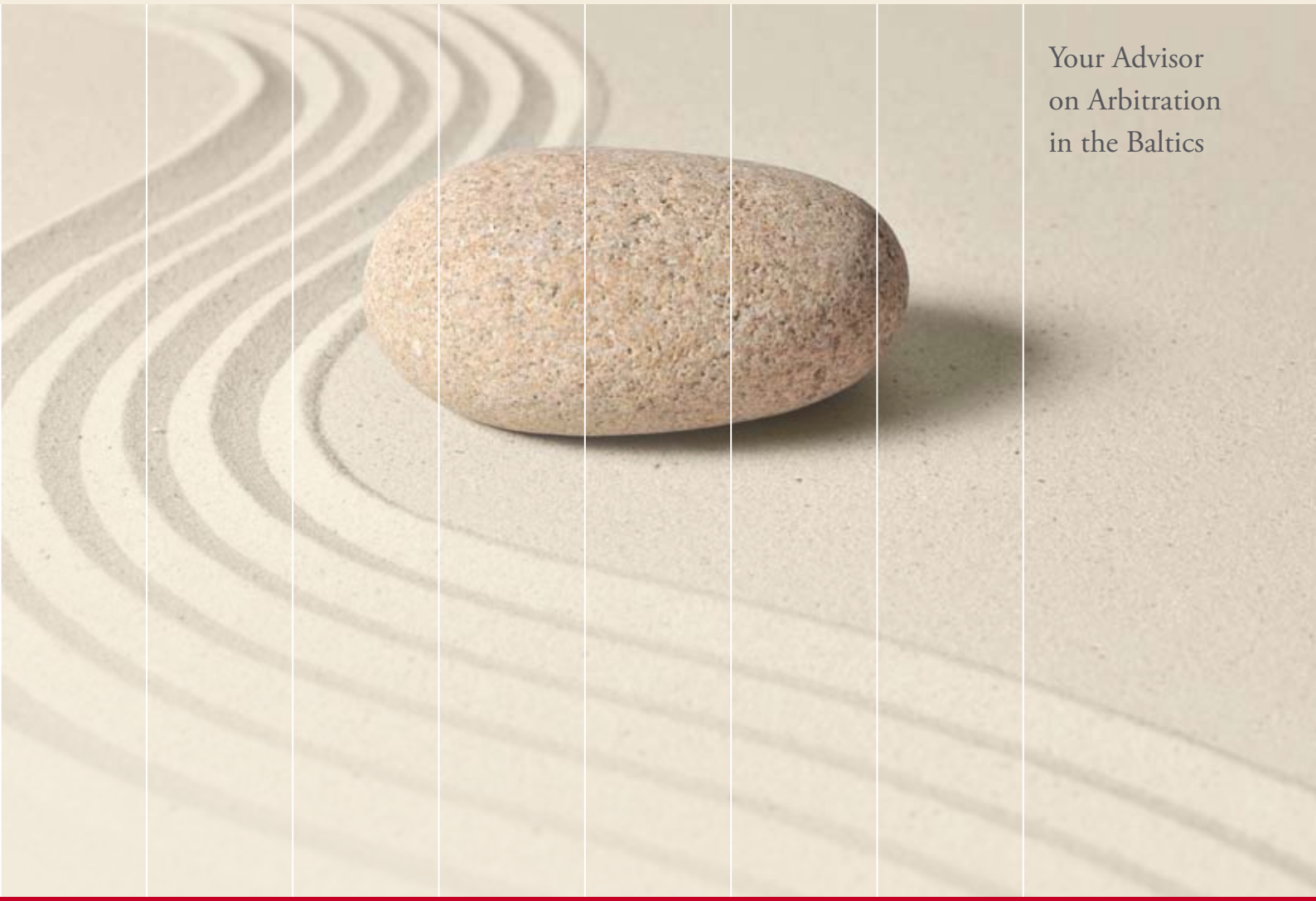
Arbitration in the Baltics

LAWIN



Your Advisor
on Arbitration
in the Baltics

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Dear Reader,

LAWIN – leading law services provider in the Baltics – is pleased to present the first edition of ***Arbitration in the Baltics***. A team of LAWIN professionals has developed its expertise in arbitration through practice before international and national arbitration institutions, *ad hoc* arbitration and participation in many of the most complicated arbitration cases in Estonia, Latvia and Lithuania.

We hope you will find this publication useful, especially considering that arbitration, being a comparatively new notion in the Baltic States, has increasingly gained popularity since the restoration of independence in Estonia, Latvia and Lithuania. In addition, investment dispute arbitration has increasingly appeared in all three Baltic countries.

Internationally, arbitration is the most popular alternative to commercial dispute resolution in courts, due to a number of advantages available to its practitioners, including confidentiality, neutrality and arbitrators' expertise. However, in countries such as the Baltic States, where interest in arbitration is just growing, this form of dispute resolution is expected to become more prevalent as the business community learns of its benefits. In this publication, you will find not only a general overview of arbitration but also information about the most important issues concerning arbitration in each of the three Baltic countries.

Sincerely,

LAWIN Team

I. General Overview of Arbitration

1. DEFINING AND REVIEWING ARBITRATION

Commercial disputes have always been, and will continue to be, inevitable. Historically, commercial disputes have been solved in national courts, in which litigation proceedings have been strictly determined by national and international laws. However, formal judicial proceedings in national courts provide very limited possibilities for the parties to control the process, and thus are often unsuitable for solving business disputes. Therefore, other mechanisms of dispute resolution (known as alternative dispute resolution, or ADR) have been developed. Arbitration is one of the most common forms of alternative dispute resolution.

1.1. Essence of arbitration

Disputes may be referred to arbitration only upon the mutual consent of the parties. Therefore, arbitration may be defined as an extrajudicial mechanism whereby the parties in dispute voluntarily refer their disagreement to a third party – an arbitrator – and agree in advance to be bound by the arbitrator's final decision. Accordingly, it is the parties to a dispute who determine whether they want their disagreement to be solved through arbitration, while the arbitrators derive their authority from the consent of the parties.

The parties are free to choose the place (seat) of arbitration, by agreeing to such in an arbitration clause or arbitration agreement before a dispute emerges, or afterwards. The parties may also determine the "rules of the game", either by designing the process themselves, or by choosing an arbitration institution which provides services of organising arbitration proceedings and a set of adopted rules that govern the process. It should be noted, however, that despite the rules agreed upon by the parties and the rules provided by arbitration institutions, arbitration is regulated by mandatory rules of national and international laws.

One of the significant features of arbitration is that an arbitral award is final and binding and may be subject to review by a national court only on very limited grounds. In some countries, appeals against arbitral awards are not possible at all (e.g., in Latvia). Moreover, when choosing arbitration as a dispute resolution mechanism, the parties usually waive the right to solve their dispute in courts.

Confidentiality is another feature of arbitration which distinguishes it from litigation in courts. An arbitration process, including the hearings, is confidential, and therefore neither the public nor the media are allowed to participate therein. In addition, final arbitral awards are usually not published unless the parties agree otherwise.

In summary, the following are the defining characteristics of arbitration:

- Arbitration, as an alternative to judicial dispute resolution, is voluntary;
- Arbitration is controlled by the parties;
- Arbitration is a private mechanism for dispute resolution;
- Arbitration leads to a final and binding arbitral award, which usually may be appealed against only on very limited grounds (if any).

1.2. Arbitration agreement

Since arbitration is voluntary, it is based on an agreement of the parties (known as an arbitration agreement or arbitration clause), which forms the basis of the arbitration proceedings. Such an agreement may be concluded before a dispute emerges (i.e., by including an arbitration clause in a contract at the time of its signing), or after a dispute emerges (i.e., by concluding a separate arbitration agreement). Arbitration institutions usually recommend their standard arbitration clauses, which are widely recognised, and help to avoid disagreements in the future and problems of enforceability of arbitration agreements. Although arbitration institutions recommend the use of standard arbitration clauses, it should be noted that each arbitration clause should be drafted very carefully, taking into account the circumstances of the existing or envisioned future dispute, as well as the language of the proceedings, the number of arbitrators, the seat of arbitration, etc.

1.3. Non-arbitrable disputes

Not all disputes may be solved by arbitration, as national laws usually prescribe a list of disputes which can be heard only by courts. Generally, non-arbitrable disputes are those which concern the public interest, i.e., disputes arising out of criminal, constitutional, employment, family or administrative legal relations.

1.4. Forms of arbitration

Arbitration may be conducted either *ad hoc* or through an agreed established arbitration institution which provides services of organising arbitral proceedings.

Ad hoc arbitration means an arbitration process where the parties select the arbitration format and structure without any assistance from an arbitration institution. Therefore, the parties have wide discretion in conducting the arbitration proceedings. However, in order to prevent one of the parties from using such discretion dishonestly, when choosing *ad hoc* arbitration the parties should agree upon all the aspects of the arbitration, including the applicable law, the rules under which the arbitration will be conducted, the number of arbitrators, the method for selecting the arbitrator(s), the language and place of arbitration, etc. The parties may either develop their own rules, or select the Arbitration Rules of the United Nations Commission on International Trade Law (known as the UNCITRAL Arbitration Rules).

Arbitration institutions and other bodies, which provide facilities and rules for national and international arbitration, exist in practically all countries. Institutional arbitration is normally chosen for solving large commercial disputes. Arbitration institutions offer a range of fee-based services designed to facilitate the conduct of arbitration proceedings. They provide facilities and staff, and usually maintain lists of qualified arbitrators from which the parties may choose arbitrators for settlement of their disputes. Most importantly, in providing published procedural rules for arbitration, arbitration institutions provide efficiency and reduce uncertainty in the arbitration process.

1.5. Arbitrators

The parties are free to agree on the procedure which will be applied for the appointment of the arbitrator(s). If the parties intend to refer their dispute to a sole arbitrator, they may agree on a particular sole arbitrator in forming the arbitral tribunal, or may agree that the sole arbitrator will be appointed by an external party (e.g., an arbitration institution). If the parties intend to refer their dispute to a panel of arbitrators (consisting usually of three arbitrators), then each party, as a rule, will appoint one arbitrator and the third arbitrator will be appointed by the two party-appointed arbitrators, an arbitration institution.

Not only persons with legal qualification may be appointed as arbitrators, though usually the chairman of the arbitral tribunal is legally qualified. The possibility to appoint an arbitrator enables the parties to have their dispute resolved by persons with specialised competence in the relevant field. If the parties do not agree on the arbitrators' appointment procedure, then the arbitrators are appointed according to the applicable national arbitration laws and/or the rules of the arbitration institution selected by the parties.

1.6. Arbitration proceedings

While arbitration proceedings may be governed by the rules of an arbitration institution (if such is selected by the parties), the parties to a dispute are free to agree on most issues of the arbitration proceedings. By their agreement, the parties may either amend the rules of the selected arbitration institution or may agree on additional issues which are not provided for by the rules (i.e., the parties may choose the time schedule of the arbitration proceedings, the place and language of arbitration, the number of hearings, the number of procedural documents to be submitted during the arbitration proceedings, the admissible evidence, etc.).

Although the parties have a wide range of choice in the arbitration proceedings, the principles of procedural equality, confidentiality, adversarity, economy and cooperation should be obeyed. Moreover, the parties must apply the mandatory domestic procedural rules of the country of the seat of arbitration.

1.7. Arbitral award

Following the arbitration proceedings, the arbitral tribunal will render an arbitral award. In most cases, arbitral awards are final, binding and not subject to appeal. However, some national arbitration laws (e.g., Lithuanian, Estonian) allow for the right of challenge on a limited number of grounds, e.g., an unsuccessful party may challenge the award by claiming that the arbitrators exceeded their powers, or that a party to a dispute was not properly informed about the arbitration proceedings.

1.8. Recognition and enforcement of arbitral awards

Domestic arbitral awards usually may be directly enforced under the same rules as those for the enforcement of judgements of national courts, while foreign arbitral awards usually may be enforced only after being recognised and authorised for enforcement by an appropriate state authority.

The fundamental international act establishing the rules for recognition and enforcement of foreign arbitral awards is the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the "New York Convention"). More than 140 countries **have ratified or acceded to the New York Convention, including Estonia, Latvia and Lithuania**.

The New York Convention provides an exhaustive list of grounds on which a foreign arbitral award may be challenged, and specifies that the domestic law of the relevant contracting state is to be applied for technical enforcement procedures.

Under Article V of the New York Convention recognition and enforcement of a foreign arbitral award may be refused, at the request of the party against whom it is invoked, only if that party furnishes to the competent authority where the recognition and enforcement is sought, proof that:

- The parties to the agreement (referred to in Article II of the New York Convention) were, under the law applicable to them, under some incapacity, or the said agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon,

under the law of the country where the award was made; or

- The party against whom the award is invoked was not given proper notice of the appointment of the arbitrator or of the arbitration proceedings or was otherwise unable to present his case; or
- The award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration, provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, that part of the award which contains decisions on matters submitted to arbitration may be recognized and enforced; or
- The composition of the arbitral authority or the arbitral procedure was not in accordance with the agreement of the parties, or failing such agreement, was not in accordance with the law of the country where the arbitration took place; or
- The award has not yet become binding on the parties, or has been set aside or suspended by a competent authority of the country in which, or under the law of which, that award was made.

Recognition and enforcement of a foreign arbitral award may also be refused if the competent authority in the country where recognition and enforcement is sought finds that:

- The subject matter of the dispute is not capable of settlement by arbitration under the law of that country; or
- The recognition or enforcement of the award would be contrary to the public policy of that country.

2. BENEFITS OF ARBITRATION

Supporters of arbitration emphasise that it has a multitude of advantages over litigation in the national courts. The most common samples of such benefits are listed in the table below.

Benefit	Brief description
Neutrality and flexibility	Since the parties in arbitration are free to agree on almost all aspects of the arbitration proceedings (which is impossible in judicial proceedings), this provides flexibility to the arbitration and the possibility to structure the proceedings in a neutral manner, avoiding undue advantages to either party.
Confidentiality	Arbitration hearings are confidential; therefore, neither the public nor the media is permitted to attend them. Moreover, arbitral awards are not published and are not directly accessible, unless otherwise agreed by the parties.
Costs	Arbitration may be less expensive than litigation in courts. Arbitral awards may be appealed only on very limited procedural grounds (if any) and this saves parties' costs as compared to litigation in all instances of national courts. In addition, one of the main differences between litigation and arbitration is that in arbitration it is the losing party which usually has to cover all the arbitration costs of the prevailing party, while in judicial dispute resolution usually only part of the prevailing party's litigation costs may be covered by the losing party.
Speed	Arbitration is normally faster than litigation since the arbitral award becomes final and binding immediately after it has been rendered and appeals are restricted to limited procedural grounds. However, the speed of arbitration depends mainly on the qualification and work load of the arbitrators, and on the attorneys of the parties, since they control the proceedings and their duration.
Choice of arbitrator	The parties may choose a person with special qualifications as an arbitrator, which is especially advantageous in complicated disputes where it is helpful that the arbitrator possesses knowledge in a particular field of commerce, economy, etc.
Final and binding arbitral awards	Arbitral awards are much more likely to be final than the judgements of courts of the first instance since the former are subject to very limited challenge (if any).
Enforceability	Domestic arbitral awards usually can be directly enforced under the same rules as the judgements of national courts. Enforcement of foreign arbitral awards is often easier than enforcement of judgements of foreign courts due to the widely accepted New York Convention.

II. Arbitration in Estonia

1. MAIN ARBITRATION INSTITUTIONS AND REGULATIONS

There are two types of arbitration in Estonia: *ad hoc* arbitration, used for resolution of a particular dispute, and institutional arbitration. The main difference is that the proceedings of *ad hoc* arbitration are not regulated by law or by any rules in much detail, and an award rendered is initially not subject to compulsory enforcement, although compulsory enforcement becomes feasible after the recognition of the award by a court of general jurisdiction. In contrast, judgments of permanent arbitration institutions are subject to compulsory enforcement.

1.1. Arbitration institutions

Below is general information about the most prominent arbitration institutions in Estonia.

- **The Arbitration Court of the Estonian Chamber of Commerce and Industry** (the "ACECCI") is the only general commercial arbitration institution in Estonia. The ACECCI is a permanent arbitration court, which settles disputes arising out of contractual and other civil law relationships, including foreign trade and other international economic relations.

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Arbitration Court Counsellor
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10130 Tallinn, Estonia
Tel.: +372 604 0060
Fax: +372 604 0061
E-mail: debbie@koda.ee
http://www.koda.ee/

Link to the rules:
http://www.koda.ee/?id=1389

- **The Court of Arbitration of the Tallinn Stock Exchange** is a permanent independent court of arbitration established for the purpose of resolving disputes arising out of transactions, listing of securities or other matters related to the Tallinn Stock Exchange (provided that the parties have agreed on arbitration).

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E-mail: tallinn@omxgroup.com
http://www.ee.omxgroup.com/

Link to the rules:
http://www.baltic.omxnordicexchange.com/files/tallinn/oigusaktid/en_arbit.pdf

- Some other institutions (i.e., the **Arbitration Court of the Council of Payment System Experts** and the **Insurance Court of Arbitration**, which operates with the Estonian Traffic Insurance Foundation) are also named as arbitration institutions in Estonia, however, they may not comply with the usual characteristics of arbitration institutions because a party is entitled to submit the same claim to a national court in case it does not agree with the decision made by such institution. Therefore, the regulation and practice of these institutions will not be analysed further.

