

**Arbitration Rules of the
Albanian Commercial Mediation & Arbitration Center**

1. Interpretation

1.1 In these Rules, the following terms shall have the following meanings:

- a. “ADR Albania” means the Commercial Mediation and Arbitration Centre of Albania,
- b. “Arbitral Tribunal” means a sole arbitrator or a panel of arbitrators,
- c. “Arbitration Agreement” means a written agreement between two or more parties agreeing to submit to arbitration any dispute, controversy or claim arising between the parties,
- d. “Business Day” means Monday to Friday excluding statutory or official holidays,
- e. “Executive Director” means the Executive Director of ADR Albania,
- f. “Party” means a party or parties to an Arbitration Agreement.
- g. “Representative” means an authorized representative of a party
- h. “Rules” mean the Arbitration Rules of ADR Albania in force at the time of the commencement of the arbitration.

1.2 A reference to these Rules in a contract or otherwise is deemed to be a reference to all Parts of the Rules unless the reference is specifically to one or more designated Parts.

1.3 Where appropriate in these Rules words importing the singular shall include the plural and words importing the masculine gender shall include the feminine.

2. Application

2.1 These Rules, and any amendments thereto in effect at the date of commencement of an arbitration, shall, subject to such modification as the Parties may agree in writing, apply to all arbitrations held by an arbitrator appointed by ADR Albania and shall be deemed to be a part of the Arbitration Agreement where the parties have provided for arbitration under these Rules.

2.2 In the event that any provision of these Rules is in conflict with any applicable law from which the parties cannot derogate, the provisions of that law shall prevail.

2.3 The parties, at any time, on mutual consent, may modify these rules.

3. Privacy and Confidentiality of Arbitration

3.1 Subject to (2), all arbitrations held under these Rules are private and confidential. The Parties and their Representatives may attend at the arbitration. All other persons may only attend with the consent of the Parties and the Arbitral Tribunal.

3.2 Except to the extent necessary in connection with a court challenge to the arbitration or an action for enforcement of an award, no information concerning the existence of an arbitration may be unilaterally disclosed by a Party to any third party unless it is required to do so by law or by a competent regulatory body, and then only,

- a. by disclosing no more than what is legally required, and
- b. by furnishing to the Arbitral Tribunal and to the other Party, if the disclosure takes place during the arbitration, or to the other Party alone, if the disclosure takes place after the termination of the arbitration, details of the disclosure and an explanation of the reason for it.

4. Notice, Calculation of Periods of Time

4.1 For the purposes of these Rules, any notice, including a notification, communication or proposal, is deemed to have been received if it is physically delivered to the recipient or if it is delivered at his habitual residence, place of business or mailing address, or if none of these can be found after making a reasonable inquiry, then at the recipient's last known residence or place of business. Notice shall be deemed to have been received on the day it is so delivered.

For the purposes of calculating a period of time under these Rules, such period shall begin to run on the day following the day when notice, notification, communication or proposal is received. If the last day of such period is an official holiday or a non-business day at the place of residence or business of the recipient, the last day will be deemed to be the first business day that follows. Official holidays or non business days occurring during the running of the period of time are included in calculating the period.

THE ARBITRATOR

5. Number of Arbitrators

5.1 The parties are free to determine the number of arbitrators in their Arbitration Agreement, or subsequently in writing.

5.2 Should the parties fail to agree on the number of arbitrators in the Arbitration Agreement, or subsequently in writing, ADR Albania shall appoint a sole arbitrator from its Roster of Arbitrators. If the parties fail to agree, the ADR Albania retains the right to appoint a panel of arbitrators in cases suitable for a panel of arbitrators.

6. Appointment

6.1 The appointing authority referred to in these Rules is ADR Albania.

6.2 The parties may follow the appointing procedure as set out in its Arbitration Agreement, or subsequently agreed to in writing.

6.3 If the parties do not agree to an appointing procedure in the Arbitration Agreement, or subsequently in writing, ADR Albania shall appoint the Arbitral Tribunal.

7. Challenge of Arbitrators

7.1 When a person is approached in connection with his possible appointment as an arbitrator, he shall disclose any circumstances likely to give rise to justifiable doubts as to his impartiality or independence. An arbitrator, from the time of his appointment and throughout the arbitral proceedings, shall without delay disclose any such circumstances to the parties unless they have already been informed of them by him.

