

## **RULES**

### **of the Court of Arbitration of the Estonian Chamber of Commerce and Industry**

*Approved by the decision of the Board of the Estonian Chamber of Commerce and Industry of 14 December 2023 and effective as of 1 January 2024.*

## **I GENERAL RULES**

### **§ 1 Court of Arbitration of the Estonian Chamber of Commerce and Industry**

- (1) The Court of Arbitration of the Estonian Chamber of Commerce and Industry (hereinafter the **Court of Arbitration**) is an independent and unbiased permanent arbitration institute formed by the Board of the Estonian Chamber of Commerce and Industry (hereinafter also the **Chamber**), which resolves disputes arising from contractual and other civil law relationships, including international economic relations, pursuant to these rules that are approved by the Board of Chamber (hereinafter the **Rules**).
- (2) The Court of Arbitration may be designated to act as a competent body that appoints arbitrators or other persons involved in the resolution of disputes even if the Rules are not applicable to the resolution of the relevant dispute.

### **§ 2 Council**

- (1) The work of the Court of Arbitration is managed by the council of the Court of Arbitration (hereinafter the **Council**), which can consist of up to seven members. The members are appointed for a 3-year term by the Board of the Chamber. Members of the Council shall have obtained at least a master's degree in law that is recognised nationally or an equivalent (foreign) qualification. At least one member of the Council shall be a serving judge of the Republic of Estonia.
- (2) The Council shall elect a chair and a vice-chair from among its members.
- (3) The Rules establish the competence and tasks of the Council. As required, the Council may adopt decisions on issues not directly set forth in the Rules but which are necessary for the reasonable and efficient implementation of the objectives of the Court of Arbitration and the Rules.
- (4) The Council has a quorum if at least four of its members take part in decision-making.
- (5) The Council may convene meetings, including through electronic means of communication, or adopt decisions by a written procedure without holding a meeting. Council meetings are chaired or the adoption of decisions in the course of written proceedings is organised by the chair of the Council or, in his/her absence, by the vice-chair of the Council or, in the absence of the latter, a member of the Council who has been respectively authorised by the Council.
- (6) A decision of the Council is adopted by a simple majority of votes. Where the vote is a tie, the deciding vote is cast by the chair of the meeting. Council decisions do not need reasoning.
- (7) A member of the Council shall avoid creating situations of conflicts of interest by withdrawing themselves from the discussions and voting on items related to a conflict of interest. Upon withdrawal, the member of the Council shall leave the Council meeting before the discussions regarding the item on the agenda begin. The withdrawn Council member is not counted when calculating the necessary decision-making quorum.

- (8) A Council decision is fixed in a format that can be reproduced in writing.
- (9) A Council decision takes effect upon its issuing, it is final and cannot be appealed.

### **§ 3 Jurisdiction of the Court of Arbitration**

- (1) The Rules apply in the following instances:
  - (a) the parties have an agreement in a format that can be reproduced in writing to resolve at the Court of Arbitration a dispute that has already arisen or may arise between them over a determined contractual or non-contractual relationship;
  - (b) the consent for the resolution of the dispute in the Court of Arbitration has been expressed by the claimant by filing a claim, and by the respondent by any action that confirms voluntary submission of the parties to the jurisdiction of the Court of Arbitration.
- (2) If a party has agreed to resolve a dispute at the Court of Arbitration, the party is also deemed to have agreed to the application of the Rules. The sections of the Rules are mandatory to the parties and the parties cannot agree on differently.
- (3) The Council shall make a preliminary (*prima facie*) decision on the jurisdiction of the Court of Arbitration in resolving a dispute.
- (4) The Rules in effect on the day of the commencement of the arbitration proceedings (section 12 of the Rules) shall apply to the arbitration.
- (5) In issues not clearly regulated by the Rules, the Court of Arbitration (including the Council), the arbitral tribunal resolving a dispute (hereinafter the **arbitral tribunal**), and the parties shall be guided by the meaning and purpose of the Rules to ensure efficient arbitration proceedings and lawful and enforceable arbitration awards.

### **§ 4 Administration of the Court of Arbitration**

The day-to-day administration of the Court of Arbitration is organised by a secretary of the Court of Arbitration, who is also an employee of the Chamber, pursuant to the Rules, the decisions of the Council, and the orders of the chair of the Council or a member of the Council acting as a deputy of the chair. The secretary of the Court of Arbitration communicates with the parties on behalf of the Court of Arbitration.