Since the ACECCI is the best known arbitration institution in Estonia, the analysis of arbitration issues will be based mostly on the analysis of the

arbitration proceedings administrated by this institution.

1.2. National and international arbitration regulations

Arbitration in Estonia is mainly regulated by the Code of Civil Procedure (the "CCP") which determines the requirements for arbitration clauses, arbitral tribunals, competence of arbitral tribunals, arbitration proceedings, arbitral awards, grounds for terminating arbitration proceedings, revocation of arbitral awards and recognition and enforcement of arbitral awards.

As the enforcement of arbitral awards takes place under a general procedure, a number of other laws and regulations are also applied, including the Code of Enforcement Procedure.

Estonia has acceded to the New York Convention (entered into force in Estonia on 28 November 1993), the Washington Convention on the Settlement of Investment Disputes Between States and Nationals of other States (entered into force in Estonia on 23 July 1992), the Energy Charter Treaty (entered into force in Estonia on 2 August 1998), as well as a large number of bilateral investment treaties.

1.3. National and international commercial arbitration

According to the CCP, the provisions of the CCP regulating arbitration apply to arbitration proceedings conducted in Estonia, unless otherwise provided by law or a treaty. Some provisions of the CCP also apply when the place of arbitration is a foreign country or the place has not yet been determined. The same provisions regulate both national and international arbitration, as the definitions of international and national arbitration are not separately set forth in the CCP.

2. ARBITRATION AGREEMENTS

2.1. Requirements for arbitration agreements

An arbitration clause or arbitration agreement may be concluded regarding a particular dispute which already exists, as well as in respect to future envisioned disputes. An arbitration agreement may be included in any agreement in the form of a separate provision (arbitration clause), or it may be concluded as a separate agreement between the parties.

An arbitration agreement must be concluded in a form which can be reproduced in writing. An arbitration agreement may also be found in a written document in which a party confirms the content of an agreement to the other party.

The CCP does not stipulate any specific consequences in respect of non-fulfilment of the above formal requirements. However, an arbitration agreement could be recognised null and void on the general grounds for recognising agreements null and void. In addition, an arbitration agreement may be considered null and void if it is concluded in respect of a non-arbitrable dispute. It should be noted that arbitral tribunals are entitled to resolve the matter of the validity of arbitration agreements.

2.2. Arbitration clauses recommended by the main arbitration institutions

Most of the Estonian arbitration institutions recommend standard wording of arbitration clauses.

The ACECCI recommends the following arbitration clause:

1. The Parties shall attempt to resolve all disputes relating to this Agreement by negotiations.

2. If the Parties fail to resolve the disputes relating to

this Agreement through negotiations, the dispute shall be conclusively resolved in the Arbitration Court of the Chamber of Commerce and Industry of Estonia in Tallinn (hereinafter: the Arbitration Court) in accordance with the Rules of the Arbitration Court. The dispute shall be resolved on the basis of the laws of Estonia. The language of the Arbitration Court shall be Estonian.

3. The Arbitration Court shall consist of 3 (three) members. Each Party shall appoint one arbitrator within the time period prescribed by the Council of the Arbitration Court of the Chamber of Commerce and Industry of Estonia. Each Party shall ask the arbitrator to appoint a third arbitrator together with the arbitrator chosen by the other Party, who shall be the chairman of the Arbitration Court in the resolution of the dispute. If the arbitrators appointed by the Parties fail to choose a third arbitrator within the time period prescribed by the Council of the Arbitration Court of the Chamber of Commerce and Industry of Estonia, the third arbitrator who shall also be the chairman of the Arbitration Court shall be appointed by the Council of the Arbitration Court of the Chamber of Commerce and Industry. If the Parties fail to form the Arbitration Court in accordance with the provisions of this Article and the Rules of the Arbitration Court, the Arbitration Court shall be formed by the Council of the Chamber of Commerce and Industry of Estonia.

4. The award of the Arbitration Court shall be final and binding upon the Parties.

The Court of Arbitration of the Tallinn Stock Exchange does not recommend a particular arbitration clause.

3. NON-ARBITRABLE DISPUTES

Monetary claims (i.e., those whose value can be evaluated in money) may be examined in arbitration. An arbitration agreement concerning a non-monetary claim is valid only if the parties are entitled under the CCP to conclude a compromise in such matter.

It should be noted that, an arbitration agreement will be void if its subject-matter is a dispute concerning the validity or termination of a residential lease contract, or eviction from a dwelling located in Estonia, or termination of an employment contract.

A monetary claim under public law may be the subject-matter of an arbitration agreement only if an administrative agreement (i.e., an agreement which regulates administrative legal relationships involving the state, local government or any other public authority which performs public administration duties pursuant to law) may be entered into with respect to the subject-matter of the dispute in cases stipulated by law.

In addition, prohibitions or restrictions on referral of certain types of disputes to arbitration may be established by law.

4. JURISDICTION OF THE ARBITRAL TRIBUNAL

Arbitrators derive their competence (jurisdiction) from the consent of the parties. If the parties to a dispute raise objections in respect of the jurisdiction of the arbitral tribunal, the arbitral tribunal has the right to determine its competence and in connection therewith, also resolve the matter of existence of an arbitration agreement and of the validity of such agreement.

Any objection relating to the competence of the arbitral tribunal is to be submitted promptly in response to the claim. An objection relating to exceeding of limits of competence by the arbitral tribunal must be submitted not later than at the time of commencement of the arbitration proceedings concerning which the allegation of exceeding the limits of competence is made. The arbitral tribunal may, in either case, admit a later plea if it considers the delay justified. A party may file an objection regardless of whether or not the arbitrator was appointed by such party.

If an arbitral tribunal determines that it is competent to examine a dispute, it confirms this by issuing a separate decision on jurisdiction. It should be noted that under a systematic interpretation of the CCP, an arbitral tribunal may decide jurisdictional issues only as a preliminary question. A party may appeal such a decision to the court of general jurisdiction within thirty days after the decision is rendered and served upon the parties. If the arbitral tribunal has declared that it does not have jurisdiction over a dispute, the parties may defend their rights under the general procedure, unless the parties have agreed otherwise.

5. ARBITRATORS

5.1. Appointment, qualification, revocation and replacement of arbitrators

The parties are free to stipulate their own procedure for the appointment, revocation, replacement and resignation of arbitrators. If the parties do not agree upon such procedures, the provisions of the CCP outlined in the table below are applied. It should be noted that all duties set forth by the CCP in regard to courts of general jurisdiction are performed by the court stipulated in the arbitration agreement or, in the absence of such stipulation, by the court having territorial jurisdiction at the seat of arbitration.

Subject	Main applicable rules
Appointment of arbitrators	The parties may agree on the procedure for appointment of arbitrators. However, if the parties to a dispute did not earlier agree upon the number of arbitrators, the dispute will be resolved by three arbitrators. In the latter case, each party will appoint one arbitrator, and the two party-appointed arbitrators will then appoint the third arbitrator, who will act as the chairman of the arbitral tribunal. If a party fails to appoint an arbitrator within thirty days after receipt of a corresponding request from the other party, or if the arbitrators appointed by the parties are unable to reach an agreement on the appointment of a third arbitrator within thirty days after their appointment, the court of general jurisdiction will appoint the third arbitrator based on the request of a party, in which case the arbitrator must be appointed within thirty days. If the arbitral tribunal is to consist of one arbitrator, and the parties have not agreed upon the procedure for appointment of the arbitrator, the court of general jurisdiction will appoint the arbitrator based on the request of a party, in which case the arbitrator must be appointed within thirty days. Where the parties have agreed upon the procedure for appointment of an arbitrator but one party fails to act as required under such procedure, or if the parties, or two party-appointed arbitrators are unable to agree on the appointment of an arbitrator according to the procedure agreed upon by the parties, or if any third parties fail to perform any function regarding the appointment of arbitrators entrusted to them under such procedure, each party has the right to request the court of

	general jurisdiction to appoint the arbitrator, unless the agreement of the parties on the appointment procedure provides otherwise. In this case the arbitrator must be appointed within thirty days. If an arbitration agreement provides one of the parties an impermissible economic or other advantage over the other party in the formation of the tribunal process, such other party may request the court of general jurisdiction to disregard the rules of appointment agreed upon by the parties and appoint one or several arbitrators. In this case, the arbitrator must be appointed within thirty days. Such a request must be presented not later than fifteen days from the time the party became aware of the formation of the tribunal.
Qualification of arbitrators	The ACECCI and the Court of Arbitration of the Tallinn Stock Exchange do not provide any official lists of recommended arbitrators. Only natural persons having legal capacity may be appointed as arbitrators. In all cases, the person's consent to act as an arbitrator is required. The CCP does not determine any special qualification requirements applicable to arbitrators. However, the parties may provide for such requirements in the arbitration clause or arbitration agreement. In such a case, the qualification requirements determined by the agreement of the parties must be considered. In cases where an arbitrator is appointed by the court of general jurisdiction, the court must consider the conditions agreed upon by the parties concerning the appointment of the arbitrator. The court of general jurisdiction must secure the appointment of an independent, impartial and competent arbitrator. It should be noted that judges are not allowed to act as party-appointed arbitrators. However, judges may act as arbitrators appointed by other arbitrators, an arbitration institution or a court of general jurisdiction, in cases stipulated by law or agreed upon by the parties. The law does not stipulate rules regarding arbitrators acting on a pro bono basis. A person who is requested to consent to being appointed as an arbitrator must immediately disclose any circumstances which may give rise to any doubt as to his/her impartiality or independence or which may constitute the basis for his/her removal due to any another reason. If such facts become known to the arbitrator later, he/she must disclose them to the parties without delay.
Revocation of arbitrators	According to the CCP, if an arbitrator is unable to perform his/her duties within a reasonable period of time, his/her mandate terminates,

	provided he/she resigns or if the parties agree on his/her revocation. If an arbitrator refuses to resign, or the parties fail to reach an agreement concerning termination of the arbitrator's mandate, any party may file a request with the court of general jurisdiction for a declaration of termination of the arbitrator's mandate, unless the parties have agreed otherwise.
Replacement of arbitrators	Upon termination of an arbitrator's mandate, such person must be replaced by a new arbitrator. The substitute arbitrator is appointed according to the same rules that were applicable to the appointment of the replaced arbitrator. An arbitral tribunal must suspend arbitration proceedings until the appointment of a new arbitrator. After the new arbitrator has been appointed, the arbitration proceedings start from the point at which they were suspended.

5.2. Challenge of arbitrators

Under the CCP, an arbitrator may be challenged if:

- Any circumstances exist which give rise to reasonable doubt as to his/her impartiality, independence or competence; or
- The conditions agreed upon by the parties regarding arbitrators are not fulfilled.

A party may challenge its appointed arbitrator for reasons which it becomes aware of after the appointment has been made.

If the parties have not agreed on a procedure for revocation of arbitrators, any party may submit a request to the arbitral tribunal for an arbitrator's removal within fifteen days after the date of formation of the arbitral tribunal or the date the party became aware of the reasons for removal. If an arbitrator refuses to resign or if the other party does not agree with his/her removal, the tribunal must decide on this matter without participation of the arbitrator concerned. If the issue of removal cannot be resolved, any party may submit a request for removal to the court of general jurisdiction within thirty days of the date on which the party became aware of the refusal of the request for removal.

6. ARBITRATION PROCEEDINGS

6.1. Rules applicable in the arbitration proceedings

A distinction should be made between substantive and procedural rules applicable to particular arbitration proceedings.

In resolving a dispute, an arbitral tribunal must apply the laws as agreed upon by the parties. Any reference to the law or legal system of a given state is treated, unless otherwise expressed, as directly referring to the substantive law of that state. The arbitral tribunal must apply Estonian law if the parties have not agreed on the applicable law and the applicable law is not stipulated by legislation (according to the provisions of conflict of laws rules).

The CCP obligates an arbitral tribunal to decide cases and apply the principles *ex aequo et bono* or *amiable compositeur* only if the parties have expressly authorised it to do so. However, an arbitral tribunal may not deviate from the mandatory provisions of national law which would be applied if the dispute were to be

resolved without the agreement of the parties on application of the above-mentioned principles.

Although the parties to a dispute have the right to determine the procedural issues of arbitration proceedings, or may refer to the rules and regulations of a selected arbitration institution, the parties may not deviate from the mandatory provisions of the CCP. If the parties have not agreed on an arbitration procedure, and such procedure is not stipulated in the CCP, the procedural rules are determined by the arbitral tribunal.

6.2. Representation in arbitration

The parties are entitled to conduct arbitration on their own or through their authorised representatives. The law does not prescribe special requirements regarding authorised representatives and their professional qualifications. Although the CCP does not provide for rules regarding representation of a party without legal capacity, the general rule should be applied according to which such person must be represented by a legal representative.

6.3. Terms of Reference

The CCP does not require signing the Terms of Reference in the arbitration proceedings; the parties, however, are not precluded from preparing and signing such document.

6.4. Place of arbitration

The parties may agree upon the place of arbitration. Failing such an agreement, the place of arbitration is determined by the arbitral tribunal, which must consider all the circumstances of the case and the convenience of the parties. In addition, the arbitral tribunal may select a place which the arbitral tribunal considers appropriate for the hearing of witnesses, experts or parties, for consultation among arbitrators or for examining goods or documents, unless otherwise agreed by the parties.

6.5. Language of arbitration

The parties may agree on the language of an arbitration proceeding. In the absence of such an agreement, the language of the proceedings must be determined by the arbitral tribunal. The arbitral tribunal may request that the parties must submit translations of written documents into the language agreed upon by the parties or determined by the tribunal.

6.6. Form of proceedings: oral or written

An arbitral tribunal may organise arbitration proceedings either in an oral or in a written form, unless the parties have agreed on a particular form for the arbitration proceedings. If an oral hearing is not precluded by an agreement of the parties, the arbitral tribunal may hold an oral hearing based on the request of one of the parties.

6.7. Admissible evidence

The CCP provides only a few rules regarding providing evidence in an arbitration proceeding; therefore, the parties may agree on such rules. According to the CCP, an arbitral tribunal must decide on the admissibility and examination of evidence. The arbitral tribunal is also free to decide on the value of evidence.

6.8. Protection of confidential documents

The CCP does not prescribe any rules governing protection of confidential documents in arbitration proceedings.

Pursuant to the Rules of the ACECCI, after an arbitral award has been rendered, all records,

including the arbitral award, must be transferred to the Estonian Chamber of Commerce and Industry for safekeeping.

Some information connected with arbitration may be disclosed to the public during the proceedings for recognition and enforcement of the arbitral award, therefore the rules regarding protection of confidential information in such court proceedings are very important. In respect of judgments of courts of general jurisdiction (i.e., concerning enforcement of arbitral awards), a court judgment which has entered into force will be published on the Internet. The names of the participants will be substituted with initials or a character, while personal identification codes, registry codes, dates of birth or addresses will not be disclosed upon a respective request of the participant or at the court's initiative (in accordance with data protection rules). Upon the request of the participant or at the court's initiative, only the operative part of the judgment may be published. The court judgement will not be published if it contains sensitive personal data or if publication of the judgment together with such personal data may materially breach the inviolability of a person's private life.

6.9. Consequences of failure by the parties to produce documents or appear in the arbitration proceedings

If a respondent fails to submit a full statement of defence, an arbitral tribunal will not suspend the arbitration proceedings. However, the respondent's failure to respond will not be deemed to be an acknowledgement of the claimant's allegations. If a party fails to appear at an oral hearing of the case, or fails to file submissions or produce documentary evidence by the date prescribed by the arbitral tribunal, the tribunal may continue the arbitration proceedings and render an award based on the facts already established in the case. However, if the arbitral tribunal considers that the failure to perform any of the above actions by the date prescribed was justified, then the arbitral tribunal may disregard such a delay, i.e., the action would be deemed to have been performed in time. In respect of failure to act by a party, the parties may agree on different consequences of such failure.

6.10. Settlement of disputes

An arbitral tribunal will terminate an arbitration proceeding if the parties agree on an amicable settlement of their dispute. Based on the request of the parties, the settlement will be recorded in the form of an arbitral award in the wording agreed between the parties, unless the content of the settlement agreement is contrary to public order or good morals. Such an award must also be signed by the parties. A consent arbitral award will have the same effect as any other final arbitral award.

When a declaration of a party's intention is required to be notarised in order for it to be valid, the notarised certification will be deemed to be substituted by the decision of an arbitral tribunal which is based on the agreed wording of the parties, provided however, that such decision is made by an arbitral tribunal operating in Estonia on a permanent basis. This means that if the purpose of a party's submitted claim cannot be achieved without the notarised declaration of intention by the other party (e.g., any transfer of title to immovable property or any transaction related to disposal or encumbering of immovable property must be notarised under Estonian law), such declaration of intention may be substituted with the decision of the arbitral tribunal which is based on the agreed wording of the parties.

6.11. Assistance of the national courts

If an arbitral tribunal is not competent to collect evidence or to conduct any other procedural activities, the arbitral tribunal, or a party with the consent of the arbitral tribunal, may request assistance from a court of general jurisdiction.

6.12. Arbitral awards

Arbitration proceedings are completed when the arbitral tribunal renders an arbitral award. The arbitral tribunal must determine the time for rendering an arbitral award and notify the parties thereof. An arbitral award must be prepared in writing and signed by the arbitrator(s). If the case was heard before a panel of three or more arbitrators, it is sufficient that a majority of them sign the award, provided that the reason for any missing signature is indicated. A dissenting opinion must be recorded in an arbitral award if recording of such opinion is requested by the dissenting arbitrator. The dissenting opinion must be set forth in the arbitral award after the signatures, and must be signed by the dissenting arbitrator. Unless the parties agree otherwise, or the arbitral award is based on a settlement, the reasons and grounds for the arbitral award must be stated by the arbitral tribunal in the arbitral award. A copy of the arbitral award must be sent or otherwise served upon the parties on the next working day after it was rendered.

