total number of committee members.²⁴ If this quorum is not reached, the meeting is postponed for eight days from the initial date. The subsequent meeting shall be deemed valid regardless of the number of members present.²⁵ The legislator has also empowered the committee chair to summon alternate members in cases where the quorum is not met.
- Presence of the Disputing Parties: Both parties to the collective labor dispute must personally attend the arbitration session upon summons by the committee chair. However, if personal attendance is impossible, they may be legally represented by duly authorized persons.²⁶ Should one or both parties fail to attend—either in person or through representation—they are to be summoned for a second meeting within eight days of the first. In such a case, the Provincial Arbitration Committee shall deliberate and issue its arbitration decision on the collective labor dispute.

III.3 The Arbitration Decision of the National and Provincial Arbitration Committees

Arbitration decisions are binding judicial decisions²⁷, and the arbitration decisions issued by the National Arbitration Committee are generally similar to those issued by the Provincial Arbitration Committees, sharing many procedural aspects with only minor differences. The nature and issuance of these decisions can be analyzed through the following subsections:

- III.3.1: Arbitration Decision of the National Arbitration Committee
- III.3.2: Arbitration Decision of the Provincial Arbitration Committees

III.3.1 Arbitration Decision of the National Arbitration Committee

The National Arbitration Committee's decision on arbitration can be summed up as follows:

- Decision-Making Process: The Committee renders its arbitration decisions by a reasoned²⁸ majority vote of the members present.²⁹ In the event of a tie, the chair's vote counts as two, serving as a casting vote. The decision must be issued within thirty (30) days from the date on which both parties to the collective labor dispute appear before the Committee.

²⁴- Pursuant to Paragraph 1 of Article 23, the members of the National Arbitration Committee are convened to hold ordinary or extraordinary meetings, upon a summons issued by the Chairperson of the Committee, at least fifteen (15) days prior to the date of the meeting.

²⁵- Paragraph 2, Article 23, *ibid*.

²⁶- Paragraph 2, Article 24, *ibid*.

²⁷ Jarroson (Charles), « La notion d'arbitrage », Thèse de doctorat d'état, université de droit, d'économie et de sciences sociales de paris, 1985.

²⁸- Pursuant to Paragraph 1 of Article 26 of the same source, the legislator has stipulated that arbitral decisions must be duly reasoned. This requirement aims primarily to persuade the parties involved in the collective labor dispute of the fairness and legality of the ruling, especially since the arbitral decisions issued by this Committee are binding upon all parties.

²⁹- Article 26, *ibid*.

- Deposit of the Decision: The original copy of the arbitration decision is filed with the registry of the Supreme Court.
- Enforcement Order: The President of the Supreme Court issues an enforcement order for the decisions of the National Arbitration Committee.
- Notification of the Decision: The enforcement order of the President of the Supreme Court must be notified to both parties to the collective labor dispute within three (3) days of its issuance.³⁰ Notification is carried out by the presiding judge of the National Arbitration Committee, via registered mail with acknowledgment of receipt.
- Binding Nature of the Decision: The arbitration decisions of the National Arbitration Committee are final and binding on all parties involved in the collective labor dispute.

III.2.3: The Arbitral Decision of the Provincial Arbitration Committee

The Provincial Arbitration Committee's decision, in terms of its content, voting process, issuance, and notification, follows these rules:

- The Provincial Arbitration Committee makes its decisions by a reasoned vote of the majority of the members who are there.³¹ If there is a tie, the Chairperson's vote counts as two votes, which means it is the deciding vote. The decision must be made within fifteen (15) days of the day the people involved in the collective labor dispute show up before the Committee.
- The original copy of the arbitral decision is deposited with the Registry of the Court of Justice.
- The President of the Court of Justice issues an enforceability order for the decisions of the Provincial Arbitration Committee.
- The judge in charge of the Provincial Arbitration Committee must send both sides of the collective labor dispute a notice of the enforceability order within three (3) days of its issuance.³² This notice must be sent by registered mail with a receipt.
- The decisions of the Provincial Arbitration Committee are binding upon all parties to the collective labor dispute.

Conclusion

Arbitration in collective labor disputes is a process that is led by a judge and is done through the National Arbitration Committee and the Provincial Arbitration Committees that are set up in each province. It serves as the final stage in resolving labor disputes arising in sectors where strikes are prohibited or in those involving ongoing risks of a regional or structural nature, as well as disputes justified by economic or social imperatives.

In the case of the National Arbitration Committee, the presiding judge is a member of the Supreme Court, appointed by the President of the Supreme Court. For the Provincial Arbitration Committees, the presiding judge is drawn from the Court of Justice, appointed by the President of that Court. Both committees are composed equally of representatives from the most representative workers' unions and the most representative employers' organizations.

³⁰- Article 29, *ibid*.

³¹- Article 26, *op. cit*.

³²- Article 29, *ibid*.

Arbitration in Algerian Labor Law under the Labor Disputes Act No. 23-08 and Its Implementing Regulations

The jurisdiction of the National Arbitration Committee extends to:

- Workers in sectors where strikes are legally prohibited;
- Workers in sectors where work stoppages would pose a threat to public security, public health, citizens' lives, or the national economy;
- Disputes extending across several provinces or the entire national territory; and
- Unresolved collective labor disputes that have exhausted all prior settlement stages and culminated in a lawful strike, particularly those driven by economic or social necessity.

The jurisdiction of the Provincial Arbitration Committees mirrors that of the National Committee but is limited to the provincial level.

The National Arbitration Committee members select their arbitral decisions through a voting system which requires majority support from members who attend the session; the Chairperson holds the authority to break ties by casting two votes when the members reach a deadlock. Decisions need to be made within thirty (30) days after both parties have appeared before the Committee. The President of the Supreme Court makes an enforceability order to enforce National Arbitration Committee decisions which become final and cannot be challenged through appeals. Likewise, the President of the Court of Justice issues an enforceability order for the Provincial Arbitration Committee's decisions, which are also final and unappealable.

The Algerian legislator established a quasi-judicial arbitration system to manage vital collective labor disputes which directly affect public order and national security. The system establishes binding decisions through democratic voting which produces final decisions that cannot be challenged to maintain efficient and legitimate dispute resolution for essential labor sectors.