### **§ 5 Confidentiality**

- (1) Proceedings at the Court of Arbitration are confidential.
- (2) The Court of Arbitration, the arbitral tribunal, the parties, and other persons involved in the proceedings (including counsels or representatives of the parties, witnesses, and experts) may disclose facts relating to the arbitration proceedings (including its existence) and the arbitration award to persons not involved in the proceedings only upon the consent of the parties, which shall be in a format that can be reproduced in writing.
- (3) Circumstances relating to the arbitration proceedings (including its existence) and the arbitration award can be disclosed without the consent of the parties in the following instances:
  - (a) to the court, in a litigation relating to the arbitration proceedings, including in proceedings for the annulment of the award or in proceedings for recognising the award and declaring it enforceable;
  - (b) to the financial or legal advisers of the parties;
  - (c) after this fact has already been disclosed publicly;
  - (d) the obligation to disclose the circumstance is stipulated in a normative act.
- (4) Upon a respective decision of the Council, the Court of Arbitration may disclose circumstances related to the arbitration proceedings and the award without the consent of the parties also in the following instances:

- (a) upon declaration of insolvency of a party, to the bankruptcy trustee upon his/her request;
  - (b) the obligation to disclose this circumstance stems from a normative act.
- (5) The Court of Arbitration may disclose excerpts and/or summaries of the awards, provided that the names of the parties and the circumstances that would allow for their identification or for the identification of the dispute have been removed from the text.

## **§ 6 Transmitting notices**

- (1) The Court of Arbitration, the arbitral tribunal, and the parties shall transmit all procedural documents, orders and awards, and other manifestations of intention and notices (hereinafter **notice** or **notices**) through electronic means of communication or on paper, ensuring that the notice and the time of transmitting it can be reproduced in writing.
- (2) A notice is considered received when it has been communicated to the recipient personally. A notice to a person who is not present is considered received when it has arrived at the residence or place of business of the recipient or to a location that has closest connection to the place of performance by the recipient of the contract under dispute, and the recipient has had reasonable opportunity to review it.
- (3) If the place of business, residence, or location of a party or a person who is authorised to accept a notice is unknown, the notice is considered delivered on the day when the party or person authorised to receive the notice would have received it in the event of a normal delivery by registered mail or by other means of proof of arrival at the last known address.
- (4) If a party has disclosed its email address in the arbitration proceedings, to the commercial register, or to other similar register, all notices shall be sent to the disclosed email address and shall be considered received when 3 days from sending the notice have passed.
- (5) Where technically possible, the parties shall prefer to sign procedural documents digitally or by other similar means, ensuring the reliable identification of the person.
- (6) If a party has a contractual representative, sending a notice to the contractual representative is sufficient. A request for arbitration or, in its absence, a statement of claim shall be forwarded to the parties, except if a party requests, in a format which can be reproduced in writing, that it would be sent to a contractual representative.
- (7) After transmitting the case file to the arbitral tribunal, the parties shall send all notices to the arbitrators and simultaneously to all other parties and to the Court of Arbitration. The arbitral tribunal has a right to specify the procedure for transmitting notices.
- (8) The arbitral tribunal shall send all notices, including orders, simultaneously to all parties and to the Court of Arbitration.
- (9) If the notices are submitted only on paper, then the necessary number of copies of notices shall be added for the arbitrators, parties, and the Court of Arbitration.

## **§ 7 Calculation of time limits**

- (1) Time limits are calculated from the day following the calendar day when the party received the notice regarding setting a time limit, or calendar day of the occurrence of an event that determined the start of the calculation of a time limit.
- (2) Presumably, time limits are determined based on a period that can be counted in days, and, in that case, the due date shall be on the last day of the period. For determining a time limit, a day is considered a period from midnight to midnight at the seat of arbitration proceedings.
- (3) National holidays and weekends are included in the calculation of a time limit. If the due date for the manifestation of intention or the fulfilment of an obligation falls on a public holiday or other non-business day at the seat of the arbitration, the due date is considered to be on the first business day after the non-business day.

- (4) The arbitral tribunal has a right to specify the procedure for the calculation of time limits.
- (5) The person(s) setting a time limit has a right to extend or change the time limit, ensuring that the parties would be treated equally and would have an opportunity to present their cases.

#### **§ 8 Exclusion of liability**

The Chamber and its staff, the Court of Arbitration, Council members, the arbitral tribunal (arbitrators), and the secretaries of the arbitral tribunal shall not be liable for actions or omissions related to the arbitration proceedings, including for the arbitration awards, except to the extent this exclusion liability is not permissible pursuant to applicable law.