An arbitral award will be final and binding on the parties from the moment that it is rendered.

Based on the request of a party, after an arbitral award is rendered, an arbitral tribunal may:

- Correct typing, calculation and errors in the arbitral award;
- Clarify the arbitral award to the extent requested;
- Make a supplementary award concerning a claim submitted in the course of the arbitration proceedings but not resolved in the arbitral award.

Such a request may be submitted within thirty days after the date of receipt of the arbitral award, unless the parties have agreed on a different term. The arbitral tribunal must make an initial decision on correction or clarification of the arbitral award within thirty days after receipt of the corresponding request, and if supplementation is requested, within sixty days after receipt of the corresponding request. The arbitral tribunal may also correct errors in its arbitral award without any request of the parties.

7. LENGTH OF ARBITRATION PROCEEDINGS

The CCP does not stipulate any limitations for the length of the arbitration proceedings. The CCP does not stipulate any limitations on the period during which the arbitral tribunal must render an arbitral award. Pursuant to the Rules of ACECCI, the arbitral tribunal must resolve the dispute within the shortest possible time period, but not later than six months after the statement of claim with annexes has been delivered to the arbitral tribunal. If necessary, the time limits may be extended by the Board of ACECCI at the request of the arbitrator or arbitrators.

8. EXPENSES

The CCP does not determine the expenses of the parties in arbitration proceedings, but the arbitration institutions do regulate this issue. Arbitration fees charged by the ACECCI are determined by its Guidelines for the Assessment of Arbitration Fees and Arbitrator Fees, as briefly described below.

8.1. Registration fee

The registration fee of the ACECCI is EEK 4,000 (the official fixed exchange rate of the EEK and EUR is 15.6466:1).

8.2. Arbitration fee

The amount of the arbitration fee, on both claims and counterclaims, is determined by the Board of the ACECCI according to the following table

Amount of the claim in EEK	Arbitration fee in EEK	Surcharges in percentages of claim amounts
Up to 100,000	15 – 30 % (but not less than EEK 10 000)	
From 100,000 to 300,000	From 10,000 to 20,000	10 – 20%
From 300,000 to 1,000,000	From 30,000 to 60,000	5 – 10%
From 1,000,000 to 3,000,000	From 60,000 to 100,000	2 – 5%
From 3,000,000 to 5,000,000	From 144,000 to 295,000	1 – 4%
From 5,000,000 to 10,000,000	From 164,000 to 375,000	0.5 – 2%
From 10,000,000 to 50,000,000	From 189,000 to 475,000	0.4 – 1.2%
From 50,000,000 to 100,000,000	From 349,000 to 955,000	0.1 – 0.6%
More than 100,000,000	From 399,000 to 1,255,000	0.01 – 0.06%

In the case of non-monetary claims, the amount of the arbitration fee is determined by the Board of the ACECCI depending on the nature of the dispute, the total number of the claims brought and the number of arbitrators.

The arbitrators' fee is equal to 75 % of the arbitration fee actually paid. If a single arbitrator conducts arbitration proceedings, the charge of the arbitrator is 40% of the arbitration fee (in exceptional cases it might be up to 90 % if the arbitrators fee is minor), but no less than EEK 5,000.Taxes prescribed by law are withheld from the fees of arbitrators.

The arbitrators' fees are divided amongst the arbitrators according to their agreement regarding which a respective decision must be submitted to the Board of the ACECCI. The remaining amount of the arbitration fee will be deposited in a separate account of the ACECCI, which is to be used, *inter alia*, for compensating the costs of the ACECCI, reimbursing the members of the Board of the ACECCI, etc.

The arbitration registration fees will not be returned to the parties if the dispute is amicably settled or if the proceedings are suspended. 90% of the arbitration fee is returned to the parties if the claim has been withdrawn before transferring the action to the arbitrator(s), or if it is established by the Board of the ACECCI or the arbitral tribunal that the dispute is not subject to arbitration in the ACECCI (however, the registration fee is not returned).

Upon receipt of a claim, the Board of the ACECCI will propose that the parties must pay the arbitration fee in equal shares by the deadline set by the Board of the ACECCI (unless the claimant has declared its wish to pay the arbitration fee alone). Should the respondent fail to make the payment, the Board of the ACECCI would ask the claimant to pay the respondent's share as well. If the claimant fails to do this, the claim would be considered as withdrawn and returned to the claimant.

8.3. Other expenses

The CCP does not provide any rules regarding expenses incurred in relation with the participation of the representatives of the parties (including attorneys), personally invited witnesses, experts or interpreters. Therefore, such expenses must be covered by the party which has invited the persons, unless otherwise agreed by the parties. The rules for determining the allocation of such costs by the arbitral tribunal between the parties are provided below.

8.4. Allocation of costs between the parties

Pursuant to the CCP, an arbitral award must include a determination of the allocation of arbitration costs and those incurred by the parties as a result of the arbitration proceedings, unless otherwise agreed by the parties. If the amount of the costs has not been determined or can be determined only after the end of the arbitration proceedings, the arbitral tribunal will make a separate award on such costs.

According to the Rules of the ACECCI, if a claim is satisfied, the claimant must be fully compensated for the respondent's part of the expenses paid by the claimant when submitting the claim. If the claim is partially satisfied, such compensation must be provided in proportion to the amount to be collected from the respondent according to the award. If a non-monetary claim is partially satisfied, the claimant must receive compensation for the expenses related to the respondent's part of the arbitration fees paid initially by the claimant and in the amount determined by the ACECCI.

The CCP does not provide for any rules regarding expenses in the case of settlement. However, according to the Rules of the ACECCI, if the arbitration proceedings are terminated by the rendering of a consent award which approves a settlement between the parties, or if the proceedings of the ACECCI are suspended, the arbitration registration fees paid will not be reimbursed to the parties.

8.5. Comparison of arbitration fees and court stamp duties

A comparison of arbitration fees and court stamp duties is provided in the table below, which is based on the CCP, the State Fees Act and the appendix to the Rules of the ACECCI (Guidelines for the Assessment of Arbitration Fees and Arbitrator Fees in the Arbitration Court of the Estonian Chamber of Commerce and Industry):

Amount of the claim in EEK	Stamp duty in the court of general jurisdiction (altogether in three instances)	Arbitration fee (according to the Rules of ACECCI)
Up to 100,000	From 900 to 11,500	15-30% (but not less than EEK 10,000) of the amount of the claim
From 100,001 to 300,000	From 12,500 to 33,500	From 10,000 to 20,000 + 10-20% of the amount of the claim
From 300,001 to 1,000,000	From 35,000 to 85,500	From 30,000 to 60,000 + 5-10% of the amount of the claim
From 1,000,001 to 3,000,000	From 89,000 to 175,500	From 60,000 to 100,000 + 2-5% of the amount of the claim
From 3,000,001 to 5,000,000	From 179,000 to 255,500	From 144,000 to 295,000 + 1-4% of the amount of the claim
From 5,000,001 to 10,000,000	From 259,500 to 355,500	From 164,000 to 375,000 + 0.5-2% of the amount of the claim
From 10,000,001 to 50,000,000	From 360,500 to 1,540,000	From 189,000 to 475,000 + 0.4-1.2% of the amount of the claim

From 50,000,001 to 100,000,000	1,540,000	From 349,000 to 955,000 + 0.1-0.6% of the amount of the claim
More than 100,000,001	1,540,000	From 399,000 to 1,255,000 + 0.01-0.06% of the amount of the claim

It should be noted that in some cases a stamp duty imposed upon filing of a claim in the court of general jurisdiction is paid as a lump sum rather than on the basis of the value of the claim.

9. INTERIM MEASURES IN ARBITRATION PROCEEDINGS

9.1. Possibility to apply for interim measures

An arbitral tribunal may apply interim measures based on a request of a party, unless the parties agree otherwise. Interim measures, which restrict personal freedoms, may not be applied. In connection with applying interim measures, the tribunal may demand that both parties pay reasonable security deposits.

9.2. Enforcement of interim measures

A decision of an arbitral tribunal to apply interim measures may be enforced based on a ruling of a court of general jurisdiction. The court will issue such a ruling based on the request of a party, and allow the enforcement only if application of the same interim measure has not yet been requested from the court. The court of general jurisdiction may rephrase the ruling of the arbitral tribunal on applying interim measures.

Both in arbitration and judicial proceedings, when requesting or applying for interim measures, a security deposit is paid according to the general rules of the CCP. Until formation of the arbitral tribunal, a competent body of a permanent arbitration court may forward a party's request for interim measures to the court of general jurisdiction.

10. CHALLENGE OF ARBITRAL AWARDS

Based on the application of a party, the court of general jurisdiction may annul the award of an arbitral tribunal issued in Estonia if the party proves that:

- The party to the arbitration agreement was under some type of incapacity; or
- The arbitration agreement is not valid under Estonian law or under the law of another state chosen by the parties as applicable to their arbitration agreement; or
- A respective party was not given a proper notice of the appointment of an arbitrator or of the arbitral proceedings, or was unable to present its case or protect its position due to other reasons; or
- The award deals with a dispute not contemplated by or not falling within the terms of submission to arbitration, or contains decisions on matters beyond the scope of arbitration; or
- The formation of the tribunal or the arbitration proceedings did not conform to the provisions of the CCP or to the permitted agreement of the parties, and such fact may be presumed to have significantly influenced the award of the tribunal.

In addition, the court may annul an arbitral award, at the request of a party or at the initiative of the court, if it finds that:

- Pursuant to Estonian law, the dispute should not have been adjudicated by an arbitral tribunal; or
- The award of the tribunal is contrary to Estonian public order or good morals.

If the annulment of an arbitral award is requested in a situation where several claims were adjudicated, but it is determined that some part of the dispute between the parties was not provided for in the arbitration agreement or where part of the claims exceeded the limits determined by the arbitration agreement, and thus the arbitral tribunal was competent to decide only some of the several claims, then the court of general jurisdiction may annul the award regarding the part of the claims on which the arbitral tribunal was not competent to adjudicate.

A request for annulment of an arbitral award may be submitted to the court of general jurisdiction within thirty days after the date of delivery of the arbitral award. If a request for correction, supplementation or clarification of an arbitral award is filed after the arbitral award has been made, such term is extended by thirty days as of the date of delivery of the award related to the request. A request for annulment may not be filed if the court of general jurisdiction has recognised the award as valid or declared a decision on its enforcement.

In addition to annulment, the court of general jurisdiction may, upon a request of a party, refer the matter back to the arbitral tribunal if this is reasonable. The annulment of the decision of an arbitral tribunal will not necessarily lead to a presumption regarding the validity of the arbitration agreement.

11. RECOGNITION AND ENFORCEMENT OF ARBITRAL AWARDS

11.1. Enforcement of arbitral awards

An arbitral award made in Estonia will be recognised in Estonia, and enforcement proceedings based on such award will be carried out only if the court of general jurisdiction has recognised the arbitral award and declared it to be subject to enforcement. Only awards of arbitration institutions operating in Estonia on a permanent basis (i.e., the ACECCI) are recognised and enforced in Estonia automatically without a separate recognition and declaration of enforceability. Therefore, an arbitral award made by *ad hoc* arbitration must be recognised and declared enforceable by the court of general jurisdiction.

Foreign arbitral awards are recognised and allowed for enforcement in Estonia only pursuant to the New York Convention and other relevant treaties. If not otherwise provided for by law, the provisions of the CCP regulating recognition and enforcement of foreign court judgements apply. If a foreign arbitral award subject to enforcement in Estonia is annulled in a foreign state, the party against whom the award was imposed may submit an application for annulment of the declaration of enforceability of the foreign arbitral award.

A party applying for recognition and enforcement of a foreign arbitral award must furnish the court of general jurisdiction with a written application for recognition and enforcement (together with the original foreign award or a duly certified copy thereof and the original arbitration agreement). The court of general jurisdiction must be provided with a duly certified Estonian translation of any required documents written in a foreign language.

The stamp duty to be paid upon filing an application for recognition and enforcement of an arbitral award is 5% of the value of the claim, but not less than EEK 500 and not more than EEK 10,000, while the stamp duty in a case where the value of the claim has not been determined will be EEK 500.

The CCP does not include specific regulations regarding appealing the rulings of national courts concerning the recognition and enforcement of foreign arbitral awards. However, the general rules for appealing the rulings of national courts regarding the recognition and enforcement of foreign judgments are provided for in the CCP,

but it is uncertain whether or not they will be applied in the case of arbitral awards.

11.2. Grounds to deny recognition and enforcement of foreign arbitral awards

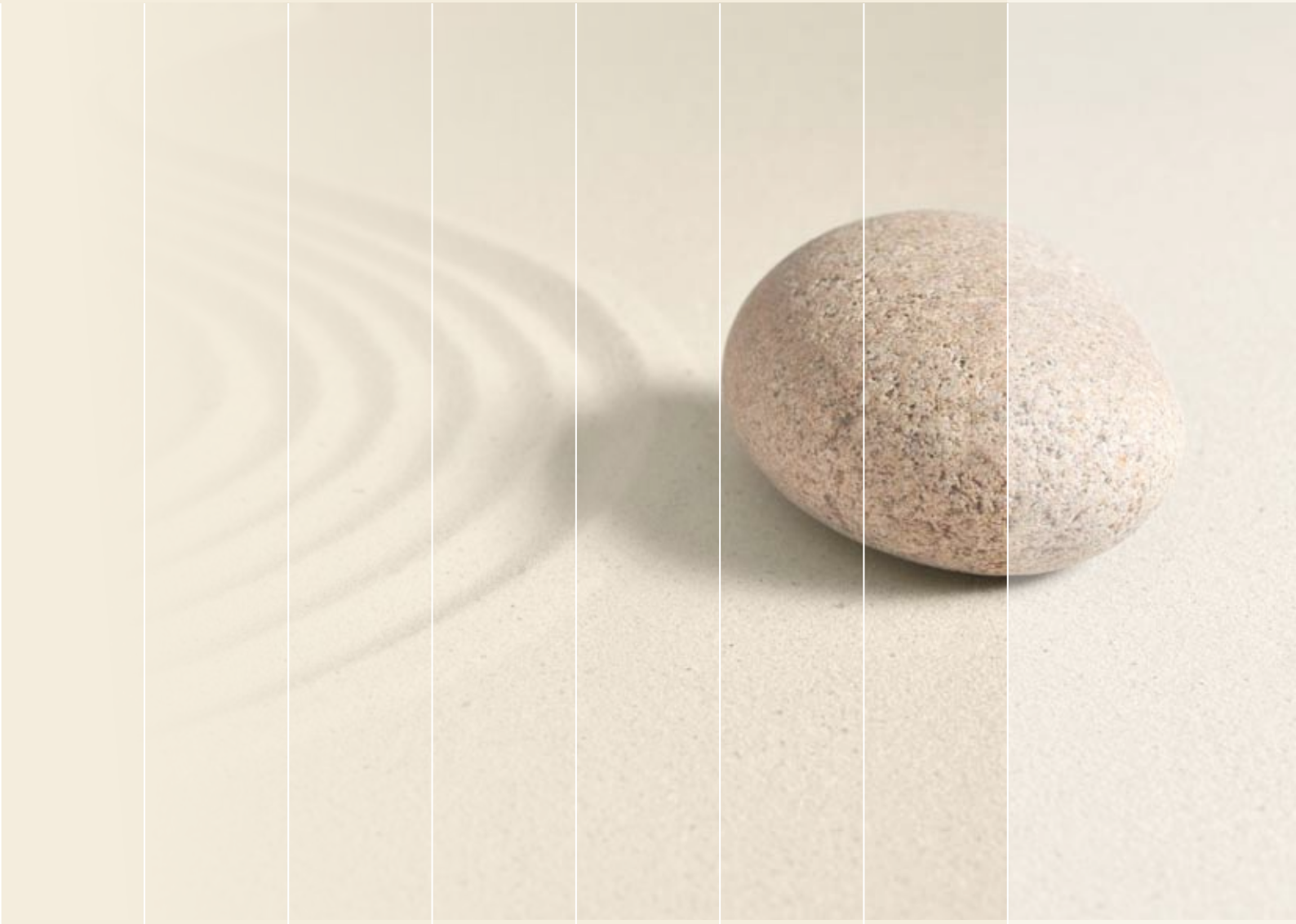
Foreign arbitral awards are recognised in Estonia in accordance with the procedures provided for under the New York Convention.

12. OTHER ADR

Estonian law does not provide any uniform regulations regarding ADR, therefore the various institutions providing ADR services are subject to different regulations. The following are the most prominent institutions providing ADR services in Estonia:

- Labour Dispute Committees;
- Lease Committees;
- The Consumer Claim Committee;
- The Copyright Committee;
- The Industrial Property Committee of Appeal;
- The Expert Committee on the Quality of Health Care; and
- The Estonian Press Council.

ADR is in an early stage of development in Estonia and, due to the lack of regulation, it is still not widely used in Estonia, but it is expected to increasingly gain prominence in the future.



