

**CODE OF CIVIL PROCEDURE**  
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## **Chapter Thirty-One**

### **PROCEDURE BEFORE ARBITRAL TRIBUNALS**

#### **Article 459**

This Chapter shall govern the procedure before arbitral tribunals, having their seat in the Republic of Slovenia, unless another law or international agreement stipulates that a particular arbitral tribunal, having its seat in the Republic of Slovenia, shall be considered a foreign arbitration.

#### **Article 460**

In disputes arising from rights with which they can freely dispose, the parties may provide for jurisdiction of a domestic arbitration by their agreement.

In disputes in which at least one party is a natural person with permanent residence in a foreign state or a legal person with its seat in a foreign state, the parties may also agree on a jurisdiction of a foreign arbitration, unless a court of the Republic of Slovenia has exclusive jurisdiction over such disputes.

#### **Article 461**

An arbitration agreement may be concluded in relation to a particular dispute, as well as in relation to future disputes which may arise from a particular legal relationship.

An arbitration agreement shall be valid only if made in writing.

An arbitration agreement is also made in writing if made by the exchange of letters, cables, telex messages or other means of telecommunications, which can provide a written record of its conclusion.

An arbitration agreement shall be deemed to have been made in writing also by the exchange of a statement of claim, in which the claimant alleges the existence of such agreement, and a statement of defense, in which the respondent fails to deny this allegation.

#### **Article 462**

An arbitration agreement shall be deemed to be concluded, if a clause providing for the jurisdiction of an arbitration is contained in general conditions for the conclusion of a legal transaction.

#### **Article 463**

The number of arbitrators shall be odd.

If the parties failed to specify the number of arbitrators in the arbitration agreement, each party shall appoint one arbitrator, whereupon the two appointed arbitrators shall elect the president.

#### **Article 464**

If the parties have agreed to confer the jurisdiction over a certain dispute to arbitration, a court of law with which an action has been brought in the same matter and between the same parties shall, upon defendant's objection to its jurisdiction, declare itself not competent, set aside all acts already performed in the proceedings, and dismiss the action.

The defendant must raise the objection referred to in the first paragraph of this Article not later than at the preliminary hearing or, in the absence of such hearing, at the main hearing, before he begins pleading the substantive issues of the dispute.

### **Article 465**

The party who should appoint an arbitrator under the terms of the arbitration agreement may be requested by the opposing party to do so within fifteen days, and to notify the opposing party of this fact.

The request, pursuant to the first paragraph of this Article, shall only be valid if the requesting party has appointed his own arbitrator and has notified the opposing party of this fact.

If, under the terms of the arbitration agreement, an arbitrator should be appointed by somebody else, each party may send to such person a request, referred to in the second paragraph of this Article.

The person requested to appoint an arbitrator shall be bound by the appointment he has made, from the moment when the opponent or one of the parties are notified of this fact.

### **Article 466**

If an arbitrator is not appointed on time and the arbitration agreement does not provide otherwise, the court shall appoint such arbitrator, upon motion by any of the parties.

If the arbitrators cannot agree on the election of the president, and the arbitration agreement does not provide otherwise, the court shall appoint the president, upon motion by either any of the arbitrators or any of the parties.

The power to appoint an arbitrator and the president of an arbitration panel shall be vested in the District court on the territory of which the court of arbitration has its seat.

No appeal shall be allowed against the decree of the court.

The party who does not wish to exercise the rights referred to in the first and second paragraphs of this Article, may bring an action with the court, having competence for the aforementioned appointments, asking it to declare that the arbitration agreement is terminated.

### **Article 467**

In addition to the case referred to in Article 466 of this Code, each party may bring an action, asking the court to terminate the arbitration agreement:

1. if, within thirty days after the receipt of the initial request, the parties fail to reach a consensus on an arbitrator, which they should appoint jointly;
2. if the person, already appointed as an arbitrator by the arbitration agreement, does not wish or is unable to assume this duty.

Such claim shall be decided by the court, referred to in the third paragraph of Article 466 of this Code.

The court shall summon the parties to a hearing to consider the action; however, the court may issue its decision in case the parties, which have been duly summoned, do not appear in court.

#### **Article 468**

An arbitrator shall disqualify himself if grounds for disqualification, as set forth in Article 70 of this Code, are present. Any party may ask that an arbitrator be disqualified on the same grounds.

The party who has appointed an arbitrator, either alone or together with the opposing party, may challenge such arbitrator only when the grounds for disqualification came into existence, or the party has learnt of such grounds, after the appointment had been made.

Unless otherwise agreed by the parties, the decision regarding disqualification shall be made by the court, referred to in Article 466 of this Code.

#### **Article 469**

Unless otherwise agreed by the parties, the arbitrators may conduct the arbitration proceedings in such manner as they consider appropriate.

The arbitrators shall treat the parties on an equal basis and shall give them full opportunity, at every stage of the proceedings, to state their opinions and to comment on statements made by the opposing party.