7.2 An arbitrator may be challenged only if circumstances exist that give rise to justifiable doubts as to his impartiality or independence, or if he does not possess qualifications agreed to by the parties. A party may challenge an arbitrator appointed by him, or in whose appointment he has participated, only for reasons of which he becomes aware after the appointment has been made.

8. Procedure for Challenging

8.1 A party who intends to challenge an arbitrator shall send notice of his challenge, within 15 days of receiving notice of the appointment of the challenged arbitrator or within 15 days after the circumstances mentioned in Rule 7 become known to that party.

8.2 The other party or parties to the dispute and the other members of the Arbitral Tribunal shall be notified of the challenge, to the arbitrator who is challenged. The notification shall be in writing and shall state the reasons for the challenge.

8.3 When an arbitrator has been challenged by one party, the other party may agree to the challenge. The arbitrator may also, after the challenge, withdraw from his office. In neither case does this imply acceptance of the validity of the grounds for the challenge. In both cases the procedure provided in Rule 6

shall be used in full for the appointment of the substitute arbitrator, even if during the process of appointing the challenged arbitrator a party failed to exercise his right to appoint or to participate in the appointment.

8.4 If the other party does not agree to the challenge and the challenged arbitrator does not withdraw, the Executive Director of ADR Albania shall make the decision on the challenge.

8.5 If the challenge is approved, a substitute arbitrator shall be appointed or chosen pursuant to the procedure applicable to the appointment or choice of an arbitrator as provided in Rule 6.

9. Replacement of an Arbitrator

9.1 In the event of the death or resignation of an arbitrator during the course of the arbitral proceedings, a substitute arbitrator shall be appointed or chosen pursuant to the procedure provided for in Rule 6.

9.2 In the event that an arbitrator fails to act or in the event of the *de jure* or *de facto* impossibility of his performing his functions, the procedure in respect of the challenge and replacement of an arbitrator as provided in the preceding articles shall apply.

10. Repetition of Hearings in the Event of the Replacement of an Arbitrator

If under the Rules, the sole or presiding arbitrator is replaced, any hearings held previously shall be repeated; if any other arbitrator is replaced, such prior hearings may be repeated at the discretion of the Arbitral Tribunal.

GENERAL PROCEDURE

11. Representation and Assistance

The parties may be represented or assisted by persons of their choice. The names and addresses of such persons must be communicated in writing to the other party and to the Arbitral Tribunal.

12. Notice of Arbitration

12.1 The party initiating the arbitration proceeding (hereinafter called the 'claimant') shall deliver a

notice of arbitration to the other side (hereinafter called the 'respondent') and ADR Albania.

12.2 Arbitration proceedings shall be deemed to commence on the day on which ADR Albania receives

the notice of arbitration.

12.3 A notice of arbitration shall include the following:

- a. A demand that the dispute be referred to arbitration;
- b. The names and addresses of the parties;
- c. A reference to the arbitration clause or the separate Arbitration Agreement that is invoked;
- d. The general nature of the claim;
- e. The relief or remedy sought;

13. Procedural Hearing

13.1 The Arbitral Tribunal may convene a procedural hearing at any time it considers appropriate to be conducted in accordance with an arbitration agenda, to resolve procedural issues and establish a timetable. A procedural hearing agenda may include an identification and clarification of the issues in dispute.

13.2 Any procedural hearing may take place by conference telephone call.

13.3 The Arbitral Tribunal shall record any agreement or orders made at any procedural hearing and shall within 7 days of that meeting send a copy of such record to each of the Parties.

14. Place of Arbitration

14.1 Unless the parties have agreed upon the place where the arbitration is to be held, such place shall

be determined by the Arbitral Tribunal, having regard to the circumstances of the arbitration.

15. Language

15.1 If there is no agreement by the parties in the Arbitration Agreement or subsequently in writing, as to the language or languages to be used in the proceedings, the Arbitral Tribunal shall determine the language or languages to be used in the proceeding.

15.2 The Arbitral Tribunal may order that any documents annexed to the statement of claim or statement of defense, and any supplementary documents or exhibits submitted in the course of the proceedings, delivered in their original language, shall be accompanied by a translation into the language or languages agreed upon by the parties or determined by the Arbitral Tribunal.

16. Statement of claim

16.1 Unless the statement of claim was contained in the notice of arbitration, within a period of time to be determined by the Arbitral Tribunal, the claimant shall communicate his statement of claim in writing to the respondent and to each of the arbitrators. A copy of the Arbitration Agreement if not contained in the contract, shall be annexed thereto.