III. Arbitration in Latvia

1. MAIN ARBITRATION INSTITUTIONS AND REGULATIONS

There are two types of arbitration in Latvia – *ad hoc* arbitration, used for resolution of a particular dispute, and institutional arbitration. The main difference is that the proceedings of *ad hoc* arbitration are not regulated by law in much detail, and an award rendered in such proceedings is not subject to compulsory enforcement. In contrast, awards of permanent arbitration institutions are subject to compulsory enforcement.

Permanent arbitration institutions in Latvia are registered with a special arbitration register administered by the Enterprise Register of Latvia, and they operate on the basis of their internal regulations.

1.1. Arbitration institutions

There are more than one hundred permanent arbitration courts in Latvia, albeit of varying quality. The best known arbitration institutions in Latvia are:

- **The Latvian Chamber of Commerce and Industry Court of Arbitration**, which hears both international and domestic commercial disputes.

Contact information:
Address: K.Valdemara iela 35,
LV-1010 Riga, Latvia
Tel.: +371 6722 5595, +371 6783 0815
Fax.: +371 6782 0092
E-mail: arbitr@chamber.lv
www.chamber.lv

Link to the rules:
http://www.chamber.lv/pub/?id=65

- **The Court of Arbitration of the Association of Commercial Banks of Latvia**, which resolves all disputes relating to provision of financial services and other operational issues of commercial banks. Other disputes may be settled in the court of arbitration only upon approval of the chairman of the court of arbitration.

Contact information:
Address: Perses iela 9/11,
LV-1011 Riga, Latvia
Tel.: +371 6728 4561
Fax.: +371 6728 5340
E-mail: tiesa@bankasoc.lv
www.bankasoc.lv

Link to the rules:
http://eng.bankasoc.lv/car/regulations/index2.php

- **The Riga International Arbitration Court**, which resolves various civil disputes among legal entities and natural persons, irrespective of whether they are domiciled in Latvia or abroad.

Contact information:
Address: Palasta iela 10,
LV-1050 Riga, Latvia
Tel.: +371 6722 2822, +371 6722 3124,
+371 6722 3126
Fax.: +371 6722 4447
E-mail: info@rsst.lv
www.rsst.lv

Link to the rules:
http://www.rsst.lv/index_en.php?th=reg

- **The Baltic International Arbitration Court,** which resolves various civil disputes among legal entities and natural persons, irrespective of whether they are domiciled in Latvia or abroad.

Contact information:
Address: Gertrudes iela 7,
LV-1010 Riga, Latvia
Tel.: +371 6724 0347
Fax.: +371 6722 4447
E-mail: info@rsst.lv
www.arbitration.lv

Link to the rules:
http://www.arbitration.lv/?object_id=29

- **The Riga Arbitration Court**, which resolves various civil disputes among legal entities and natural persons, irrespective of whether they are domiciled in Latvia or abroad.

Contact information:
Address: E.Birznieka-Upisa iela 18,
LV-1050, Riga, Latvia
Tel.: +371 6736 5100
Fax.: +371 6736 5101
E-mail: kanceleja@court.lv
www.court.lv

Link to the rules:
http://www.court.lv/eng/regulations/

Since the Latvian Chamber of Commerce and Industry Court of Arbitration (the "LCCICA") is the best known arbitration institution in Latvia, the analysis of arbitration issues will be based mostly on the analysis of the arbitration proceedings administrated by this institution.

1.2. National and international arbitration regulations

Establishment and operation of arbitration institutions in Latvia, as well as recognition and enforcement of foreign arbitral awards, is regulated by the Civil Procedure Law (the "CPL"). Although arbitral awards are enforced under a general procedure provided by the CPL, a number of other laws and regulations must be applied, including the Law on Bailiffs.

Currently, the development of a separate Law on Arbitration Institutions is in the final stage of being drafted by a working group under the supervision of the Ministry of Justice. The drafters of the new law plan to regulate the issues related to arbitration proceedings more clearly and explicitly than provided for by the present laws and regulations applicable to arbitration.

Latvia is party to the New York Convention, the Washington Convention on the Settlement of Investment Disputes Between States and Nationals of other States, the Energy Charter Treaty, the European Convention on International Commercial Arbitration, as well as quite a number of bilateral investment treaties. At its accession to the European Convention on International Commercial Arbitration, Latvia made a reservation, declaring that the Convention does not apply to arbitration agreements concluded by state and municipal authorities.

1.3. National and international commercial arbitration

In Latvia, there are no special rules regulating international commercial arbitration; therefore, international and national arbitration proceedings are governed by the same rules.

2. ARBITRATION AGREEMENTS

2.1. Requirements set for arbitration agreements

An arbitration agreement may be concluded regarding a particular dispute which already exists as well as regarding future disputes.

According to the CPL, an arbitration agreement is valid only if it is concluded in writing.

An arbitration agreement may be included in any agreement in the form of a separate provision (arbitration clause), or it may be concluded as a separate agreement between the parties. An arbitration agreement is also considered to be made in writing if it is concluded by exchanging letters or fax messages, or through other means of telecommunications, which ensure that the intent of the parties to refer their dispute or possible dispute for resolution in arbitration is documented.

2.2. Recommended arbitration clauses of the main arbitration institutions

The LCCICA recommends the following arbitration clause:

1. *Any dispute, controversy or claim arising out of or relating to this contract, or the breach, termination or invalidity thereof, shall be settled in the Latvian Chamber of Commerce and Industry Court of Arbitration in Riga in accordance with its Rules of Arbitration.*
2. *The number of arbitrators shall be _____ (one or three).*
3. *The language(s) of the arbitration shall be _____.*

   or:

   Any dispute, controversy or claim arising out of or relating to this contract, or the breach, termination or invalidity thereof shall be settled in the Latvian Chamber of Commerce and Industry Court of Arbitration in Riga in accordance with its Rules of Arbitration. If the amount of claim does not exceed LVL 1000, the dispute shall be settled in compliance with the Latvian Chamber of Commerce and Industry Rules of Arbitration for the Settlement of Small Disputes, unless the parties have agreed otherwise.

The Court of Arbitration of the Association of Commercial Banks of Latvia recommends the following arbitration clause:

1. *Any dispute related to this Contract shall be settled by the Association of Latvian Commercial Banks Court of Arbitration Riga under the Articles and Regulations of the said Court of Arbitration and the Regulations of the Association of Latvian Commercial Banks Court of Arbitration Costs. Provisions of the abovementioned instruments shall be included herein by reference.*

2. *The subject of dispute referred for settlement shall be any claim or difference of tangible or intangible nature arising from this Contract including differences of claims for fulfilment of the Contract, payment of penalty, indemnification against loss or security as well as any other differences and claims referring to the Contract, modification, breach, termination, lawfulness, validity or interpretation thereof.*
3. *The Court of Arbitration award shall be final, subject to no appeal and binding upon the parties.*
4. *The number of arbitrators shall be _____ (one or three).*
5. *The arbitration language shall be _____.*
6. *The Association of Latvian Commercial Banks Court of Arbitration Chairman is hereby entrusted with appointment of the arbitrator/all the arbitrators.*

The Riga International Arbitration Court recommends the following arbitration clause:

All disputes, differences or claims arising out of or in connection with the present agreement, which concerns it or an infringement of it, termination or invalidity, shall be finally settled at the Riga International Arbitration Court in accordance with its Arbitration Rules.

The parties may supplement the Arbitration Clause, adding to it:

1. *the number of arbitrators is _____ (one or three);*
2. *the language of arbitration is _____;*
3. *the place of arbitration is _____.*

The Baltic International Arbitration Court recommends the following arbitration clause:

> *All disputes, differences or claims arising out of or in connection with the present agreement, which concern it or an infringement of it, termination or invalidity, shall be finally settled at the Baltic International Arbitration Court (7 Gertrudes Str., Riga, LV-1010) in accordance with its Arbitration Rules.*

The parties may supplement the Arbitration Clause, adding to it:

> *1. the number of arbitrators is _____ ;*
> *2. the language of arbitration is _____ ;*
> *3. the place of arbitration is _____ ;*
> *4. _____ laws.*

The Riga Arbitration Court recommends the following arbitration clause:

> *Any dispute, disagreement or request arising from this agreement and concerning this agreement, its infringement, termination or invalidity, shall be settled in the Riga Arbitration Court in Riga in accordance with the rules of this arbitration court by one (three or five) arbitrator (-s) in the Latvian (Russian) language.*

3. NON-ARBITRABLE DISPUTES

Under the CPL, any civil dispute may be submitted to arbitration, except for a dispute:

- The settlement of which might infringe the rights or interests of a person who is not a party to the arbitration agreement; or
- Where at least one of the parties is a state or municipal authority or the arbitral award might infringe the rights of state or municipal authorities (this exception applies only to national arbitration proceedings); or
- Which is related to amendments to the civil records registry;
- Regarding the rights and obligations of persons under guardianship and trusteeship or their interests protected by law; or
- Regarding establishment of property rights, amendment or termination thereof in respect to real estate, if a party to the dispute is a person whose rights to acquire real estate into ownership, possession or use are limited by law; or
- Regarding eviction of persons from residential premises; or
- Between an employee and employer if the dispute is related to the conclusion, amendment, termination or performance of an employment contract, as well as regarding application or interpretation of laws and regulations, the terms of a collective employment agreement or work procedures (regarding an individual dispute regulated by labour law); or
- Regarding rights and obligations of those persons who are declared insolvent before the arbitral award is rendered.

In addition, disputes reviewed under a special litigation procedure (e.g., declaring a person as lacking capacity and establishing trusteeship, coming into legal effect of last will instruction instruments, approval and setting aside of adoptions, etc.) may not be settled by arbitration as well.

4. JURISDICTION OF THE ARBITRAL TRIBUNAL

An arbitral tribunal does not have jurisdiction to examine disputes if:

- The dispute is non-arbitrable; or
- There are grounds to declare the arbitration agreement null and void.

An arbitral tribunal must itself decide whether it has jurisdiction, including in cases where the parties challenge the existence or validity of an arbitration agreement. An arbitral tribunal may decide whether it has jurisdiction at any stage of

an arbitration proceeding. If the arbitral tribunal decides that it does not have jurisdiction in a certain case, it must terminate the arbitration proceedings.

The CPL states that an interested party must submit objections in writing to the arbitral tribunal and to the other party immediately, if any of the provisions governing the arbitral proceedings are breached or not complied with, including cases where a dispute falls outside the jurisdiction of the arbitral tribunal. If a party fails to submit such objections, it is considered as waiver of the right to raise such objections.

Nevertheless, even though a party has failed to object to the jurisdiction of an arbitral tribunal, the compulsory enforcement of the arbitral award would not be permissible if the arbitral tribunal was not competent to resolve the respective dispute (i.e., if the dispute is non-arbitrable or if the arbitration agreement is void). The arbitral tribunal must decide on its jurisdiction *ex officio*.

5. ARBITRATORS

5.1. Appointment, qualification, revocation and replacement of arbitrators

The parties to an arbitration agreement are free to stipulate their own procedure for appointment, revocation, replacement and resignation of arbitrators. However, if the parties fail to agree upon such procedures, the rules indicated in the table below must be applied.

Subject	Main applicable rules
Appointment of arbitrators	The parties may agree on the procedure for the appointment of arbitrators. However, if the parties fail to agree on the number of arbitrators, then three arbitrators will be appointed. If the parties have agreed to solve the dispute in institutional arbitration, but have not agreed on the procedure for appointment of arbitrators, the arbitrators will be appointed pursuant to the rules of the respective arbitration institution, taking into account the equality of the parties' rights. If the parties have agreed to solve a dispute by referring it to an arbitration institution established for resolution of a particular dispute, but have not agreed upon the procedure regarding appointment of arbitrators, then each party appoints one arbitrator, and the two party-appointed arbitrators appoint the third arbitrator, who will act as the chairman of the arbitral tribunal. If the parties are unable to reach an agreement on the appointment of an arbitrator or if any of the parties fails to nominate an arbitrator, the arbitrator usually will be appointed pursuant to the internal rules of the respective arbitration institution.
Qualification of arbitrators	Arbitration institutions provide recommended lists of arbitrators from which the parties may choose an arbitrator or a panel. However, the list of arbitrators recommended by an arbitration institution is not mandatory to the parties, and therefore the parties are entitled to appoint an arbitrator not included in such list.

	The parties may entrust the appointment of arbitrators to any natural or legal person having the capacity to act. The CPL does not provide for any requirements regarding the qualification of an arbitrator; therefore, the parties must choose the most appropriate arbitrator at their own discretion. If the parties have agreed that an arbitrator should have special qualifications, then this should be taken into consideration in the appointment of arbitrators. In Latvia, due to restrictions established for state officials with the purpose to avoid conflicts of interest, judges (as well as other state and/or municipal officials) may not perform duties of an arbitrator, even on a pro bono basis. Arbitrators must perform their duties in good faith, without being subject to any influence; they must be impartial and independent. A person, who is requested to consent to being appointed as an arbitrator, must disclose to the parties any facts which could cause reasonable doubt as to his/her impartiality and independence. If such facts become known to the arbitrator later, he/she must disclose them to the parties without delay. The parties may agree on a procedure regarding termination of an arbitrator's mandate. If the parties have not agreed on such a procedure, and the dispute is examined in an institutional arbitration, then the provisions of the internal regulations of the respective arbitration institution will apply.
Revocation of arbitrators	If a party has appointed an arbitrator, and has notified the other party thereon, it cannot revoke this arbitrator without the consent of the other party. The mandate of an arbitrator will be terminated: ■ If there exists reasonable doubt as to his/her impartiality and independence, or if his/her qualifications do not conform to those agreed by the parties; or ■ If the arbitrator has refused to resolve the dispute; or ■ If the parties agree on the termination of the arbitrator's mandate; or ■ Upon the death of the arbitrator. If an arbitrator fails to perform his/her functions, the parties may agree on his/her revocation. If the mandate of an arbitrator has been terminated, a new arbitrator will be appointed under the general procedure – the arbitrator will be appointed pursuant to the procedure agreed by the parties; however, if there is no such agreed procedure, then the internal rules of the respective arbitration institution will be applied.

Replacement of arbitrators	The laws are silent on whether, in a case where the mandate of an arbitrator has been terminated, the prior proceedings should be repeated with the newly appointed arbitrator; this would depend on the arbitrators and the will of the parties. However, in practice, it is more likely that the prior proceedings would not be repeated.

5.2. Challenge of arbitrators

An arbitrator may be removed, if:

- There exist facts which cause reasonable doubt as to his/her impartiality and independence; or
- The conditions agreed upon by the parties regarding the arbitrator are not fulfilled.

A party may challenge its appointed arbitrator only for the reasons which it becomes aware of after the appointment has been made.

According to the CPL, the parties may agree on a procedure regarding removal of an arbitrator. Where an institutional arbitration is resolving a dispute, and the parties have not agreed on a procedure regarding removal of an arbitrator, such procedure will be determined in accordance with the rules of the respective arbitration institution.

Where a dispute is being resolved by an arbitral tribunal, which has been established for resolution of a specific dispute, and the parties have not agreed on a procedure regarding removal of an arbitrator, the party, wishing to remove an arbitrator must, within fifteen days from the day it has been informed of the appointment of the arbitrator or has become aware of any grounds for the removal, send a notice to the arbitrators indicating the name of the arbitrator the party wishes to remove and the grounds for such removal. If the arbitrator does not withdraw from performing his/her position, the other arbitrators must decide the issue regarding his/her removal. If a dispute is to be settled by a sole arbitrator, that arbitrator will decide on his/her own regarding his/her own removal. Such a decision is not subject to appeal or any approval.

6. ARBITRATION PROCEEDINGS

6.1. Rules applicable in the arbitration proceedings

A distinction should be made between substantive and procedural rules applicable to particular arbitration proceedings.

If the parties have not agreed on the applicable substantive law that will govern their mutual contractual relationship, then the applicable law will be determined according to the provisions of conflict of laws rules. The CPL provides that the parties may agree on the application of customary usage. Such an agreement of the parties is binding on the arbitrator(s). However, the CPL is silent on whether the parties may agree to the application of the principles *ex aequo et bono* or *amiable compositeur* in adjudicating their dispute. Consequently, this issue would be resolved in practice, depending on the arbitrators and the will of the parties.

The parties have a right to freely determine the procedural rules in an arbitration proceeding. If the parties have agreed to refer their dispute to an institutional arbitration, but have not agreed upon the procedural rules in the arbitration proceedings, the dispute will be resolved in accordance with the rules of the respective arbitration institution. If an arbitral tribunal has been established for resolution of a particular dispute, and the parties have not agreed on the rules applicable to the arbitration proceedings, then the arbitral tribunal itself will determine this procedure.

6.2. Representation in arbitration

The parties are entitled to conduct an arbitration case on their own or through their authorised representatives. If a party does not have legal capacity, then it must be represented by its legal representative. The law does not provide any special requirements regarding authorised representatives, including regarding their professional qualifications.

6.3. Terms of Reference

In Latvia, it is neither compulsory for the parties to sign a Terms of Reference in an arbitration proceeding, nor is such a document usually signed. However, the parties have the possibility to prepare and sign such Terms of Reference if they wish to do so.

6.4. Place of arbitration

The parties may agree on a place of arbitration. If the parties have not agreed on a place of arbitration, it will be determined by the arbitration court. Usually, it will be the place where the arbitration court is located, but any other place is also possible.

The venue of arbitration proceedings must be in the territory of Latvia. However, the performance of separate procedural activities, e.g., inspection of material evidence, may occur abroad, with due care not to violate the laws of the respective foreign country.

