

ADVANGATES OF THE ARBITRATION PROCEDURE
conducted before the ad-hoc arbitrators associated at the Arbitration Court of the Czech Republic

The Arbitration Procedure is an off-court way of settling property disputes, the basic stipulations of which are contained in Act No. 216/1994 Coll., on Arbitration Procedure and Execution of Arbitration Awards, as amended.

In accordance with the provisions of Section 30 of the quoted law, the legal relations in the area of the arbitration procedure are governed secondarily (supportably) by the provisions of the general process-law regulation in the area of the process law, which is Act No. 99/1963 Coll., on the Civil Court Procedure (Civil Court Rules of Procedure) as amended. The quoted Act, the process provisions of which stipulating the procedure of the court in the conduct of the legal process are followed also by the arbitrators in the maintenance of the arbitration procedure is available for download here.

The enforcement of the arbitration award, which is the so-called execution title in the Czech legislation, which means, that the entity succeeding before the arbitrator, may enforce directly the execution of the award, may be implemented at court, or through private executors operating on the basis of Act No. 120/2001 Coll. on Court Executors and Execution Activity (Execution Rules of Procedure) and on change of other laws (available for download here). The Arbitration Court of the Czech Republic is based on a request of the dispute party, which succeeded fully in the matter, able to mediate the execution of the decision by a court or a private executor performing at the Chamber of Court Executors, which is an autonomous professional organization of the court executors.

The essence of the arbitration procedure before an ad-hoc arbitrator is an agreement of the disputing parties on their dispute being settled just in the form of an arbitration procedure before the ad-hoc arbitrator or before the board of ad-hoc arbitrators associated at the Arbitration Court of the Czech Republic. The agreement of the contractual parties may either take a form of an arbitration agreement or arbitration clause. The result of the arbitration procedure is an arbitration award, that is a decision, which has effects of a final judgment and is thus a proper execution title.

- *Speed* - whereas the legal process is usually a question of many years, the arbitration procedure maintained before the Arbitration Court of the Czech Republic is a matter of no more than a few weeks. The Arbitrator proceeds in the procedure without useless formalities, which enables him or her to understand better the standpoints of both parties and thus lead them often to a peaceful solution.
- *Non-public nature of the procedure* - provides both participants of the procedure with a certainty, that the facts forming the subject of the dispute will not be presented publicly. Whereas the judgment of the general court must be declared publicly and during the procedure, it is possible to exclude the public only in exceptional cases, the arbitration award is issued only before the disputing parties.
- *Lower costs* - settlement of the disputes before the ad-hoc arbitrators associated at the Arbitration Court of the Czech Republic is cheaper than a standard legal process implemented by the courts of the general judicial system, in principle by 50%. It is also cheaper than for instance a procedure before the Arbitration Court at the Economic Chamber of the Czech Republic and the Agrarian Chamber of the Czech Republic, or before the Arbitration Court at the Czech-Moravian Commodity Exchange.

- *Broad enforceability* - the arbitration award issued by the arbitrator, which is delivered to the disputing parties, becomes effective as a final court judgment. It is thus a proper execution title and on its basis, it is possible to start immediately to enforce the decision. A great advantage is also a broad enforceability of the arbitration award in foreign countries – in this respect, it is a far better execution title than a court judgment, which is considered abroad a decision of a foreign state power and its enforceability is thus recognized very unlikely.
- *Technical Background* - ad-hoc arbitrators associated at the Arbitration Court of the Czech Republic may utilize in the procedure the perfect technical and personnel background. The computer equipment, copying equipment, internet, notary services are available together with the Czech Post Office as well as a foreign express postal services.

Other Benefits of the Arbitration Procedure:

- *Quality* - the disputes are settled by professionals from the field of legal theory as well as legal practice and economic sciences having at their disposal an ensemble of the legal, economic and financial advisors, a possibility to consult the legal problems readily with the leading experts active in the judicial system, banking as well as financial and business sphere, at universities and in scientific institutions.
- *Credibility* - the disputes are decided by arbitrators on which the parties agreed in advance – they have a confidence of all involved parties.
- *Informality* - the arbitration procedure is much more informal than the procedure before the courts, the strict compliance with the process regulations is however guaranteed
- *Single Instance* - the decision of the arbitrators in the form of the arbitration procedure is final and its delivery to the parties is legitimate, then enforceable and no remedy may be filed against the arbitration award, the court may cancel the arbitration award for reasons not stated in the Act. However, this gives no space for non-compliance with the laws
- *Option of Entering into an Amicable Solution* – the arbitration procedure does not have to end always by a legitimate, final arbitration award, as with regards to its informality, it provides a much greater space for coming to a peaceful arrangement

Equity (Justice) - the principle „ex aequo et bono“) regardless of sometimes controversial provisions of the valid material law – if the contractual parties agree in advance, the arbitrator may follow the principle of equity (justice) in its decision-making even beyond the frame of the applicable law, - this enables the arbitrators to utilize more the experience from the economic as well as legal practice and to reach a just decision.