16.2 The statement of claim shall include the following particulars:

- a. The names and addresses of the parties;
- b. A statement of the facts supporting the claim;
- c. The points at issue;
- d. The relief or remedy sought.

The claimant may annex to his statement of claim all documents he deems relevant or may add a reference to the documents or other evidence he will submit.

17. Statement of Defense

17.1 Within a period of time to be determined by the Arbitral Tribunal, the respondent shall communicate his statement of defense in writing to the claimant and to each of the arbitrators.

17.2 The statement of defense shall reply to the particulars in paragraph 16.2 (b), (c) and (d) of the statement of claim (Rule 16). The respondent may annex to his statement the documents on which he relies for his defense or may add a reference to the documents or other evidence he will submit. 17.3 In his statement of defense, or at a later stage in the arbitral proceedings if the Arbitral Tribunal decides that the delay was justified under the circumstances, the respondent may make a counter-claim arising out of the same contract or rely on a claim arising out of the same contract for the purpose of a set-off.

17.4 The provisions of Rule 16, paragraph 2, shall apply to a counter-claim and a claim relied on for the purpose of a set-off.

18. Amendments to the Claim or Defense

During the course of arbitral proceedings either party may amend or supplement its claim or defense unless the Arbitral Tribunal considers it inappropriate to allow such amendment having regard to the delay in making it or prejudice to the other party or any other circumstances. However, a claim may not be amended in such a manner that the amended claim falls outside the scope of the arbitration clause or separate Arbitration Agreement.

19. Pleas as to the Jurisdiction of the Arbitral Tribunal

19.1 The Arbitral Tribunal shall have the power to rule on objections that it has no jurisdiction, including any objections with respect to the existence or validity of the arbitration clause or of the separate Arbitration Agreement.

19.2 The Arbitral Tribunal shall have the power to determine the existence or the validity of the contract of which an arbitration clause forms a part. For the purposes of this Rule, an arbitration clause which forms part of a contract and which provides for arbitration under these Rules shall be treated as an agreement independent of the other terms of the contract. A decision by the Arbitral Tribunal that the contract is null and void shall not entail *ipso jure* the invalidity of the arbitration clause.

19.3 A plea that the Arbitral Tribunal does not have jurisdiction shall be raised not later than in the statement of defense or, with respect to a counter-claim, in the reply to the counter-claim.

19.4 In general, the Arbitral Tribunal should rule on a plea concerning its jurisdiction as a preliminary question. However, the Arbitral Tribunal may proceed with the arbitration and rule on such a plea in its final award.

20. Further Written Statements

The Arbitral Tribunal shall decide which further written statements, in addition to the statement of claim and the statement of defense, shall be required from the parties or may be presented by them and shall fix the periods of time for communicating such statements.

21. Periods of Time

The periods of time fixed by the Arbitral Tribunal for the communication of written statements (including the statement of claim and statement of defense) should not exceed 45 days. However, the Arbitral Tribunal may extend the time limits if it concludes that an extension is justified.

22. Motions

A party may bring a motion before the Arbitral Tribunal at any time, up to the date of the hearing itself, for orders pertaining to the procedure, evidence, documents and pre-hearing discovery of the arbitration. Subject to the agreement of the parties, which shall pre-dominate, the Arbitral Tribunal shall have sole authority to set the process of any particular hearing.

23. Evidence

23.1 Each party shall have the burden of proving the facts relied on to support its claim or defense. 23.2 The Arbitral Tribunal may, if it considers it appropriate, require a party to deliver to the tribunal and to the other party, within such a period of time as the Arbitral Tribunal shall decide, a summary of the documents and other evidence which that party intends to present in support of the facts in issue set out in its statement of claim or statement of defense.

23.3 At any time during the arbitral proceedings the Arbitral Tribunal may require the parties to produce documents, exhibits or other evidence within such a period of time as the tribunal shall determine.

24. Hearing

24.1 In the event of an oral hearing, the Arbitral Tribunal shall give the parties adequate advance notice of the date, time and place thereof.

24.2 If witnesses are to be heard, at least 15 days before the hearing each party shall communicate to the Arbitral Tribunal and to the other party the names and addresses of the witnesses it intends to present, and the subject upon and the languages in which such witnesses will give their testimony. 24.3 The Arbitral Tribunal shall make arrangements for the translation of oral statements made at a hearing and for a record of the hearing if either is deemed necessary by the tribunal under the circumstances of the case, or if the parties have agreed thereto and have communicated such agreement to the tribunal at least 15 days before the hearing.