6.5. Language of arbitration

Arbitration proceedings should be conducted in the Latvian language, unless the parties have agreed on some other language. An arbitration court or arbitral tribunal may require the parties to provide translations of any written evidence, or a notarised translation into the language in which the proceedings are conducted.

If any of the participants in the proceedings are not fluent in the language in which the proceedings are conducted, the arbitration court or arbitral tribunal must appoint an interpreter.

6.6. Form of proceedings: oral or written

The parties may agree that either oral hearings will be held during the arbitration proceedings or that the case will be examined in written proceedings, i.e., on the basis of documents and other evidence provided by the parties. However, if the parties agree that no hearings will be held, the arbitral tribunal must still hold such hearings at a relevant stage of the written proceedings, if prior to adoption of the arbitral award this is requested by a party to the dispute. If the parties fail to agree on the form of the proceedings, then the case should be examined in oral hearings.

6.7. Admissible evidence

Under the CPL, evidence must be submitted to the arbitration court by the parties. Each party must prove the facts to which it refers as a basis for its claims or objections. The parties may agree on admissibility of evidence, but such an agreement is often not concluded. Moreover, the parties' agreement regarding admissibility of evidence is not binding on the arbitrators.

6.8. Protection of confidential documents

Arbitration proceedings are confidential, thus the arbitration court and arbitral tribunal does not disclose any information about the arbitration proceedings to any third parties, and does not publish it.

With respect to courts of general jurisdiction, within the limits they are involved in arbitration proceedings or the process of recognition and enforcement of arbitral awards, it should be noted that judicial proceedings are public. However,

pursuant to a reasoned request by a participant in the case, or at the discretion of the court, the entire hearing or a part thereof may be declared closed, *inter alia*, if it is necessary to protect commercial secrets or it is in the interests of adjudication.

Some information connected with the arbitration case may be disclosed to the public in the proceedings of recognition and enforcement of the arbitral award; therefore, the rules regarding protection of confidential information in such court proceedings are very important. Court judgements in matters which are decided publicly are also public. However, in matters that are examined in closed court proceedings, only the operative part of the court judgement is publicly announced, and non-parties are not able to obtain the documents of the case.

6.9. Consequences of failure by the parties to produce documents or appear in the arbitration proceedings

If a respondent fails to submit a full statement of defence, the arbitral tribunal may continue the arbitration proceedings without considering such failure as recognition of the claim, unless otherwise provided by the arbitration agreement.

If the parties, without a justified reason, fail to attend oral hearings or to file submissions or produce written evidence, the arbitral tribunal must continue the arbitration proceedings and resolve the dispute on the basis of the evidence submitted to it.

6.10. Settlement of disputes

If during an arbitration proceeding the parties agree on an amicable settlement of the dispute, the arbitral tribunal must terminate the proceedings. The parties must conclude the settlement in writing, indicating the subject matter of the claim and the liabilities of each party, which they undertake to fulfil voluntarily.

Upon the request of the parties, the arbitral tribunal must approve the settlement by its award, provided such settlement does not contradict the law. A consent arbitral award will have the same effect as any other final arbitral award.

6.11. Assistance of the national courts

The law does not provide for the possibility for arbitral tribunals to request assistance of national courts, either while collecting evidence or in other cases. However, any of the parties may request the assistance of a national court prior to the arbitration proceedings in order to secure its claim (i.e., to apply interim measures) or in order to seek the enforcement of an arbitral award.

6.12. Arbitral awards

An arbitral award must be in writing and signed by the arbitrators. If the arbitral tribunal consists of several arbitrators, the award must be signed by all the arbitrators, but if any one of the arbitrators does not sign the award, then the reasons why his/her signature is missing should be indicated in the arbitral award, for example in the case of a dissenting opinion.

Pursuant to the CPL, the following information must be set out in an arbitral award:

- Composition of the arbitral tribunal;
- Time and place of rendering of the award;
- Information concerning the parties;
- Subject of the dispute;
- Reasoning upon which the award is based, unless otherwise agreed by the parties;
- Conclusion regarding complete or partial satisfaction of the claim, or the complete or partial dismissal thereof, and the substance of the arbitral award;
- Amount to be recovered if the award is

rendered in terms of recovery of money;
- Specific property and the value thereof, which is to be recovered in the event the property does not exist when the award is rendered regarding recovery of specific property;
- What actions, by whom and within what time period, are to be performed, if the award imposes a duty to perform certain actions;
- What part of the award is applicable to each claimant, if the award is made for the benefit of more than one claimant; or what part of the award is to be fulfilled by each of the respondents, if the award is made against more than one respondent; and
- Costs of the arbitration and of legal assistance, and allocation of such costs among the parties.

The arbitral award becomes valid as of the date of its adoption. The parties must carry out the arbitral award voluntarily and within the period stipulated therein, which may not be shorter than five days.

Each party, by notifying the other party, prior to enforcement of the arbitral award may ask the arbitral tribunal to correct any calculation mistake, grammatical error or misspelling in the arbitral award. The arbitral tribunal may also correct such mistakes upon its own initiative. Likewise, each party may ask the arbitral tribunal to explain the arbitral award, in which case the explanation of the arbitral award will become an integral part of the award from the date of its adoption.

Within a period of thirty days from the date an arbitral award is sent to the parties, any party may ask the arbitral tribunal to adopt an additional award, if any of the claims submitted prior to adoption of the award was left unresolved. If the arbitral tribunal considers the request to be reasoned, it must satisfy this request by making an additional award.

If an arbitral award is to be enforced in Latvia, and is not carried out voluntarily, the interested party is entitled to apply to the district (city) court of the place of the arbitral tribunal with a request to issue a writ of execution for compulsory enforcement of the arbitral award.

7. LENGTH OF ARBITRATION PROCEEDINGS

The length of arbitration proceedings in Latvia is not determined. However, if the parties have not determined a term for resolution of their dispute in arbitration, and no panel of arbitrators has been established and no other procedural activities have been performed for more than four months, then each party is entitled to unilaterally withdraw from the arbitration proceedings by notifying the other party.

There are no other limitations under law on the period during which an arbitral award must be adopted. However, each party is entitled to unilaterally withdraw from an arbitration proceeding upon a prior notification to the other party, if the parties have not determined any other term for resolution of their case and the arbitral tribunal within the period of one year from the commencement of the arbitration proceedings has not rendered an arbitral award.

8. EXPENSES

The CPL does not determine the expenses of the parties in arbitration proceedings, but this issue is regulated by arbitration institutions. Arbitration fees charged by the LCCICA are determined by the internal rules of this institution, and are briefly described below.

8.1. Registration fee

A registration fee usually is not included in arbitration fees of Latvian arbitration institutions, including the LCCICA.

8.2. Arbitration fee

The amount of an arbitration fee usually depends upon the amount of the claim (counterclaim). The LCCICA has currently set the following arbitration fees (in addition to the arbitrators' fees):

Amount of the claim in LVL (Official fixed exchange rate is: EUR 1 = LVL 0.702804)	**Arbitration fee in LVL (VAT excluded)**
Up to 12,500	250
From 12,501 to 25,000	375
From 25,001 to 50,000	375 + 1% of the amount exceeding 25,001
From 50,001 to 250,000	625 + 0.7% of the amount exceeding 50,001
From 250,001 to 500,000	975 + 0.5% of the amount exceeding 250,001
From 500,001 to 1,000,000	2,225 + 0.2% of the amount exceeding 500,001
From 1,000,001 to 2,500,000	3,225 + 0.1% of the amount exceeding 1,000,001
More than 2,500,001	4,225 + 0.05% of the amount exceeding 2,500,001

The amount of arbitrators' fees will depend on the amount of the claim and on the number of arbitrators – the higher the amount of the claim, the higher will be the fee of the arbitrators.

The rules of the LCCICA obligate the Council of that arbitration institution to calculate arbitration costs for non-monetary claims within ten days from the date of filing a claim, taking into account the complexity of the case, the time needed for making an award and the forecasted expenses. The amount of the calculated costs may not be smaller than the minimum rates of the relevant arbitration costs.

8.3. Arbitrator's fee

The arbitrator's fee in the LCCICA will depend on the amount of the claim, and is outlined in the table below. The provided arbitrator's fee must be paid to each arbitrator, notwithstanding the total number of arbitrators, in accordance with the table below:

Amount of the claim in LVL	**Arbitrator's fee in LVL (VAT excluded)**
Up to 5,000	250
From 5,001 to 25,000	375
From 25,001 to 50,000	500
From 50,001 to 250,000	1,000
From 250,001 to 500,000	2,000
From 500,001 to 1,000,000	3,500
From 1,000,001 to 2,500,000	5,000
More than 2,500,001	6,000

8.4. Other expenses

Expenses of the representatives of the parties (including attorneys) must be covered by each respective party, although depending on the result of the case part of such expenses may be compensated by the other party. Expenses of invited experts must be covered by the party which invited the experts, but the arbitral tribunal will decide on sharing of such expenses by the parties.

8.5. Allocation of costs between the parties

The LCCICA empowers the arbitrators to decide on the allocation of arbitration costs between the parties depending on the arbitral award and other circumstances of the case. If the parties settle the dispute, the secretariat of the arbitration institution must refund the costs already paid by the parties less the fee charged by the arbitration court for commencing the arbitration proceedings – LVL 250 (VAT exclusive).

8.6. Comparison of arbitration fees and court stamp duties

A comparison of arbitration fees (imposed by the LCCICA) and court stamp duties (imposed pursuant to the CPL) is provided in the following table:

Amount of the claim in LVL	Stamp duty in the court of general jurisdiction (all instances)	Arbitration fee and arbitrator's fee in the arbitration court (1 arbitrator)*	Arbitration fee and arbitrator's fee in the arbitration court (3 arbitrators)*
Up to 500	Up to 162.5	141.6	424.8
From 501 to 1,000	From 162.5 to 275	212.4	637.2
From 1,001 to 5,000	From 275 to 425	590	1,770
From 5,001 to 12,500	From 425 to 605	737.5	2,212.5
From 12,501 to 20,000	From 605 to 785	885	2,655
From 20,001 to 25,000	From 785 to 860	885	2,655
From 25,001 to 50,000	From 860 to 1,235	From 1,032.5 to 1,327.5	From 3,097.5 to 3,982.5
From 50,001 to 100,000	From 1,235 to 1,985	From 1,917.5 to 2,330.5	From 5,752.5 to 6,991.5
From 100,001 to 250,000	From 1,985 to 2,660	From 2,330.5 to 3,569.5	From 6,991.5 to 10,708.5
From 250,001 to 500,000	From 2,660 to 3,785	From 3,510.5 to 4,985.5	From 10,531.5 to 14,956.5
From 500,001 to 1,000,000	From 3,785 to 4,110	From 6,755.5 to 7,935.5	From 20,266.5 to 23,806.5
From 1,000,001 to 2,500,000	From 4,110 to 5,285	From 9,705.5 to 11,475.5	From 29,116.5 to 34,426.5
More than 2,500,001	More than 5,285	More than 12,065.5	More than 36,196.5

* Including VAT

9. INTERIM MEASURES IN THE ARBITRATION PROCEEDINGS

9.1. Possibility to apply for interim measures

Pursuant to the CPL, interim measures may be applied only by a court of general jurisdiction, and thus an arbitral tribunal does not have the power to apply interim measures. In fact, a reasoned request for interim measures may be filed by the claimant with the court of general jurisdiction of the debtor's location or of the location where the debtor's property is located only before the request for arbitration is filed and provided there are grounds to believe that in the absence of such interim measures the enforcement of the arbitral award could become difficult or impossible.

When satisfying such an application to secure a claim, the court or the judge may order the claimant to secure the possible resulting losses of the defendant by depositing a certain amount of funds into the deposit account of the court bailiff.

9.2. Enforcement of interim measures

The ruling of a court of general jurisdiction on application of interim measures is enforceable immediately after it is ruled upon. Enforcement of such a ruling is performed by the court bailiff according to the general procedure.

Generally, according to the New York Convention, foreign arbitral awards regarding application of interim measures usually are not recognised and enforced. However, binding arbitral awards, including arbitral rulings on interim measures, adopted by foreign arbitration institutions, are recognisable and enforceable in Latvia, subject to their prior assessment regarding the presence of any general obstacles to their recognition and enforcement (i.e., as provided for under the New York Convention).

10. CHALLENGE OF ARBITRAL AWARDS

Arbitral awards in Latvia are final and may not be appealed against. However, courts of general jurisdiction have the right to evaluate the procedural lawfulness of arbitral awards before issuing a writ of execution for compulsory enforcement. A court of general jurisdiction will refuse to issue a writ of execution regarding enforcement of an arbitral award only if:

1. The particular dispute may be settled only by the court of general jurisdiction; or
2. The arbitration agreement was entered into by a person lacking capacity to act; or
3. The arbitration agreement was terminated or recognised as invalid; or
4. A party was not notified regarding the arbitration proceedings in an appropriate manner, or it could not submit its explanations due to other reasons and this significantly affected the arbitration proceedings; or
5. A party was not notified of the appointment of an arbitrator in an appropriate manner, and this significantly affected the arbitration proceedings; or
6. The arbitration court was not established, or the arbitration proceedings were not conducted in accordance with the provisions of the arbitration agreement or law; or
7. The arbitral award was made regarding a dispute not provided for in the arbitration agreement, or in non-compliance with the provisions of the arbitration agreement.

Based on the aforementioned grounds, the court must decide to either issue or refuse to issue a writ of execution. Taking into account that the court will not verify the arbitral award on its merits, it will be impossible for the court to issue a writ of execution or reject its issuance regarding only part of the arbitral award. After entry into force of the court decision on refusal to issue a writ of execution, the dispute may be repeatedly referred for resolution to the arbitral tribunal, provided that the issue of a writ of execution has been

refused on the basis of items 4, 5 or 6 above (i.e., if there were avoidable procedural violations). In other cases (items 1, 2, 3 or 7), the dispute may be settled in the court of general jurisdiction.

11. RECOGNITION AND ENFORCEMENT OF ARBITRAL AWARDS

11.1. Enforcement of arbitral awards

There is a slight difference in the procedure for obtaining a writ of execution for enforcement of local and foreign arbitral awards. Applications for recognition and enforcement of foreign arbitral awards in Latvia are reviewed in oral proceedings, with the participation of the parties, whereas applications for enforcement of local arbitral awards are reviewed in written proceedings. There are also differences as to the grounds on which the issuance of a writ of execution may be refused. Upon receipt of a writ of execution, both foreign and local arbitral awards are enforced under a general procedure.

For national arbitral awards, the enforcement stage is based on an application of an interested party to the local state court for mandatory enforcement of the award if the debtor has not fulfilled it voluntarily within the time period (minimum is five days) indicated in the award. It is necessary to obtain the writ of execution from a local court to start the compulsory execution. Recent court practice demonstrates that this process is becoming a review stage, with the state courts refusing to issue writs of execution when serious procedural defects in awards are found.

The stamp duty on application for recognition and enforcement of a foreign arbitral award is 1% of the amount of the claim, but not more than LVL 100 (approx. EUR 142).

Applications for recognition and enforcement of foreign arbitral awards in Latvia must be submitted to the local court together with the foreign arbitral award.

The following documents (originals or certified copies) must also be submitted to the local court: (i) a document that certifies a written agreement of the parties regarding reference of their dispute for adjudication to the arbitration tribunal; (ii) a document evidencing payment of the stamp duty; (iii) a power of attorney, if the application is signed by an authorised representative; (iv) a certified translation into the Latvian language of the application and other required documents (if they are written in a foreign language); and (vi) copies of the application and the appended documents to be delivered to the parties.

The decision of a national court regarding recognition and enforcement of a foreign arbitral award in Latvia may be appealed within ten days.

The CPL does not establish a specific time period for filing requests to issue a writ of execution on an arbitral award. Thus, the request to issue a writ of execution and enforce an arbitral award may be made within the general term established by the CPL, i.e., within ten years after coming into force of the arbitral award.

11.2. Grounds to deny recognition and enforcement of foreign arbitral awards

A court may deny recognition and enforcement of a foreign arbitral award only on the grounds stipulated by international agreements. Latvia is party to the New York Convention, which outlines such grounds.

Applications for recognition and enforcement of foreign arbitral awards in Latvia must be filed for review by the district (city) court according to the place of enforcement or the residential address or place of location (registered address) of the respondent.

Foreign arbitral awards will be recognised in accordance with the procedures conforming to the requirements of the New York Convention.

12. OTHER ADR

Advocates of alternative dispute resolution (ADR), including ADR institutions in Latvia, consider that the speed of ADR proceedings and the issue of confidentiality and low costs are the most significant advantages of ADR over proceedings in courts of general jurisdiction. However, the disadvantages of ADR in Latvia include a weak legislation environment, lack of qualified ADR specialists, as well as passive attitudes in the general public towards ADR.

