

## **PERMANENT COURT OF ARBITRATION ATTACHED TO THE ECONOMIC CHAMBER OF MACEDONIA**

The Permanent Court of Arbitration attached to the Economic Chamber of Macedonia was established by a Decision of the Assembly of the Economic Chamber of Macedonia on March 1993, when the Rules on organization, procedure and operation of the Permanent Court of Arbitration was adopted.

According to that enactment a general, open and permanent Arbitration is established, whose function is based on the principles of voluntariness, independence and autonomy, with a competence to resolve disputes arisen in the turnover of goods and services (commercial disputes). The Rules are prepared and the operation of the Arbitration is organized on the basis of the experiences and practice of the relevant arbitrations worldwide which have long years of experience in resolving disputes of this kind, which provide fast and efficient resolving of the disputes and carrying out of arbitral decisions.

Pursuant to the Rules of this Court, it may initiate procedures for mediation, agreement, i.e. resolving or settlement of disputes arising from the mutual relations in the field of turnover of goods and services (commercial disputes) that the enterprises independently regulate or which results of the rights freely enjoyed by them, except those for which a sole competence of the ordinary courts is established by the law or by other regulation, before the Arbitration.

The Arbitration may also settle international disputes, under the following conditions:

- a) In case of commercial dispute, considering rights which parties may freely dispose of;
- b) In case the parties agreed upon the jurisdiction of the Permanent Court of Arbitration attached to the Economic Chamber of Macedonia;
- c) In case when at least one of the parties is a natural person with a permanent residence abroad, or a legal person with a seat abroad; and
- d) In case the dispute doesn't fall is not in the exclusive jurisdiction of the ordinary Macedonian court.

Agreement on the Arbitration competence shall be made by an Arbitration agreement in writing. It may be in a form of arbitration clause in the basic contract, or as separate arbitration contract, clearly stipulating that the dispute shall be settled by the Arbitration in accordance with the provision of this Rules. However, the parties may derogate procedural provisions of these

Rules by their agreement, unless such agreement is in contravention to the public order of the Republic of Macedonia.

The Permanent Court of Arbitration attached to the Economic Chamber of Macedonia shall be liable to apply the law defined by the parties as an applicable law to the substance of the dispute. But, if the parties fail to define it, the Arbitration shall apply the law determined by the conflict-of-laws rules the application of which it considers appropriate.

The Arbitration may decide on the principle of equity ( "EX AEQUO ET BONO") only if the parties have expressly authorized it to do so, and the law, applicable to the arbitral procedure, allows such a decision. In any case, the Arbitration shall be liable to pass a decision in accordance with the provisions of the agreement and to consider the commercial traditions relevant thereto.

The procedure of Arbitration, by rule, shall be conducted in Macedonian, but the parties may agree the procedure of the Arbitration Court to be conducted in another language.

The arbitrators for resolving of disputes can, as by rule, be elected from the Arbitration list of arbitrators. But, each party shall be entitled to elect arbitrator not included in the list of arbitrators, in that case consent of the elected arbitrator is necessary.

The disputes are settled by sole arbitrators (if the parties agreed so) or by Arbitration panel that consists of three members, in which each party appoints one arbitrator, and they agree to elect the President of the Arbitration panel. In case the arbitrators fail to appoint the President of the panel, then the President of the Permanent Court of Arbitration shall carry out the appointment.

The Arbitration panel shall give awards and other decisions by a majority of votes.

The decisions of the Arbitration pursuant to the law are equal with the court decisions and they are ready to be carried out.

However, if the parties resolve the dispute during the arbitral proceedings, the Arbitration panel shall either adopt a decision to terminate the arbitral proceedings, or shall make the award by consent.

The Permanent Court of Arbitration attached to the Economic Chamber of Macedonia in the past period has resolved a large number of commercial international disputes, in which were involved companies from Macedonia, Bulgaria, Russia, Germany, Slovenia and other countries.

It has to be mentioned that in its operation so far the Arbitration is resolving international disputes prevalently, or disputes arising between Macedonian

and foreign companies, while the disputes between domestic companies is minimal compared to those settled in ordinary courts. In order to surpass this, it is necessary to engage ourselves in increasing of the economic entities trust to resolve their disputes by arbitration on first instance, in a fast and skilled manner, instead of that in front of the ordinary courts, that is prolonged sometimes for years.

In the scope of its work the Permanent Court of Arbitration strives to establish contacts and cooperation with other international arbitrations, especially through the exchange of current information about the legislation development and arbitral law or direct contacts with representatives of the arbitral courts in order to exchange views and information about the disputes resulting from their practice.

Especially in that regard, the Permanent Court of Arbitration attached to the Economic Chamber of Macedonia establishes cooperation with the foreign arbitral institutions that have greater experience and practice in resolving international disputes among the parties, and concludes cooperation agreements, with a reciprocity clause in resolving disputes between contracting parties of both countries with the Permanent Courts of Arbitration attached to the Chambers of Commerce and Industry of Slovenia, Croatia, Bulgaria, Ukraine, Russian Federation and Serbia and Montenegro.

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