#### **§ 9 Storage of case materials**

- (1) The arbitral tribunal shall ensure that all case materials (statements of the parties, orders of the arbitral tribunal, Council decisions, important correspondence, decisions of the arbitral tribunal) would be sent to the Court of Arbitration within 10 days from rendering the award or an order to terminating the proceedings.
- (2) The Court of Arbitration stores case materials for 10 years from the end of the arbitration proceedings, and arbitration awards indefinitely. Where possible, case materials are stored electronically.

## **II COMMENCEMENT OF ARBITRATION PROCEEDINGS**

#### **§ 10 Request for arbitration**

- (1) To initiate arbitration proceedings, a request for arbitration shall be submitted to the Court of Arbitration.
- (2) The request for arbitration shall include the following:
  - (a) the name, registry code or personal identification code (in its absence, date of birth) of the claimant;
  - (b) the name, registry code or personal identification code (in its absence, date of birth) of the respondent;
  - (c) the contact details of the parties (address, email address, phone number, details of the representative);
  - (d) evidence that the dispute falls within the jurisdiction of the Court of Arbitration;
  - (e) a short description of factual circumstances;
  - (f) initial claim of the claimant, and if possible, its monetary value;
  - (g) where the claims of the claimant are made under more than one arbitration agreement, a reference to which arbitration agreement form the basis for each claim;
  - (h) proposal of the claimant regarding the language, seat, and applicable substantive law of the arbitration proceedings (taking into account the arbitration agreement);
  - (i) the proposal of the claimant regarding the composition of the arbitral tribunal (taking into account the arbitration agreement);
  - (j) where the arbitration agreement provides for three arbitrators and the parties have not agreed otherwise, the name and contact details of the arbitrator nominated by the claimant;
  - (k) proof of payment of the registration fee;
  - (l) if the claimant participates in the proceedings through a contractual representative, then a document proving the authorisation of the representative shall be appended to the request of arbitration, whereas the members of Estonian Bar Association are presumed to have the right of representation.

- (3) If the parties are legal persons who have been registered with a public register, a copy of the registry card, an extract from the register, or a certificate of registration shall be appended to the request for arbitration, except if there is free access to the registry information in Estonia through a European commercial register. For other legal persons, other proof of existence and legal capacity shall be submitted.
- (4) A request for arbitration shall be submitted in the procedural language agreed upon in the arbitration agreement or, in its absence, in the language of the arbitral agreement or in the language of the seat of arbitration.
- (5) Instead of a request for arbitration, a statement of claim in compliance with section 36 of the Rules may be submitted. Upon the submission of an application for interim relief through the Court of Arbitration, a statement of claim shall be submitted instead of a request for arbitration.
- (6) If the request for arbitration is submitted on paper or the request for arbitration shall be delivered to the other party on paper, the Court of Arbitration may require the party to append the necessary number of copies for the other parties.

#### **§ 11 Registration fee**

- (1) A registration fee in the amount stated in the guidelines of the Rules shall be paid to initiate an arbitration proceeding.
- (2) If the claimant has not paid the registration fee upon submitting the request for arbitration, the Court of Arbitration shall set an additional term to the claimant for paying the registration fee. If the claimant fails to pay the registration fee also by the extended term, the Court of Arbitration shall dismiss the request for arbitration proceedings and terminate the proceedings.

#### **§ 12 Commencement of arbitration proceedings**

Arbitration proceedings commence and the claim is deemed to have been filed on the date when the request for arbitration or a statement of claim is received by the Court of Arbitration.

#### **§ 13 Respondent's answer to the request for arbitration**

- (1) After receiving a request for arbitration and the registration fee, the Court of Arbitration shall send the request for arbitration to the respondent and set a time limit for submitting an answer in order to decide whether to accept the case.
- (2) The respondent's answer to the request for arbitration shall include the following information:
  - (a) possible objections to the validity of the arbitration agreement and whether the dispute falls within the jurisdiction of the Court of Arbitration;
  - (b) the name, registry code or personal identification code (in its absence, date of birth) of the respondent;
  - (c) contact details of the respondent (address, email address, phone number, details of the representative);
  - (d) a short description of the factual circumstances underlying the dispute;
  - (e) initial response to the claims of the claimant;
  - (f) proposal of the respondent regarding the language, seat, and applicable substantive law of the arbitration proceedings (taking into account the arbitration agreement);
  - (g) proposal of the respondent regarding the composition of the arbitral tribunal (taking into account the arbitration agreement);

- (h) if the arbitration agreement provides for three arbitrators and the parties have not agreed otherwise, the name and contact details of the arbitrator nominated by the respondent;
- (i) information about a potential intention to submit a counterclaim (information listed in subsection 10 (2) of the Rules).
- (3) The response of the respondent to the request for arbitration shall be submitted in the language set forth in the arbitration agreement or, in its absence, in the language of the arbitration agreement or the language of the seat of the arbitration.
- (4) The failure of the respondent to respond to the request for arbitration shall not prevent the proceedings from continuing.
- (5) The Court of Arbitration shall send the answer of the respondent to the claimant, and in the case of a counterclaim, shall set a time limit to the claimant to respond to the intention to submit a counterclaim and file a submission including data required in section 13(2).