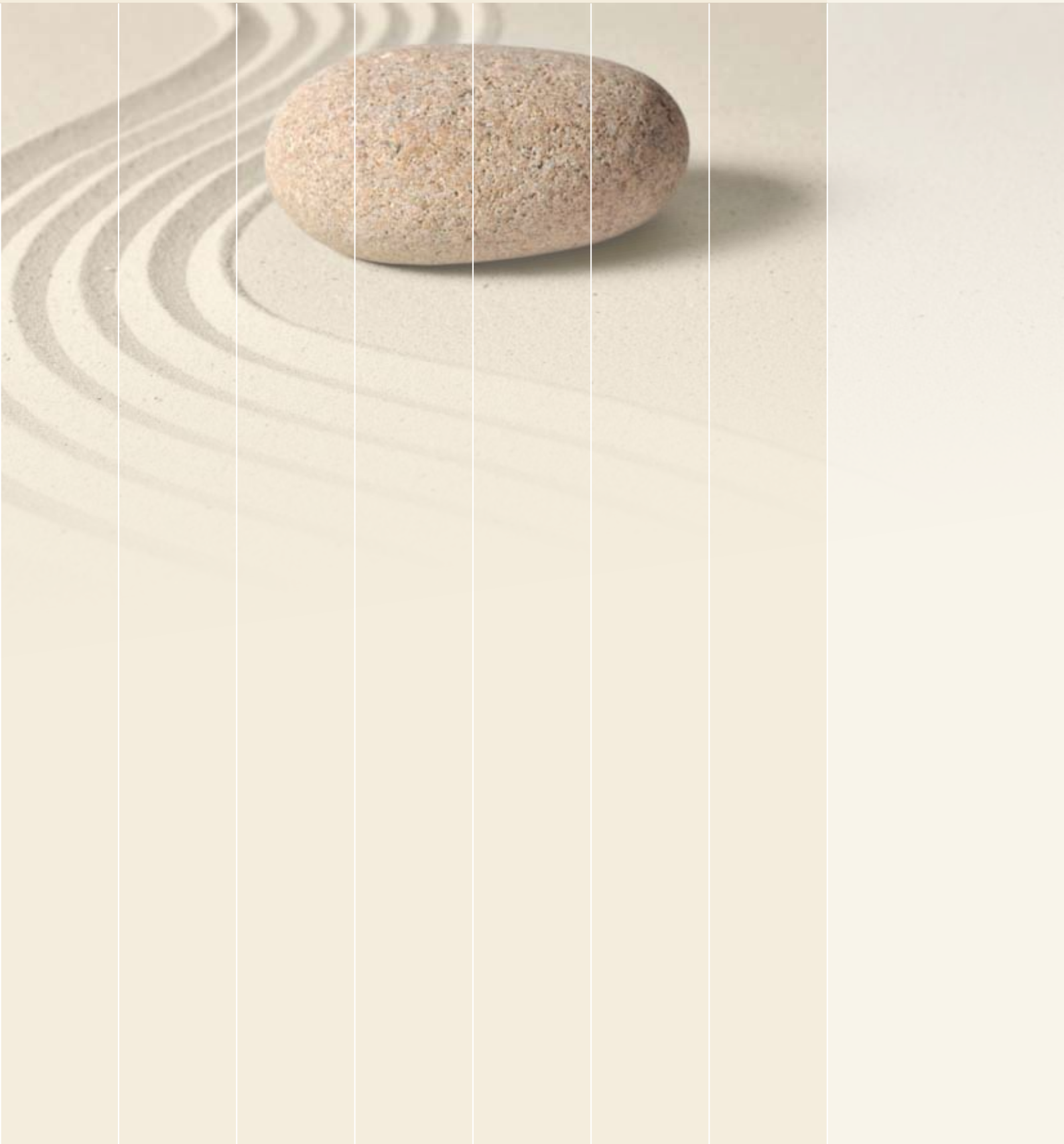
The majority of out-of-court disputes in Latvia are settled through mutual negotiations (without involvement of any third party), as well as in arbitration. There have been efforts to introduce mediation in Latvia, but it is not currently recognised as a significant method of settling large commercial disputes.

In Latvia some arbitration institutions, for example LCCICA, have adopted Mediation regulations and offer mediation services to support solving commercial disputes through mediation. Mediation is becoming more popular in family matters and its positive results could encourage businesses to use the advantages of mediation and other ADR methods as well.

Specific fields in which there are other options for ADR in Latvia are the following:

- Insurance: ombudsman. The ombudsman's office was formed by the Latvian Insurers Association, which is a non-governmental organisation;
- Credit institutions: ombudsman. The ombudsman's office was formed by the Association of Latvian Commercial Banks, which is a non-governmental organisation;
- Copyright: mediator. Parties may appoint a mediator or a mediator may be appointed by the Minister of Culture.

ADR is not widely practiced in Latvia, and therefore there is no overall and detailed legal regime regulating ADR in Latvia.



IV. Arbitration in Lithuania

1. MAIN ARBITRATION INSTITUTIONS AND REGULATIONS

The Law on Commercial Arbitration of the Republic of Lithuania (the "Law on Commercial Arbitration") recognises both *ad hoc* and institutional arbitration. *Ad hoc* arbitration is defined as arbitration where, upon the agreement of the parties, dispute resolution proceedings are not organised by a permanent arbitration institution. Consequently, institutional arbitration is such arbitration where, upon the agreement of the parties, dispute resolution proceedings are organised by a permanent arbitration institution.

Permanent arbitration institutions may be established by Lithuanian public organisations representing Lithuanian undertakings engaged in industry, business and legal activities (i.e., chambers of commerce or trade associations).

1.1. Arbitration institutions

The following arbitration institutions are registered in Lithuania:

- **The Vilnius Court of Commercial Arbitration,** a permanent arbitration institution that organises arbitral proceedings for solving both national and international commercial disputes between natural persons and/or legal entities. The Vilnius Court of Commercial Arbitration is the best known arbitration institution in Lithuania, and was established as a result of the reorganisation of two other arbitration institutions.

Contact information:
Address: Vokiečių g. 28/17,
LT-01130 Vilnius, Lithuania

Tel.: +370 5 261 45 17
Fax.: +370 5 212 26 21
E-mail: info@arbitrazas.lt
www.arbitrazas.lt

Link to the rules:
http://www.arbitrazas.lt/index.php?handler=en.ar.regulation

- **The Vilnius Court of International and National Commercial Arbitration,** a public institution that organises arbitration proceedings for hearing and settling both international and national commercial and other economic disputes arising between international and national entities.

Contact information:
Address: Gedimino pr. 64-63,
LT-01111 Vilnius, Lithuania
Tel.: +370 5 249 60 33
Mob. +370 6 877 25 00
Fax.: +370 5 265 00 61
E-mail: arbitrazas@centras.lt
www.arbitration.lt

Link to the rules:
http://www.arbitration.lt/?page=386

- **The Klaipėda International Maritime Arbitration**, an association registered in the register of Lithuanian legal entities.

Contact information:
Address: Taikos pr. 18-1,
LT-91224 Klaipėda, Lithuania

Since the Vilnius Court of Commercial Arbitration is the best known arbitration institution in Lithuania, the further analysis of arbitration issues will be based mostly on the arbitration proceedings in that institution.

1.2. National and international arbitration regulations

The Law on Commercial Arbitration (entered into force on 2 May 1996) is the main national law regulating arbitration. The Law on Commercial Arbitration is mainly based on the UNCITRAL Model Law on International Commercial Arbitration, and regulates legal relations arising out of an arbitration agreement: arbitration proceedings, arbitral awards, enforcement of foreign arbitral awards, authority of courts of the Republic of Lithuania in the sphere of arbitration, etc. The Law on Commercial Arbitration is applicable irrespectively of the citizenship or nationality of the parties to a dispute, and of whether or not the arbitration proceedings are administred by a permanent arbitration institution. The provisions of this law are applicable (i) to arbitration if the place of arbitration is in the territory of Lithuania; and (ii) to separate procedural actions if they are performed in the territory of Lithuania. The rules regarding judicial recognition of arbitration agreements, non-arbitrable disputes and recognition and enforcement of foreign arbitral awards are applicable irrespective of the state where the arbitration takes place. If international agreements, to which the Republic of Lithuania is a party, provide rules different than those set in the Law on Commercial Arbitration, then the rules of international agreements prevail. At the moment, the ICC Lithuania Commission on Arbitration is preparing amendments to the Law on Commercial Arbitration.

Enforcement of arbitral awards in Lithuania is governed by the general procedure applicable to national court judgements, including the Law on Bailiffs.

Important provisions related to arbitration are also found in Part VII ("International Civil Process") of the Code of Civil Procedure of the Republic of Lithuania (the "Code of Civil Procedure"). The Code of Civil Procedure regulates the procedure for recognition and enforcement of foreign arbitral awards (non-EU Member States), the grounds for refusal to recognise and enforce foreign arbitral awards (non-EU Member States), enforcement of arbitral awards, etc.

Lithuania has ratified the New York Convention (entered into force in Lithuania on 12 June 1995) and made reservation that Lithuania will apply the rules of the New York Convention in respect to arbitral awards passed in the territories of non-contracting states only on a reciprocity basis.

Lithuania has ratified the Convention on Conciliation and Arbitration within the OSCE (entered into force in Lithuania on 19 February 1998), the Washington Convention on the Settlement of Investment Disputes Between States and Nationals of other States (entered into force in Lithuania on 5 August 1992), the Energy Charter Treaty (entered into force in Lithuania on 24 July 1998) as well as quite a number of bilateral investment treaties.

1.3. National and international commercial arbitration

The Law on Commercial Arbitration defines two types of commercial arbitration: international and national.

Commercial arbitration is considered as international if:

- The parties to an arbitration agreement have, at the time of the conclusion thereof, their places of business in different states; if a party has more than one place of business, the place of business is that which has the closest relationship to the arbitration agreement, and if a party does not have a place of business,

reference is to be made to its permanent place of residence); or
- The place of arbitration, if determined in the arbitration agreement or discussed in any other way corresponding to the arbitration agreement, is situated outside the country in which the parties have their places of business; or
- The place, where a substantial part of the obligations arising from the commercial relations of the parties is to be performed, is situated outside the state in which the parties have places of business; or
- The place, with which the subject-matter of the dispute is most closely connected, is situated outside the state in which the parties have their places of business; or
- The parties have expressly agreed that the subject-matter of the arbitration agreement relates to more than one country; or
- One or both parties to the dispute are Lithuanian entities with foreign capital.

National commercial arbitration means arbitration between Lithuanian natural and/or legal persons, except the case when arbitration is considered as international.

2. ARBITRATION AGREEMENTS

2.1. Requirements for arbitration agreements

Under the provisions of the Law on Commercial Arbitration the parties may agree to solve their dispute either by including an arbitration clause in the contract or by concluding a separate agreement known as an arbitration agreement. An arbitration clause/arbitration agreement may be concluded in respect of a particular dispute which already exists as well as in respect of future disputes.

An arbitration agreement must be concluded in writing and is considered to be made in writing if it is:

- Concluded as a document signed by both parties; or
- Concluded by exchanging letters, faxes, telegrams or other documents in which the fact of conclusion of the agreement is recorded; or
- Concluded by exchanging statements of claim and statements of defence where the existence of an arbitration agreement is alleged by one party and not denied by the other, or there is any other written evidence confirming that the parties have concluded or recognised the conclusion of the arbitration agreement.

The Law on Commercial Arbitration also provides that a reference in a contract concluded by the parties to a document containing an arbitration clause constitutes an arbitration agreement if the contract is concluded in writing and the reference is an inseparable part of the contract.

Except the requirements indicated above, the Law on Commercial Arbitration does not further specify the content of an arbitration agreement. The Supreme Court of Lithuania, in numerous cases, has stated that an expressed intention of the parties to submit their disputes to arbitration constitutes an essential part of the arbitration agreement; nevertheless, the lack of other necessary provisions regarding the arbitral tribunal, arbitration institution, scope of arbitration agreement, etc., may lead to difficult or impossible implementation of such arbitration agreement.

Notably, upon the request of a party, an arbitration agreement may be recognised as null and void on the general grounds applicable for recognition of contracts as null and void. Moreover, the arbitration agreement is considered null and void if it does not conform to the definition or form of the arbitration agreement determined by the Law on Commercial Arbitration, or if an arbitration agreement is concluded for resolution of non-arbitrable disputes.

2.2. Recommended arbitration clauses of the main arbitration institutions

Lithuanian arbitration institutions recommend the wording of arbitration clauses as provided below.

The Vilnius Court of Commercial Arbitration (the "VCCA") recommends the following arbitration clause:

> *Any dispute, controversy or claim arising out of or relating to this contract, its breach, termination or validity, shall be settled by arbitration in the Vilnius Court of Commercial Arbitration in accordance with its Rules.*
> *The number of arbitrators shall be _____.*
> *The venue of arbitration shall be _____.*
> *The language of arbitration shall be _____.*

The Vilnius Court of International and National Commercial Arbitration (the "VINCA") recommends the following arbitration clause:

> *Any dispute or controversy arising out of this contract (agreement) or relating to it and unregulated by direct negotiations of the parties shall be entrusted to the Vilnius International and National Commercial Arbitration for settlement finally by arbitration in accordance with its Rules of Procedure of International Commercial Arbitration, approved by the Lithuanian Arbitration Association (LAA).*

3. NON-ARBITRABLE DISPUTES

Under the Law on Commercial Arbitration, a commercial dispute is a controversy between the parties arising from their contractual or non-contractual legal relations, except for disputes which under the law may not be submitted to arbitration (non-arbitrable disputes). The Law on Commercial Arbitration provides an exhaustive list of non-arbitrable disputes:

- Disputes arising from constitutional, employment, family or administrative legal relations;
- Disputes related to competition law, patents, trademarks and service marks, and bankruptcy; and
- Disputes arising from consumer contracts.

Notably, disputes involving state or municipal enterprises, institutions or organisations, except the Bank of Lithuania, may not be submitted to arbitration without the consent of the founder of such entity. The Government of the Republic of Lithuania or its authorised public authority may, under the general procedure, conclude an arbitration agreement concerning disputes arising from commercial-economic contracts to which the Government or its authorised public authority is a party.

4. JURISDICTION OF THE ARBITRAL TRIBUNAL

Since arbitration is voluntary, it is the parties to a dispute who determine whether they want their disagreement to be solved through arbitration. The arbitrators also derive their competence (jurisdiction) from the consent of the parties. If the parties to a dispute raise objections in respect to the jurisdiction of the arbitral tribunal, the Law on Commercial Arbitration empowers the arbitral tribunal to rule on this matter, including the issue of the existence or validity of an arbitration agreement. For that purpose, an arbitration clause, which forms a part of a contract, is considered as an agreement independent of other terms of the contract.

The Law on Commercial Arbitration determines certain stages in the arbitration proceedings during which objections regarding the jurisdiction of the arbitral tribunal must be raised:

- A plea of a party that the arbitral tribunal does not have jurisdiction to hear the case should be raised not later than the date that the statement of defence is submitted in the

arbitration proceedings. The fact that a party has participated in the appointment of an arbitrator(s) does not prevent it from raising objections in respect of the jurisdiction of the arbitral tribunal;

- A plea that the arbitral tribunal is exceeding the scope of its authority should be raised as soon as the matter alleged to be beyond the scope of its authority emerges. The arbitral tribunal may, in either case, admit a later plea if it considers the delay justified.

The arbitral tribunal may decide upon its jurisdiction by passing a preliminary award or together with the final award. If the arbitral tribunal by its preliminary award decides that it has jurisdiction over a dispute, such preliminary award may be appealed against to the chairman of the arbitration institution within thirty days from its receipt.

5. ARBITRATORS

5.1. Appointment, qualification, revocation and replacement of arbitrators

The Law on Commercial Arbitration allows the parties to determine their own procedure for appointment, revocation, replacement and resignation of arbitrators. It also provides the rules applicable in case the parties do not agree upon the procedure. The Law on Commercial Arbitration sets the mandatory rules which may not be overruled by the agreement of the parties. All these rules are outlined in the table below.

Subject	Main applicable rules
Appointment of arbitrators	Under the Law on Commercial Arbitration the parties may agree upon the number of arbitrators, which must be uneven. If the parties do not agree upon the number of arbitrators, then three arbitrators are appointed. If there is no agreement of the parties in respect of the procedure for appointment of arbitrators and a dispute is referred to a panel of three arbitrators, each party appoints one arbitrator, and the two arbitrators appoint the third arbitrator. In the absence of the parties' agreement upon the procedure for appointment of a sole arbitrator, and if their dispute is referred to a sole arbitrator on whose appointment the parties are unable to agree, then upon a request of any of the parties the arbitrator will be appointed by the chairman of an arbitration institution. If a party fails to appoint an arbitrator within thirty days of receipt of a request to do so, or if the two arbitrators fail to agree on the third arbitrator within thirty days of their appointment, then the appointment will be made, upon a request of a party, by the chairman of an arbitration institution. Where, under an appointment procedure agreed upon by the parties, a party fails to act as required under such procedure, or the parties, or the two arbitrators, appointed by them, are unable to reach an agreement on the appointment of the third arbitrator according to the procedure agreed by the parties, or any third parties fail to perform any functions regarding the appointment of arbitrators entrusted to them under such procedure, any party may request the chairman of an arbitration institution to take the necessary

	steps for the appointment of an arbitrator, unless the agreement of the parties on the appointment procedure provides otherwise.
Qualification of arbitrators	Arbitration institutions provide lists of recommended arbitrators from which the parties may choose an arbitrator or a panel. The lists of arbitrators recommended by arbitration institutions are not mandatory to the parties, and therefore the parties are entitled to appoint an arbitrator not included in such lists Any competent natural person, irrespective of his/her nationality, may be appointed as an arbitrator, unless otherwise agreed by the parties. In all cases, the person's consent to act as an arbitrator is required. The law does not provide for any special qualification requirements applicable to arbitrators. However, the parties may indicate qualification requirements applicable to arbitrators in the arbitration clause or arbitration agreement. In such a case, the chairman of an arbitration institution must consider the qualification requirements determined by the parties. It should be noted that the chairman of an arbitration institution must secure the appointment of an independent and impartial arbitrator. Pursuant to Lithuanian law, some persons in certain positions are prohibited from engaging in other remunerated employment, and such prohibitions include practicing as arbitrators on a permanent basis, or serving as arbitrators (although they may be entitled to compensation for their expenses in such proceedings). This rule is not applicable to advocates and their assistants. As judges are prohibited by law from engaging in other remunerated employment relations, a judge cannot be appointed as an arbitrator in Lithuania, unless the judge agrees to act as an arbitrator on a pro bono basis. Under the rules of the VCCA, before commencement of the arbitration proceedings, the arbitrators appointed by the parties or by the Chairman of the VCCA must sign a declaration of independence and impartiality.
Revocation of arbitrators	In case an arbitrator becomes *de jure* or *de facto* unable to perform his/her functions or withuot any reason fails to act without undue delay, his/her mandate terminates when he/she resigns or when the parties agree on his/her revocation. If a controversy remains concerning the grounds of the revocation, any party may request the chairman of the arbitration institution to decide on the termination of the mandate. The decision of the chairman of an arbitration institution is final and subject to no appeal.

