



Arbitration in the Democratic Republic of Congo: A legal safeguard in a State seeking justice

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This brief examines the protective functions of arbitration, its legitimacy in a state in crisis, and its potential as a lever for judicial reform

0. Abstract

In the Democratic Republic of Congo (DRC), where the state judiciary suffers from chronic dysfunction - procedural delays, systemic corruption, and political interference - arbitration emerges as a mechanism of resilience. Far from being a mere technical alternative, it becomes a safeguard against arbitrariness and a pathway to legality in a fragile institutional environment. This brief examines the protective functions of arbitration, its legitimacy in a state in crisis, and its potential as a lever for judicial reform.

1. Introduction

State justice, ideally the embodiment of fairness, transparency, and rights protection, is undergoing a profound crisis in the DRC. Courts are overwhelmed, judicial decisions are often tainted by corruption, and the independence of magistrates is compromised by political interference. In this context, arbitration transcends its contractual origins and becomes a pragmatic response to institutional failure - a space where legality can be preserved.

2. Arbitration as a refuge of legality

In the face of a weakened judicial system, arbitration offers economic actors a credible avenue for securing legal certainty. It stands out for its ability to maintain neutrality, free from political pressure and influence networks that often undermine state courts. Arbitration also provides appreciable speed, avoiding the procedural delays and adjournments that plague ordinary tribunals.

Arbitrators are often specialists in technical fields that state judges may not fully grasp, enhancing the quality of decisions. Moreover, the confidentiality of arbitral proceedings is a major asset in an environment where public hearings can expose parties to reputational or political risks. In

commercial disputes, arbitration is chosen not out of convenience, but out of necessity.

3. A parallel and private justice, yet Legitimate

Far from threatening state justice, arbitration in the DRC represents a civic reclaiming of legal agency. It enables litigants to restore procedural rigor and affirms the contractual autonomy of parties. By offering a structured, impartial, and predictable framework, arbitration helps pacify legal relations and rebuild trust in normative systems.

Its legitimacy does not stem from opposition to public justice, but from its ability to meet the concrete needs of economic and institutional actors in a context of crisis. It is a parallel justice, yes - but one deeply rooted in legality and fairness.

4. Toward reform inspired by arbitration

Arbitration can serve as a catalyst for judicial reform in the DRC. It offers tangible pathways to improve the quality and efficiency of justice, notably through the training of local professionals capable of assuming arbitral functions. Procedural transparency, often criticized in arbitral systems, can be enhanced through selective publication of awards, contributing to the development of accessible and coherent arbitral jurisprudence.

Cooperation between arbitral institutions and state courts is also essential to ensure the enforcement of awards in accordance with the law. By fostering this complementarity, arbitration can become a driver of institutional transformation - a model of rigor and accountability for public justice.

5. Conclusion

In the DRC, arbitration is not a procedural luxury reserved for economic elites. It is a legal necessity, a pragmatic response to the crisis of state justice. It embodies institutional resilience and offers a space for legality amid systemic fragility. Recognizing, strengthening, and integrating arbitration into a broader vision of judicial reform is a commitment to a more accessible, equitable, and credible justice system. *Let's do it!*