**§ 14 Disputes with several claimants or respondents; allowing an additional party to join the proceedings**

- (1) A claim can be filed by several claimants against a one respondent, one claimant against several respondents, or several claimants against several respondents. In such a case, the provisions of the Rules applicable to the claimant or respondent shall be applied to the claimants or respondents, respectively.
- (2) After a request for arbitration has been submitted but the transmission of the case file to the arbitral tribunal, a party may request that the Council permit one or several additional claimants or respondents to join the arbitration proceedings.
- (3) After the case file has been forwarded to the arbitral tribunal, a party may request that the Council to allow one or several claimants or respondents to join the arbitration proceedings, but this provided that all parties and the person to be joined to the proceedings agree to this.
- (4) With respect to the person allowed to join, the arbitration proceedings are considered commenced from the time that the request for joinder is submitted to the Court of Arbitration.
- (5) A request for joinder of another party shall contain the following information:
  - (a) the number of the relevant arbitration proceedings;
  - (b) names, registry codes and personal identification codes (in the absence of the latter, dates of birth) of the parties, including the party whose joinder is being requested;
  - (c) contact details of the parties, including the party whose joinder is being requested (address, email address, phone number, details of the representatives);
  - (d) reference to the underlying arbitration agreement or agreements and, where possible, their copies;
  - (e) reference to the contract and the legal relationship based on which or due to which another claimant or respondent should be allowed to join the proceedings;
  - (f) description of circumstances based on which another party should be allowed to join the proceedings;
  - (g) initial claim against the party who is allowed to join the proceedings and, if possible, its monetary value;
  - (h) proof of payment of the registration fee.
- (6) An request for joinder shall be submitted in the language of the proceedings set forth in the arbitration agreement or, in its absence, in the language of the arbitration agreement or the seat of arbitration.
- (7) Upon submitting a request for joinder, a registration fee shall be paid in the amount set forth in the guidelines of these Rules. If the registration fee is not paid upon submitting

the request for joinder, the Court of Arbitration shall set an additional time limit to the applicant for paying the registration fee. If the party who submitted request for joinder would not pay the registration fee by the extended term, the Court of Arbitration shall dismiss the request for joinder.

- (8) After receipt of the registration fee, the Court of Arbitration shall forward the request for joinder to the party whose joinder has been requested as well as to other parties, who shall file their answer to the joinder by the term set forth by the Council.
- (9) The answer of the person to be joined to arbitration shall include the following information:
  - (a) name, registry code or personal identification code (in the absence of the latter, date of birth) of the person to be joined to arbitration;
  - (b) contact details of the person to be joined to arbitration (address, email address, phone number, details of the representative);
  - (c) statement regarding the validity of the arbitration agreement, jurisdiction of the Court of Arbitration to resolve the dispute, and the formation of the arbitral tribunal;
  - (d) a short description of the factual circumstances underlying the dispute;
  - (e) initial statement regarding the claims submitted against the person to be joined;
  - (f) in case of an intention to file a counterclaim against another party, information listed in section 10(2) of the Rules.
- (10) The Court of Arbitration shall forward the statements regarding the request for joinder along with the annexes to the parties and to the person to be joined to the arbitration. The Council may set a term for the submission of an additional statement regarding the opinions.
- (11) Upon reviewing the request for joinder, the Council shall consider the statements of the parties and the arbitrators, the identities of the parties, the compatibility of the arbitration agreements, the connection between the arbitration proceedings, the general rules of proceedings (section 29 of the Rules), and other material circumstances.
- (12) If the Council decides to accept the request for joinder, the Council may revoke the decision to approve the arbitral tribunal and form a new arbitral tribunal pursuant to section 21 of the Rules.
- (13) If the Council decides to accept the request for joinder, the Council shall review the amount and division of the arbitration fee, taking into account the arbitration fee already paid by the parties.