Replacement of arbitrators	Where the mandate of an arbitrator terminates, or an arbitrator resigns for any reason, or because of revocation of his/her mandate by agreement between the parties, or on any other grounds, a substitute arbitrator is appointed according to the rules applicable to the appointment of the arbitrator who is being replaced. Until the replacement of an arbitrator, the arbitration proceedings must be suspended. If a sole arbitrator or the presiding arbitrator is to be replaced, all prior proceedings must be repeated before the newly appointed arbitral tribunal, unless the parties agree to continue the proceedings that have already been commenced. Upon replacement of a part of the arbitral tribunal, the prior proceedings may be repeated pursuant to the decision of the arbitral tribunal.

5.2. Challenge of arbitrators

An arbitrator may be challenged only if there are the following circumstances that raise justifiable doubts in respect of his/her impartiality or independence:

- The arbitrator is officially or otherwise dependent on one of the parties, i.e., the arbitrator is an employee of one of the parties; or
- The arbitrator is a relative of one of the parties; or
- The arbitrator is directly or indirectly interested in the outcome of the case in favour of one of the parties; or
- There are other circumstances that give rise to justifiable doubts as to impartiality of the arbitrator.

An arbitrator may also be challenged if he/she does not possess the qualifications agreed upon by the parties.

A party may challenge an arbitrator appointed by itself or together with the other party only for reasons which it becomes aware after the appointment was made.

6. ARBITRATION PROCEEDINGS

6.1. Rules applicable in the arbitration proceedings

A distinction should be made between substantive and procedural rules applicable to particular arbitration proceedings.

An arbitral tribunal will decide disputes in accordance with the substantive laws that are chosen by the mutual consent of the parties. Any reference to the law or legal system of a given state is treated, unless otherwise expressed, as directly referring to the substantive law of that state. If the parties to a dispute do not agree upon the applicable substantive law, it will be determined by the arbitral tribunal depending on whether the arbitration is national or international (see also item 1.3). In international commercial arbitration, if the parties do not agree upon the applicable substantive law, the arbitral tribunal will apply the law determined according to conflict of laws rules. In national commercial arbitration, the laws of the Republic of Lithuania will be applied, unless the parties agree otherwise.

The Law on Commercial Arbitration requires that the arbitral tribunal, in deciding cases, should apply the principles *ex aequo et bono* or *amiable compositeur* only if the parties have expressly authorised it to do so. Moreover, under the Law

on Commercial Arbitration, arbitral tribunals must always make their final awards taking into consideration the terms of the contract and trade customs applicable to the specific transaction.

The parties may agree upon applicable procedural rules in the arbitration proceedings. If the parties do not agree upon applicable procedural rules, the rules of the arbitration institution and relevant laws will be applied. However, mandatory rules determined by laws may not be overruled by the agreement of the parties. Notably, the internationally accepted rule is that in arbitration proceedings the procedural rules of *lex fori* should be applied (procedural rules of the seat of arbitration).

6.2. Representation in arbitration

The parties are entitled to conduct the arbitration case on their own or through their authorised representatives (except when a party does not have legal capacity – then it must be represented by a legal representative). The law does not set any special requirements regarding the authorised representative or his/her professional qualifications.

6.3. Terms of Reference

In Lithuania, it is not compulsory for the parties to sign Terms of Reference in an arbitration proceeding, although the parties are not precluded from preparing and signing such a document.

6.4. Place of arbitration

The parties may agree upon the place of arbitration. Failing such agreement, the place of arbitration will be determined by the arbitral tribunal, which must consider all the circumstances of the case and the convenience of the parties.

The arbitral tribunal may, unless otherwise agreed by the parties, meet at any place it considers appropriate for consultation among arbitrators, for hearing witnesses, experts or the parties, or for examining documents, goods or other property.

6.5. Language of arbitration

If the arbitration is national, then the case will be heard in the Lithuanian language. In the event of international arbitration, the parties may agree on the language(s) to be used in the arbitral proceedings. Failing such agreement, the arbitral tribunal will determine the language to be used in the proceedings. The agreement between the parties or the order of the arbitral tribunal regarding the language of arbitration, unless otherwise specified, must be applied to written submissions of the parties, hearings, awards, decisions, orders or other documents issued by the arbitral tribunal.

The Rules of the VCCA determine that the official languages of this arbitration institution are Lithuanian, English and Russian. Accordingly, the documents in the arbitration proceedings in the VCCA should be prepared in one of the mentioned languages.

6.6. Form of proceedings: oral or written

According to the Law on Commercial Arbitration, the parties may either agree that an oral hearing will be held during the arbitration proceedings, or that the case will be examined in written proceedings, i.e., on the basis of documents and other evidence provided by the parties. If the parties agree that no oral hearings should be held, the arbitral tribunal will still hold such hearings at a relevant stage of the written proceedings, if so requested by a party to the dispute.

The Rules of the VCCA additionally provide that if the parties fail to agree on the form of arbitration, oral hearings must be held. Where the

parties have agreed that the proceedings should take place in their absence, the arbitral tribunal will hold oral hearings at an appropriate stage if so requested by any party and if such application is submitted not later than before the end of the examination of the materials of the proceedings.

6.7. Admissible evidence

The Law on Commercial Arbitration does not provide any rules regarding the admissibility of evidence in arbitration proceedings; therefore, the parties are free to determine this issue. If the parties do not agree on admissibility of evidence, then the arbitrators have discretion to decide on this issue.

The Rules of the VCCA also provide that the parties may agree on the admissibility of evidence. If such agreement is not made, however, all issues related to sufficiency of evidence will be resolved by the arbitral tribunal. According to the rules of the VCCA, evidence means written documents and other written evidence, material evidence, expert opinions and statements of witnesses.

6.8. Protection of confidential documents

The Law on Commercial Arbitration does not provide for any rules governing protection of confidential documents in an arbitration proceeding. Unless the parties agree otherwise, the arbitral tribunal may conduct arbitration proceedings in such a manner as it considers appropriate.

The Rules of the VCCA provide that, unless the parties agree otherwise, an arbitral tribunal should hear a case in closed proceedings. If the arbitral tribunal or any of the parties request, interpreters and/or translators as well as witnesses and experts may participate in the hearing. Without an approval of the parties, other persons may not participate in the arbitration proceedings. Under the Rules of the VCCA, neither an arbitral tribunal nor a court of arbitration may publish an award or make it public without the consent of both parties to the dispute.

Some information connected with an arbitration case may become public in the proceedings of recognition and enforcement of an arbitral award; therefore, the rules regarding protection of confidential information in such court proceedings are very important. Under general rules of the Code of Civil Procedure, the documents filed in legal proceedings for recognition and enforcement of a foreign arbitral award form part of the public record after the case is finally examined. The party wishing to preserve confidentiality of the documents must file a request for such protection with the court examining the case. Either the party wishing to maintain confidentiality may request a confidential hearing, or the court itself may decide upon it on certain grounds (in order to protect the natural person's privacy, or state, professional or commercial secrets). The same rules are applied in the recognition and enforcement of foreign arbitral award procedures – the judgments on recognition and enforcement of arbitral awards are published, but the party wishing to preserve confidentiality must apply to the court by submitting a request to maintain confidentiality.

6.9. Consequences of failure by the parties to produce documents or appear in the arbitration proceedings

Unless otherwise agreed by the parties, (i) if a claimant fails, without a justified reason, to submit a full statement of claim, the arbitral tribunal will terminate the proceedings; (ii) if a respondent fails to submit a full statement of defence, the arbitral tribunal will continue the proceedings, without treating such failure as an admission of the claimant's allegations; and (iii) if any party fails to appear at a hearing or to produce its written evidence, the arbitral tribunal may continue the proceedings and render an award based on the evidence submitted to it.

6.10. Settlement of disputes

During the arbitration proceedings, the parties may agree on an amicable settlement of their dispute. If during the arbitration proceedings the parties settle their dispute, the arbitral tribunal will terminate the proceedings and approve such settlement agreement in the arbitral award. Such a consent arbitral award will have the same effect as any other final arbitral award. Nevertheless, the arbitral tribunal may refuse to approve a settlement agreement if it contradicts the rules regulating the validity of contracts, which were chosen by the parties, or which were applicable in the arbitration proceedings.

6.11. Assistance of the national courts

National courts are competent to provide assistance to an arbitral tribunal in applying interim measures in order to secure a claim and to help collect evidence. The courts may also have some competence in hearing appeals against arbitral awards and requests for their reversal, and in recognition and enforcement of arbitral awards.

6.12. Arbitral awards

Arbitration proceedings end when the arbitral tribunal renders an arbitral award. An arbitral award becomes valid and enforceable from the moment it is passed (i.e. from the moment it is written and signed). If one of the parties fails to comply with the arbitral award, then the other party has the right to apply to the local court of the place of the arbitral tribunal and request issuance of a writ of execution. Thereafter, the arbitral award can be enforced under the general procedure. After the arbitral award is issued, the parties to the dispute lose their right to bring a lawsuit regarding the same subject-matter and on the same grounds. The Law on Commercial Arbitration sets forth the grounds for correction and interpretation of an arbitral award and passing of an additional award within a specified period (thirty days), and the possibility to prolong it. Although the law does not provide for any special rules regarding a partial award, a conclusion may be drawn from court practice that the same rules as apply to final awards are also applicable to partial awards. An award rendered by an arbitral tribunal must be made in writing and signed by the arbitrator(s) who conducted the proceedings.

Under the rules of the VCCA, before signing an arbitral award, the arbitral tribunal must submit its draft to the VCCA in order for it to assess whether the award complies with the formal requirements of the arbitration court.

7. LENGTH OF ARBITRATION PROCEEDINGS

The Law on Commercial Arbitration does not provide any time limits on arbitration proceedings or any time limits during which the arbitral tribunal must render an arbitral award. However, the rules of the VCCA provide that an arbitral tribunal must resolve a dispute by rendering an award not later than within a period of six months after the file is transmitted to the arbitral tribunal. A final arbitral award under the same rules must be made within the shortest possible time period after the main hearing is held, but no longer than within twenty days after the last main hearing, and the award is required to be immediately sent to the secretariat of the arbitration court. In exceptional cases, the chairman of the arbitration court may extend the term for rendering an award by up to twenty days. If the case is complex or of international nature, the time limits set out under the rules of the VCCA may be extended by the arbitral tribunal or the chairman of the arbitration court, if the arbitral tribunal has not yet been formed.

8. EXPENSES

The Law on Commercial Arbitration does not provide for covering the expenses of the parties in

arbitration proceedings; however, the arbitration institutions do regulate this issue. Arbitration fees, in the VCCA, are determined by the rules of this institution. The Board of the VCCA has approved the tariffs and the payment procedure for arbitration fees. Under the rules of the VCCA, the expenses related to arbitration fees include a registration fee, arbitration fee and compensation fee, each of which is briefly outlined below.

8.1. Registration fee

Under the rules of the VCCA, a claimant must pay a registration fee of LTL 1,180 (the official fixed exchange rate of the LTL and EUR is 3.4528 : 1), including VAT, when submitting a claim. Such registration fee is not refundable in any case. A claim will not be prepared for settlement by arbitration until the registration fee is paid.

8.2. Arbitration fee

The amount of the arbitration fee depends on the amount of the claim (counterclaim). The claimant must pay the arbitration fee in advance. Until the arbitration fee is paid, the case will not be transferred to the arbitral tribunal.

The VCCA charges the following arbitration fees:

Amount of the claim in LTL	Arbitration fee in LTL (VAT included) (when one arbitrator is appointed)
Up to 100,000	2,360 + 4.13% of the sum in dispute
From 100,001 to 200,000	6,490 + 2.95% of the sum in dispute exceeding 100 000
From 200,001 to 500,000	9,440 + 2.36% of the sum in dispute exceeding 200,000
From 500,001 to 1,000,000	16,520 + 1.18% of the sum in dispute exceeding 500,000
From 1,000,001 to 5,000,000	22,420 + 0.59% of the sum in dispute exceeding 1,000,000
From 5,000,001 to 10,000,000	46,020 + 0.354% of the sum in dispute exceeding 5,000,000
More than 10,000,001	63,720 + 0.0236% of the sum in dispute exceeding 10,000,000

If the arbitral tribunal consists of three arbitrators, the arbitration fee will be increased by 70%.

For non-monetary claims, the arbitration fee consists of an administration fee of LTL 2,360, and an arbitrator's fee, which is LTL 59–236 per hour (including VAT). The amount of the arbitrator's fee for non-monetary claims in each particular case will be set by the Chairman of the VCCA.

8.3. Compensation fee

A compensation fee is payable in order to cover the expenses sustained by the arbitrators, witnesses, experts or interpreters living outside the place of arbitration (i.e., for travel, accommodation and other expenses arising from participation in arbitral proceedings), as well as the expenses for the services of experts and interpreters. The compensation fee must be paid at the beginning of the arbitration proceedings within the term indicated by the Secretariat of the VCCA. If the compensation fee is not paid within the indicated period, the examination of the case may be postponed, or an invitation of the requested witnesses, experts or interpreters may be refused.

The amount of the compensation fee is determined by the Secretariat of the VCCA based on appropriate transport tariffs, hotel price-

lists and other documentation. The amount of the compensation fee may be specified during the arbitration proceedings, according to the submitted documents proving expenses.

8.4. Other expenses

Expenses incurred in relation to the participation of the representatives of the parties (including attorneys), personally invited witnesses, experts or interpreters must be covered by the party who invites such persons, unless otherwise agreed by the parties.

8.5. Allocation of costs between the parties

Unless the parties agree otherwise, the losing party compensates the costs of the other party. If the claim is partially satisfied, the parties share the arbitration fees in proportion to their satisfied and rejected claims. Under the Rules of VCCA, if the dispute is amicably settled, the settlement agreement between the parties provides otherwise.

8.6. Comparison of arbitration fees and court stamp duties

A comparison of arbitration fees (imposed by the VCCA) and court stamp duties (imposed pursuant to the Code of Civil Procedure) is provided in the following table:

Amount of the claim in LTL	Stamp duty in the court of general jurisdiction (all instances)	Registration fee, arbitration fee and arbitrator's fee in the arbitration court (1 arbitrator)	Registration fee, arbitration fee and arbitrator's fee in the arbitration court (3 arbitrators)
Up to 100,000	From 150 to 9,000	From 3,540.04 to 7,670	From 5,192.07 to 12,213
From 100,001 to 200,000	From 9,000 to 15,000	From 7,670.03 to 10,620	From 12,213.05 to 17,228
From 200,001 to 1,000,000	From 15,000 to 42,000	From 10,620.02 to 29,500	From 17,228.04 to 49,324
From 1,000,001 to 5,000,000	From 42,000 to 90,000 90,000	From 29,500.01 to 53,100	From 49,324.01 to 89,444
From 5,000,001 to 10,000,000	90,000	From 53,100 to 70,800	From 89,444.01 to 119,534
More than 10,000,001	90,000	70,800+ 0.118% of the sum in dispute exceeding 10,000,000	119,534 + 0.118% of the sum in dispute exceeding 10,000,000

9. INTERIM MEASURES IN ARBITRATION PROCEEDINGS

9.1. Possibility to apply for interim measures

According to the law, and unless otherwise agreed by the parties, the arbitral tribunal may, at the request of a party, only order the other party to pay a security deposit. Nevertheless, the arbitral tribunal may, at the request of any party, apply to the district court at the location of the arbitral tribunal for application of interim measures. In practice, requests for such interim measures are submitted to the court by the parties themselves. Moreover, a party to a dispute may file a request with the national court to impose interim measures as provided by the Code of Civil Procedure.

9.2. Enforcement of interim measures

When interim measures are imposed by a state court, upon the application of an arbitral tribunal or a party to a dispute, such interim measures are enforced immediately after the issuance of the ruling. The enforcement of interim measures is performed by bailiffs under rules specified in the Code of Civil Procedure.

Although under the New York Convention foreign arbitral awards regarding application of interim measures usually are not recognised and enforced, Lithuanian courts now tend to adhere to the position that such awards may be enforced in Lithuania if they are recognised and allowed for enforcement according to the rules applicable to recognition and enforcement of foreign arbitral awards.

