

EXTENDED SUMMARY

This study examines, within the framework of the Code of Civil Procedure, the authority of the arbitral tribunal or arbitrators to grant interim measures, the conditions for exercising this authority, the enforceability of such decisions under judicial supervision, and the remedies available against these decisions, as well as the liability for damages arising from wrongful interim measures. The main purpose of the study is to reveal how the arbitration process, based on party autonomy, functions regarding provisional legal protection measures and the extent to which the balance of interests, legal safeguards, and the right to a fair trial are preserved.

Arbitration, as an alternative dispute resolution method to state adjudication, offers the parties a procedural framework based on flexibility, confidentiality, and expertise. However, the effectiveness of arbitration as a functioning dispute resolution mechanism depends not only on the arbitrators' ability to render a final award but also on the application of provisional legal protection measures ensuring the parties' rights during the proceedings. In this context, the institution of interim measures plays a central role in preventing harm, preserving the status quo, and guaranteeing the enforceability of the final award.

Article 414 of the Code of Civil Procedure grants the arbitral tribunal or arbitrators the authority to order interim measures and the taking of evidence. However, this authority is not unlimited; it requires the existence of a valid arbitration agreement, the arbitrability of the dispute, the absence of an agreement to the contrary, and the proper constitution of the arbitral tribunal. Moreover, in accordance with the principle of party disposition, arbitrators may issue such measures only upon a party's request, not ex officio.

For the granting of an interim measure, a standard of approximate proof is sufficient. The arbitrator, without requiring the applicant to establish full proof, assesses whether the claim is based on a reasonable and convincing foundation through partial evidence. This standard serves both the purpose of speed and practicality in arbitration and the preservation of the balance of interests between the parties. Nevertheless, the arbitrator or arbitral tribunal may make the interim measure conditional upon the provision of security. The purpose of such security is to prevent damages arising from the execution of the

interim measure and to ensure protection against wrongful measures. Arbitrators may, even without a party's request, decide ex officio on the requirement of security.

In arbitration, an interim measure may, in certain circumstances, be granted without hearing the opposing party. However, this exception applies only in cases where delay may cause harm and provided that the opposing party is later allowed to exercise the right of defense.

Arbitral interim measures are binding only upon the parties to the arbitration agreement and produce no legal effect on third parties. This results from the contractual nature of arbitration. The issuance or enforcement of an arbitral decision against third parties is possible only if they are also parties to the arbitration agreement.

For an interim measure ordered by arbitrators or an arbitral tribunal to be enforceable, a court decision is required. Pursuant to Article 414 of the Code of Civil Procedure, the court examines the existence of a valid arbitration agreement, the proper appointment of the arbitrators, and whether the measure contravenes public policy, yet it does not review the merits of the dispute. The court's review is procedural in nature, and under Article 394, no objection or appeal may be filed against the decision on enforceability.

In arbitration, the remedies of objection, annulment, and compensation against interim measures also serve as complementary safeguards for the parties' legal protection. Although Article 414 of the Code of Civil Procedure contains no specific provision on this matter, Articles 394 and 444 apply by analogy. The right to object may be exercised regardless of whether the opposing party was heard, and arbitrators may modify or revoke the measure upon objection or a change in circumstances.

As for the annulment action, the interim measure rendered by arbitrators also constitutes an arbitral award; therefore, if any of the annulment grounds listed in Article 439/2 of the Code of Civil Procedure exists, such a decision may be challenged through an annulment action. Thus, the mechanism of legal supervision in arbitration proceedings is preserved.

The study also addresses the issue of liability for damages arising from wrongful interim measures. Although the Code of Civil Procedure contains no explicit provision specific to arbitration, Article 399 may be applied by analogy.

Accordingly, if the party in whose favor the measure was granted is later found to have been unjustified, or if the measure lapses or is revoked upon objection, compensation may be sought for damages caused by the wrongful interim measure.

For a compensation claim to be filed, it is not required that the court has rendered a decision regarding the enforceability of the interim measure. What matters is that the measure is unjust, has been implemented, and has caused damage. If such an action is not brought within one year from the finalization of the judgment or the termination of the measure, it becomes time-barred. If the claim is upheld, the damage is first covered from the security provided by the applicant; if no action is filed within one month, the security is released.

In conclusion, the study emphasizes the significance of the interim measure mechanism in arbitration proceedings from both procedural law and the right to a fair trial perspectives. The authority of arbitrators to grant interim measures ensures the efficiency of arbitration and maintains the balance of interests between the parties, while judicial supervision and available remedies guarantee that the process proceeds fairly and in accordance with the law. Allowing compensation for damages arising from wrongful interim measures constitutes one of the key mechanisms completing judicial protection in arbitration proceedings.

In this context, the study aims to contribute to arbitration practice by comprehensively examining the theoretical foundations, practical conditions, and legal consequences of arbitrators' authority to grant interim measures within the framework of the Code of Civil Procedure.