24.4 Hearings shall be held *in camera* unless the parties agree otherwise. The Arbitral Tribunal may require the retirement of any witness or witnesses during the testimony of other witnesses. The Arbitral Tribunal is free to determine the manner in which witnesses are examined.

24.5 Evidence of witnesses may also be presented in the form of written statements signed by them. 24.6 The Arbitral Tribunal shall determine the admissibility, relevance, materiality and weight of the evidence offered.

25. Interim Measures of Protection

25.1 At the request of either party, the Arbitral Tribunal may take any interim measures it deems necessary in respect of the subject matter of the dispute, including measures for the conservation of the goods forming the subject matter in dispute, such as ordering their deposit with a third person or the sale of perishable goods.

25.2 Such interim measures may be established in the form of an interim award. The Arbitral Tribunal shall be entitled to require security for the costs of such measures.

25.3 A request for interim measures addressed by any party to a judicial authority shall not be deemed incompatible with the agreement to arbitrate, or as a waiver of that agreement.

26. Experts

26.1 Any party may present expert evidence. The Arbitral Tribunal may make orders, as appropriate, with respect to the delivery and exchange of written reports by any expert retained by a party.

26.2 The Arbitral Tribunal may appoint one or more experts to report to it, in writing, on specific issues to be determined by the tribunal. A copy of the expert's terms of reference, established by the Arbitral Tribunal, shall be communicated to the parties.

26.3 The parties shall give the expert any relevant information or produce for his inspection any relevant documents or goods that he may require of them. Any dispute between a party and such expert as to the relevance of the required information or production shall be referred to the Arbitral Tribunal for decision.

26.4 Upon receipt of the expert's report, the Arbitral Tribunal shall communicate a copy of the report to the parties who shall be given the opportunity to express, in writing, their opinion on the report. A party shall be entitled to examine any document on which the expert has relied in his report.

26.5 At the request of either party the expert, after delivery of the report, may be heard at a hearing where the parties shall have the opportunity to be present and to interrogate the expert. At this hearing either party may present expert witnesses in order to testify on the points at issue. The provisions of Rule 23 shall be applicable to such proceedings.

27. Default

27.1 If, within the period of time fixed by the Arbitral Tribunal, the claimant has failed to communicate his claim without showing sufficient cause for such failure, the Arbitral Tribunal shall issue an order for the termination of the arbitral proceedings. If, within the period of time fixed by the Arbitral Tribunal, the respondent has failed to communicate his statement of defense without showing sufficient cause for such failure, the Arbitral Tribunal shall order that the proceedings continue.

27.2 If one of the parties, duly notified under these Rules, fails to appear at a hearing, without showing sufficient cause for such failure, the Arbitral Tribunal may proceed with the arbitration.

27.3 If one of the parties, duly invited to produce documentary evidence, fails to do so within the established period of time, without showing sufficient cause for such failure, the Arbitral Tribunal may make the award on the evidence before it.

28. Closure of Hearings

28.1 The Arbitral Tribunal may inquire of the parties if they have any further proof to offer or witnesses to be heard or submissions to make and, if there are none, it may declare the hearings closed.

28.2 The Arbitral Tribunal may, if it considers it necessary owing to exceptional circumstances, decide, on its own motion or upon application of a party, to reopen the hearings at any time before the award is made.

29. Waiver of Rules

A Party who knows that any provision of, or requirement under, these Rules has not been complied with and yet proceeds with the arbitration without promptly stating its objection to such non-compliance, shall be deemed to have waived its right to object.

THE AWARD

30. Decisions

30.1 When there is more than one arbitrator, any award or other decision of the Arbitral Tribunal shall be made by a majority of the arbitrators.

30.2 In the case of questions of procedure, when there is no majority or when the Arbitral Tribunal so authorizes, the presiding arbitrator may decide on his own, subject to revision, if any, by the Arbitral Tribunal.

31. Form and Effect of the Award

31.1 In addition to making a final award, the Arbitral Tribunal shall be entitled to make interim, interlocutory, or partial awards.

31.2 The award shall be made in writing and shall be final and binding on the parties. The parties undertake to carry out the award without delay.

31.3 The Arbitral Tribunal shall state the reasons upon which the award is based.

31.4 An award shall be signed by the arbitrators and it shall contain the date on which and the place where the award was made. Where an arbitrator fails to sign, the award shall state the reason for the absence of the signature.