10. CHALLENGE OF ARBITRAL AWARDS

The party wishing to challenge an arbitral award may submit an appropriate application to the Court of Appeals of Lithuania. The possibilities to challenge arbitral awards are limited to an exhaustive list of grounds. Under the rules of the Law on Commercial Arbitration, arbitral awards may not be reviewed on the merits of the case. An arbitral award may be withdrawn by the Court of Appeals of Lithuania if the party, submitting the application, proves one of the following grounds (the list is exhaustive):

- One of the parties to the arbitration agreement was under some type of incapacity during contracting, or the arbitration agreement is not valid under the laws which were agreed to be applied by the parties, and failing any indication thereon – under the laws of the country where the arbitral award was made; or
- A respective party was not given a proper notice of the appointment of an arbitrator or of the arbitral proceedings, or was unable to present its case for any other valid reasons; or
- The award deals with a dispute not contemplated by or not falling within the terms of submission to arbitration, or contains decisions on matters beyond the scope of arbitration; or
- The composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement between the parties, unless such agreement was in conflict with the provisions of the Law on Commercial Arbitration from which the parties may not derogate, or, failing such agreement, was not in accordance with the Law on Commercial Arbitration.

An arbitral award must be repealed by the Court of Appeals of Lithuania *ex officio* if the Court finds that:

- The subject matter of the dispute is outside

the scope of disputes which may be referred to arbitration under laws of the Republic of Lithuania; or
- The arbitral award is in conflict with Lithuanian public policy.

If any parts of the arbitral award on the matters falling within the scope of the arbitration agreement may be separated from those outside the arbitration agreement, only those parts of the award which contain the provisions on the matters falling outside the scope of the arbitration agreement may be repealed.

As required under the Law on Commercial Arbitration, the Court of Appeals of Lithuania will refuse to accept applications for challenging an arbitral award after the lapse of three months from the date on which the arbitral award was rendered. The Court of Appeals of Lithuania, after having accepted an application for setting aside of an arbitral award, at the request of a party may suspend the enforcement of the award. However, the Law on Commercial Arbitration does not specify any conditions of suspension. Moreover, there is no uniform Lithuanian court practice on whether or not a decision of the Court of Appeals of Lithuania may be further appealed.

11. RECOGNITION AND ENFORCEMENT OF ARBITRAL AWARDS

11.1. Enforcement of arbitral awards

Domestic arbitral awards can be directly enforced under the same rules as those applicable to judgments made by a national court, whereas foreign arbitral awards may be enforced only after having been recognised and authorised for enforcement by the Court of Appeals of Lithuania. The party requesting the court to recognise a foreign arbitral award may at the same time request to enforce it.

An arbitral award, rendered in any state that is a party to the New York Convention, will be recognised and enforced according to its provisions. Arbitral awards, rendered in a state, which is not a party to the New York Convention, will be recognised and enforced on a reciprocity basis.

The party applying for recognition and enforcement of a foreign arbitral award must have a legal interest, and submit to the Court of Appeals of Lithuania an original duly authenticated arbitral award or a duly certified copy thereof and an original arbitration agreement or a duly certified copy thereof. Under the rules of the Code of Civil Procedure, no stamp duty is charged on applications for recognition and enforcement of foreign arbitral awards.

Upon recognition by a Lithuanian court, a foreign arbitral award will have the same status as a national judgment, and will be enforced in the manner prescribed by the Code of Civil Procedure. Applications concerning recognition of foreign arbitral awards are heard by a panel of three arbitrators of the Court of Appeals of Lithuania. The court, hearing a application on recognition of a foreign arbitral award, may recognise only a part of the award, either upon the application of a party or upon its own findings. The court is entitled to suspend the recognition proceedings if the arbitral award is appealed or when a time limit for filing such an appeal has not yet expired. A judgment of the Court of Appeals of Lithuania granting or denying recognition and enforcement of a foreign arbitral award may be appealed against to the Supreme Court of Lithuania within a period of one month.

11.2. Grounds to deny recognition and enforcement of foreign arbitral awards

Foreign arbitral awards are recognised in accordance with the procedure and on the grounds provided for by the New York Convention, which correspond to the grounds for challenging arbitral awards described in item 10, above.

12. OTHER ADR

In addition to arbitration, other types of alternative dispute resolution (ADR) are practiced in Lithuania. The main distinction between arbitration and other types of ADR is the legal consequence of each. For example, if parties agree to solve their dispute in arbitration, then the final arbitral award will be binding on them and the same dispute could not be referred to state court. If one party fails to perform an agreement reached during an ADR procedure such as mediation or conciliation, the other party may either refer the same dispute to arbitration or to a state court, or it may start arbitral or judicial proceedings for non-fulfilment of contractual obligations arising from the agreement concluded as a consequence of the ADR procedure.

ADR is certainly creating conditions for parties in dispute to reach settlement in civil cases more effectively and speedily than would be possible in state courts. Public awareness of mediation is increasingly growing, and the number of private mediations is rising. Nonetheless, ADR is still quite new in Lithuania and is only beginning to increase in popularity. In order to speed up this process, a new Law on Conciliatory Mediation of Civil Disputes was adopted and came into force on 31 July 2008.

The Law on Conciliatory Mediation of Civil Disputes sets forth that the parties may conclude a written agreement to mediate their dispute before or after a dispute emerges. Notably, if the agreement on mediation includes a time limit during which the dispute should be mediated, the parties will be able to refer their dispute to court or arbitration only after the time limit for mediation expires. If the agreement on mediation does not contain a time limit, then the dispute can be referred to arbitration or court only after a month following the party's written suggestion to resolve their dispute through mediation. However, parties can refer their dispute to the court or arbitration prior to the term stipulated in the mediation agreement if the mediation is terminated. The Law on Conciliatory Mediation of Civil Disputes sets forth that mediation terminates if: (1) one of the parties declares in writing that it is not willing to mediate; (2) the mediator issues a written report to the parties regarding the termination of mediation; (3) one of the parties notifies the mediator and the other party that it is withdrawing from the mediation proceedings; (4) all involved parties declare in writing that the mediation is terminated; or (5) the parties conclude a settlement agreement. If the parties conclude a settlement agreement during the mediation proceedings, such agreement is binding on both parties. If the mediated dispute is not at the same time being examined in the court, the parties may request the court to confirm their settlement agreement according to the rules of the Code of Civil Procedure. A settlement agreement confirmed by the court is binding and can be enforced according to the general enforcement rules.

Arbitration institutions in Lithuania organise dispute resolution through mediation and conciliation, and the popularity of solving disputes with such mechanisms is increasingly growing. Judicial mediation and conciliation was promoted by the 2nd Vilnius city district court in 2005, in a project on judicial conciliation, in-court mediation and private mediation; since that time, the project has been expanded and also carried out in other courts in Lithuania.

V. Strategies for Success

NON-ARBITRABLE DISPUTES

Not all disputes may be solved by arbitration. Usually, national laws provide a list of disputes that may be heard only by the national courts (i.e., disputes arising out of criminal, constitutional, employment, and family relations). Therefore, the parties, before drafting an arbitration clause or arbitration agreement, should check whether the dispute would be arbitrable under the law of the seat of arbitration, the law applicable to the agreement and the law regulating recognition and enforcement of arbitral awards.

DRAFTING AN ARBITRATION AGREEMENT AND SELECTING AN ARBITRATION INSTITUTION

If the parties decide to solve their dispute in arbitration, they must draft a valid and comprehensive arbitration clause or arbitration agreement. This will minimise the risk of additional disputes at the very beginning of arbitration. In order to draft a clear arbitration clause, it would be wise to use the standard arbitration clauses recommended by arbitration institutions, which can be easily found on their websites. In any case, the parties drafting an arbitration agreement should consider including at least the following issues:

- The names of the parties to the agreement;
- The scope of the arbitration agreement – a particular existing dispute or future disputes to be referred to arbitration;
- The intention of the parties to submit their disputes to arbitration;
- The finality and binding effect of the arbitral award.

It is also advisable to agree on the following issues in the arbitration agreement:

- The number, method of selection and qualifications of arbitrators;
- The seat of the arbitration;
- The language of the arbitration;
- The applicable procedural law and rules;
- The applicable substantive rules;
- Confidentiality;
- State immunity issues, when one of the parties is a state.

It is advisable to select a respectable arbitration institution and indicate its precise name in the arbitration agreement, which will minimise the risk of improper services and unenforceable arbitral awards.

SOLE ARBITRATOR OR A PANEL OF ARBITRATORS

While choosing who should hear a dispute – a sole arbitrator or a panel of three arbitrators – it should be remembered that three arbitrators will undoubtedly increase the costs of arbitration; however, a panel of three arbitrators should be considered when the dispute is or might be complicated, since this allows the parties to choose arbitrators with special knowledge. Arbitrators are expected to share their experience, and this should minimise the risk of misunderstanding of the entire dispute. A sole arbitrator, however, is able to act more quickly during the arbitration proceedings and should be considered when the dispute may be quite simple.

LANGUAGE OF ARBITRATION

Since arbitration often involves persons (parties, members of the arbitral tribunal) speaking different languages, parties sometimes choose bilingual arbitration. However, bilingual arbitration may be justifiable only if the need of two languages in arbitration is essential, since bilingual arbitration will increase the costs of the parties incurred for translation of documents. In particular, this issue should be considered when the case may be complex and/or many documents and evidence will be exchanged between the parties and the arbitral tribunal. Sometimes, bilingual arbitration may lead to additional disputes, if different language statements of the parties or particular documents conflict. Furthermore, bilingual arbitration may limit the possibilities of choosing arbitrators.

PLACE OF ARBITRATION

It is very important to agree that the place of arbitration is in a country that is a member of the New York Convention, as this convention provides limited grounds for refusal to recognise and enforce arbitral awards. Furthermore, the place of arbitration is of essential importance when mandatory provisions of the place of arbitration are applied, e.g. courts of general jurisdiction of the place of arbitration may assist the arbitral tribunal, etc.

TIMING OF ARBITRATION

In order to preclude the parties and arbitrators from unnecessary prolongation of the arbitration proceedings, the parties may wish to set a time period for the arbitration proceedings in the arbitration agreement. However, such a provision may cause unnecessary disputes, and therefore, the parties should consider whether such a provision is needed at all. If the parties wish to include such a provision, it is advisable to include a defined mechanism for extension of time, because due to the absence of such a mechanism in the arbitration agreement, the arbitral award, unless made within the set time limit, may be considered beyond the jurisdiction of the arbitral tribunal.

EARLY MANAGEMENT OF THE CASE

Although signing of Terms of Reference is usually not required in arbitrations in the Baltic States, the parties should consider drafting such a document, which may assist the parties in agreeing upon important issues (e.g., the essence of the dispute, rules of delivery of documents, number of oral hearings (if any) and written documents, etc.) already at the beginning of the arbitration proceedings. Signing of Terms of Reference may also avoid possible misunderstandings (especialy in *ad hoc* arbitration) or additional disputes in the future, and may save time and costs.

WRITTEN SUBMISSIONS AND ORAL HEARINGS

It may be valuable for the parties to decide on the number of written submissions at the very beginning of the arbitration proceedings. Since preparation of written submissions is costly, their number should be adequate with respect to the complexity of the dispute.

Written submissions may be exchanged by the parties to a dispute sequentially or simultaneously. Although simultaneous submission may save time, in such a case the parties preparing written submissions do so without knowing the arguments of the other party, which may raise difficulty in submitting proper counterarguments.

Moreover, when all statements of both parties are based on written evidence, no witnesses should be orally heard. When the case is not very complex, the parties may wish to exclude an oral hearing in order to save time and costs.

PRODUCTION OF DOCUMENTS

During the arbitration proceedings, the parties may be permitted to request documents or other evidence from each other. However, without sufficient management, such document and evidence productions may become particularly time and cost consuming.

In order to appropriately manage documents productions during arbitration proceedings, the parties should either set clear rules for exchange of documents (for example, in a Terms of Reference) or should agree to apply certain document production rules. Notably, the International Bar Association's Rules on Taking Evidence in International Commercial Arbitration (known as the "IBA Rules") represent an effort to determine clear rules for production of documents in arbitrations. Thus, the parties to a dispute should consider applying the IBA Rules in their arbitration proceedings.

SOVEREIGN IMMUNITY

When one of the parties in arbitration proceedings is a state, the issue of sovereign immunity must be considered. In legal doctrine as well as in arbitration practice, a distinction is made between immunity from jurisdiction (which addresses the question whether the arbitral tribunal has the competence to examine the dispute where one of the parties is a state), and immunity from execution (which addresses the question whether the arbitral award, made against a state, may be enforced). It is generally accepted that the existence of an arbitration agreement is treated as waiver of immunity from jurisdiction; therefore, an arbitral tribunal should have the power to examine a dispute involving a state, if the parties have concluded an arbitration agreement. Nevertheless, such an arbitration agreement may not necessarily be treated as a waiver of immunity from execution; therefore, it is highly recommended that parties include in the arbitration agreement a separate provision regarding waiver of state immunity from execution.

VI. Contacts

ESTONIA

Lepik & Luhaäär LAWIN has acquired extensive experience in domestic and international arbitration matters by representing clients in several construction and commercial disputes, such as representing a Norwegian investor before the Arbitration Institute of the Stockholm Chamber of Commerce in a dispute with the Republic of Estonia, representing a leading telecommunication firm before the Arbitration Court of the Estonian Chamber of Commerce and Industry and advising a major international oil company in an arbitration case.

The law firm assists its clients in arbitration matters by providing advice on Estonian law, providing information regarding arbitration proceedings, drafting procedural documents, representing them in arbitral institutions and in enforcing foreign arbitral awards.

The firm's partner, Peeter Lepik, acts as an arbitrator at the Arbitration Court of the Estonian Chamber of Commerce and Industry. One of the firm's associates, Viive Näslund, is a panelist for *eu*. domain name disputes at the Czech Arbitration Court. Two other associates, Kaidi Reiljan-Sihvart and Triinu Hiob, regularly serve as arbitrators at the Arbitral Tribunal for Resolution of Insurance Disputes in Estonia.

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LATVIA

Kļaviņš & Slaidiņš LAWIN has been involved in several international arbitration proceedings in which the firm assisted foreign investors in the following cases: *JSC "Latvijas Gaze" v. the Republic of Latvia*; *Nycomb Synergetics Technology Holding AB (Sweden) v. the Republic of Latvia*; *Tilts Communications A/S (Denmark), Sonera OYJ (Finland)* and *Cable & Wireless plc (U.K.) v. Republic of Latvia, Lattelekom SIA (Latvia)*.

Moreover, the law firm represents and consults clients in proceedings before Latvian arbitration institutions, by drafting procedural submissions, collecting evidence and representing the position of its clients. The law firm also assists its clients in obtaining recognition and enforcement of foreign arbitral awards.

One of the firm's partners, Filips Kļaviņš, is a member of the Council of the Latvian Chamber of Commerce and Industry Court of Arbitration. Two other partners, Daiga Zivtiņa and Ilga Gudrenika-Krebs, frequently act as arbitrators in local arbitration cases. Ilga Gudrenika-Krebs has received Accredited Mediators' Certificates at Regent's College, London.

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LITHUANIA

Lideika, Petrauskas, Valiūnas ir partneriai LAWIN assists its clients in various matters related to arbitration: drafting of the arbitration agreements, procedural documents and representing clients in local and international arbitration and/or arbitral award recognition and enforcement proceedings.

The law firm is working with its clients in the most significant arbitration cases in Lithuania, such as representing the Republic of Lithuania in an arbitration case under ICC Rules concerning an alleged non-disclosure in a privatisation contract, a large utility company in a multimillion value contractual dispute under the Rules of the Arbitration Institute of the Central Chamber of Commerce of Finland, a Swedish owned company in arbitration under the Stockholm Chamber of Commerce Rules concerning an investment agreement, a Lithuanian company in arbitration under the Geneva Chamber of Commerce Rules (CCIG) concerning the compensation of a significant amount of losses, an Icelandic-Lithuanian company in arbitration under ICC Rules concerning the unilateral termination of a charterparty and several others.

Lawyers of Lideika, Petrauskas, Valiūnas ir partneriai LAWIN are acting as arbitrators in both national and international disputes. Six lawyers of the firm – Jaunius Gumbis, Mindaugas Kiškis, Ramūnas Petravičius, Giedrius Stasevičius, Vilija Vaitkutė Pavan, Rolandas Valiūnas – are enrolled in a list of recommended arbitrators at the Vilnius Court of Commercial Arbitration. Partner Vilija Vaitkutė Pavan is a member of the ICC International Court of Arbitration, *ex officio* member of the ICC Commission on Arbitration, a supporting member of the London Maritime Arbitrators Association, a member of Chambre Arbitrale Maritime de Monaco (Monaco Chamber of Maritime Arbitration) and Chairwoman of the Commission on Arbitration of the ICC Lithuania. Lawyers of the law firm are also active participants of a Working Group drafting amendments to the Law on Commercial Arbitration.

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The united offices of LAWIN consist of the leading law firms in each of the Baltic countries – Lepik & Luhaäär LAWIN (Estonia), Ķļaviņš & Slaidiņš LAWIN (Latvia), and Lideika, Petrauskas, Valiūnas ir partneriai LAWIN (Lithuania). With a team of about 120 lawyers, LAWIN constitutes the largest legal presence in the Baltic States.

For more than a decade, LAWIN firms have been at the heart of the most complex business transactions in Lithuania, Latvia and Estonia. Each of the firms is ranked by leading law directories such as *Chambers Global, The Legal 500, IFLR 1000* as a top law firm in its respective country.

In 2008 LAWIN was awarded as the Baltic Law Firm of the Year by IFLR.

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