#### **Article 470**

The arbitral tribunal may not use any compulsory measures nor impose punishment on witnesses, parties and other persons participating in the proceedings.

The arbitral tribunal may request the court having territorial jurisdiction to provide legal aid (Article 174) to examine such evidence as cannot be produced and examined before the court of arbitration. Such production and examination of evidence shall be governed by the provisions of this Code, applying to the examination of evidence before a judge, requested to give assistance.

#### **Article 471**

The arbitral tribunal may decide *ex aequo et bono* only if the parties have authorized it to do so.

#### **Article 472**

If the arbitral tribunal consists of more than one arbitrator, the arbitral award shall be rendered by a majority vote, unless otherwise provided by the arbitration agreement.

If the necessary majority cannot be reached, the arbitral tribunal shall notify the parties of this fact.

Unless the parties have provided otherwise for a situation mentioned under the second paragraph of this Article, either party may bring an action, asking the court, referred to in the third paragraph of Article 466 of this Code, to terminate the arbitration agreement.

#### **Article 473**

An arbitral award shall contain a statement of reasons, unless it is agreed otherwise by the parties.

The original and all copies of the arbitral award shall be signed by all arbitrators. The arbitral award shall be valid even though an arbitrator refuses to sign it, provided the majority of arbitrators have signed it, and have stated on the face of it, that an arbitrator withheld his signature.

Copies of the arbitral award shall be served on the parties by the court, specified in the third paragraph of Article 466 of this Code. Permanent courts of arbitration shall serve their awards themselves.

#### **Article 474**

The original of an arbitration award and the proof of its service shall be kept with the court specified in the third paragraph of Article 466 of this Code; if the award has been rendered by a permanent court of arbitration, they shall be kept therewith.

#### **Article 475**

With respect to the parties, the arbitral award shall have the same effect as a final judgment, unless the parties have agreed in their arbitration agreement that it may be contested before a higher court of arbitration.

Upon motion of a party, the court specified in the third paragraph of Article 466 of this Code, shall attest on a copy of the arbitral award that the award is final and enforceable. Permanent courts of arbitration shall themselves attest that their awards are final and enforceable.

#### **Article 476**

Upon an action by a party, an arbitral award may be set aside.

The court specified in the third paragraph of Article 466 of this Code shall have the jurisdiction to hear such claims.

#### **Article 477**

Setting aside of an arbitral award may be claimed:

1. if the arbitration agreement has not been concluded at all, or if the arbitration agreement is not valid (Articles 460 to 462);
2. if any provisions of this Code, or of the arbitration agreement, regarding the composition of the arbitral tribunal or the rendering of the award, have been violated;
3. if an arbitrator who should have been disqualified pursuant to the provisions of this Code, or who has been disqualified by a decree of the court (Article 468), participated in rendering of arbitral award;
4. if due to any unlawful procedural action, particularly with respect to the service of process, a party has been denied the opportunity to be heard before the arbitral tribunal;
5. if a person incapable of being a party to the civil proceedings, participated in the arbitral proceedings as a claimant or respondent, or if a party to the proceedings, which is a legal person, was not represented by a person authorized by law to represent it, or if a person incapable of being a party to civil proceedings was not represented by a lawful representative, or if the latter did not have the necessary permission to start the litigation or take a particular procedural action, or if a representative of a party did not have a power-of-attorney, unless the litigation or individual procedural actions were subsequently approved;
6. if the arbitral award has no statement of reasons, as specified by the first paragraph of Article 473 of this Code, or if the original and copies of the arbitral award are not signed in accordance with the second paragraph of Article 473 of this Code;
7. if the arbitral tribunal overstepped the limits of its powers;

8. if the decision of the arbitral award is incomprehensible or self-contradictory;
9. if the arbitral award is contrary to the public order of the Republic of Slovenia;
10. if it was established by a final judgment of a court of law, that an arbitral award has been rendered as a result of a criminal offence of a witness, an expert, an arbitrator, a party's statutory representative or attorney, or of any other person participating in the proceedings, or if the arbitral award is based on a forged document, or a document certifying false facts.

### **Article 478**

The action for the setting aside (annulment) of an arbitral award shall be filed with the competent court within thirty days. If annulment is sought for any of the reasons stated in subparagraph 1 to 9 of Article 477 of this Code, this period shall run from the day the award has been served on a party; if a party has learned of such reason only later, this period shall run from the day on which a party has learned of such reason. If annulment is sought pursuant to clause 10 of Article 477 of this Code, this period shall run from the day when a party has been given the opportunity to use a final judgment of the competent court.

The annulment of an arbitral award may not be claimed after one year has passed since it became final.

### **Article 479**

The parties may not by mutual agreement waive the application of the provisions of the first and second paragraphs of Article 468, of the second paragraph of Article 469 and of Articles 476 to 478 of this Code.