31.5 The award may be made public only with the consent of both parties.

31.6 Copies of the award signed by the arbitrators shall be communicated to the parties by the Arbitral Tribunal.

32. Applicable Law

The Arbitral Tribunal shall apply the law as designated by the statute governing arbitrations in the Republic of Albania.

33. Settlement or Other Grounds for Termination

33.1 If, before the award is made, the parties agree on a settlement of the dispute, the Arbitral Tribunal shall either issue an order for the termination of the arbitral proceedings or, if requested by both parties and accepted by the tribunal, record the settlement in the form of an arbitral award on agreed terms. The Arbitral Tribunal is not obliged to give reasons for such an award.

33.2 If, before the award is made, the continuation of the Arbitral Proceedings becomes unnecessary or impossible for any reason not mentioned in paragraph 1, the Arbitral Tribunal shall inform the parties of its intention to issue an order for the termination of the proceedings. The Arbitral Tribunal shall have the power to issue such an order unless a party raises justifiable grounds for objection.

33.3 Copies of the order for termination of the arbitral proceedings or of the arbitral award on agreed terms, signed by the arbitrators, shall be communicated by the Arbitral Tribunal to the parties.

34. Interpretation of the Award

34.1 Within 30 days after the receipt of the award, either party, with notice to the other party, may request that the Arbitral Tribunal give an interpretation of the award.

34.2 The interpretation shall be given in writing within 45 days after the receipt of the request. The interpretation shall form part of the award.

35. Correction of the Award

35.1 Within 30 days after the receipt of the award, either party, with notice to the other party, may request the Arbitral Tribunal to correct in the award any errors in computation, any clerical or typographical errors, or any errors of similar nature. The Arbitral Tribunal may, within 30 days after the communication of the award, make such corrections on its own initiative.

35.2 Such corrections shall be in writing.

36. Additional Award

36.1 Within 30 days after the receipt of the award, either party, with notice to the other party, may request the Arbitral Tribunal to make an additional award as to claims presented in the arbitral proceedings but omitted from the award.

36.2 If the Arbitral Tribunal considers the request for an additional award to be justified and considers that the omission can be rectified without any further hearings or evidence, it shall complete its award within 60 days after the receipt of the request.

COSTS

37. Costs

37.1 The Arbitral Tribunal shall fix the costs of arbitration in its award. The term "costs" includes only:

- a. The fees of the Arbitral Tribunal to be stated separately as to each arbitrator and to be fixed by the tribunal itself in accordance with the Fee Schedule of the Alanian Commercial Mediation and Arbitration Centre.
- b. The travel and other expenses incurred by the arbitrators;
- c. The costs of expert advice and of other assistance required by the Arbitral Tribunal;
- d. The travel and other expenses of witnesses to the extent such expenses are approved by the Arbitral Tribunal;
- e. The costs for legal representation and assistance of the successful party if such costs were claimed during the arbitral proceedings, and only to the extent that the Arbitral Tribunal determines that the amount of such costs is reasonable;

38. Who Pays the Costs

38.1 Except as provided in paragraph 2, the costs of arbitration shall in principle be borne by the unsuccessful party. However, the Arbitral Tribunal may apportion each of such costs between the parties if it determines that apportionment is reasonable, taking into account the circumstances of the case.

38.2 With respect to the costs of legal representation and, the Arbitral Tribunal, taking into account the circumstances of the case, shall be free to determine which party shall bear such costs or may apportion such costs between the parties if it determines that apportionment is reasonable.

38.3 When the Arbitral Tribunal issues an order for the termination of the arbitral proceedings or makes an award on agreed terms, it shall fix the costs of arbitration referred, in the text of that order or award.

38.4 No additional fees may be charged by an Arbitral Tribunal for interpretation or correction or completion of its award under articles 35 to 37.

39. Deposit of Costs

39.1 The Arbitral Tribunal, on its establishment, may request each party to deposit an equal amount as an advance for the costs referred to in Rule 37 paragraphs (a), (b) and (c).

39.2 During the course of the arbitral proceedings the Arbitral Tribunal may request supplementary deposits from the parties.

39.3 If the required deposits are not paid in full within 30 days after the receipt of the request, the Arbitral Tribunal shall so inform the parties in order that one or another of them may make the required payment. If such payment is not made, the Arbitral Tribunal may order the suspension or termination of the arbitral proceedings.

39.4 After the award has been made, the Arbitral Tribunal shall render an accounting to the parties of the deposits received and return any unexpended balance to the parties.

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