#### **§ 15 Arbitration proceedings based on several contracts and agreements**

- (1) Claims submitted under several contracts may be submitted in one arbitration regardless of whether these claims are governed by one or several arbitration agreements that set forth the settlement of disputes in the Court of Arbitration.
- (2) The Council may nevertheless refuse to resolve these claims in one arbitration if:
  - (a) in the opinion of the Council, the arbitration agreements on which the claims are based are not compatible under the Rules;
  - (b) the parties do not agree to submit the claims in one arbitration;
  - (c) in light of all of the circumstances, including the general rules of procedure (section 29 of the Rules), the submission of the claims in one arbitration proceeding is not possible or justified.

#### **§ 16 Consolidation arbitrations**

- (1) Upon the request of the parties, the Council may consolidate one or several new arbitration proceedings with one or several ongoing arbitration proceedings if one of the below conditions is met:

- (a) the parties agree to the consolidation;
  - (b) all claims are submitted under the same arbitration agreement;
  - (c) the claims are submitted under more than one arbitration agreement, but the claim of the claimant is based on the same transaction or series of transactions or the same legal relationship in some other way and, in the opinion of the Council, the arbitration agreements are compatible.
- (2) Upon deciding on consolidation of arbitrations, the Council shall take into account the opinions of the parties and the arbitral tribunal, the identities of the parties, the extent to which the proceedings are interrelated, the state of the ongoing proceedings, the general rules of procedure (section 29 of the Rules), and other material circumstances.
  - (3) If the Council decides to consolidate several arbitration proceedings into a one arbitration, the Council may revoke the decision to approve the composition of the arbitral tribunal and form an arbitral tribunal pursuant to section 21 of the Rules.
  - (4) If the Council decides to consolidate arbitration proceedings into one arbitration, the Council shall review the amount and division of the arbitration fee, taking into account the arbitration fee already paid by the parties.
  - (5) The proceedings are consolidated into the arbitration proceeding that was initiated first.

**§ 17 *Prima facie* decision of the Council on the jurisdiction of the Court of Arbitration and the determination of the arbitration fee**

- (1) After the submission of the initial answer of the respondent (in case of a counterclaim, the initial answer of the claimant to the counterclaim), the Council shall make an initial (*prima facie*) decision on the jurisdiction of the Court of Arbitration. The initial decision of the Council regarding the jurisdiction of the Court of Arbitration (including allowing arbitration proceedings based on several agreements with more than two parties) is not binding on the arbitral tribunal.
- (2) If the Council decides that the Court of Arbitration has jurisdiction, the Council shall determine the amount of the arbitration fee in accordance with the guidelines of these Rules and shall set a term to the parties for the payment of the arbitration fee.
- (3) If a dispute does not fall under the jurisdiction of the Court of Arbitration, the Council shall dismiss the request for arbitration or the statement of claim (or an request for a counterclaim) and shall terminate the proceedings.
- (4) The Council is entitled to request by the term set by the Council from the parties additional explanations regarding their written statements. If the claimant (or in case of a counterclaim, the respondent) refuses to give additional explanations, the Council may dismiss the (counter)claim and terminate the proceedings. The respondent's (in case of a counterclaim, the claimant's) refusal to give additional explanations shall not prevent the arbitration proceedings from continuing.
- (5) Upon a request of the parties, the Council shall decide on the possible consolidation of arbitration and joinder of new parties the proceedings.

**§ 18 Dismissal of the claim**

The Council shall dismiss the claim and terminate the proceedings if:

- (a) the dispute does not fall under the jurisdiction of the Court of Arbitration;
- (b) the claimant withdraws the action before it is transferred to the arbitral tribunal;
- (c) the parties fail to pay the arbitration fee by the term set by the Court of Arbitration.

**§ 19 Interim relief before the composition of the arbitral tribunal**

- (1) Until the composition of the arbitral tribunal, a party requesting interim relief may submit a request to the Council to forward its request for interim relief to court.

- (2) The Council shall assess the request for interim relief and may submit the request of a party to court together with the decision of the Council, to which copies of the statement of claim and evidence annexed thereto shall be attached. The Council shall forward to the court the party's request for interim relief only if the party has paid the registration fee and 50% of the arbitration fee.
- (3) If the Council terminates the proceedings before transmitting the case to the arbitral tribunal, the Council shall send a decision to that effect to the court and attach the request for interim relief to it.
- (4) The parties are also entitled to submit a request for interim relief directly to court, and this shall not be considered a breach of the arbitration agreement.

### **III COMPOSITION OF THE ARBITRAL TRIBUNAL**

#### **§ 20 Number of arbitrators; procedure for the composition of the arbitral tribunal**

- (1) The parties may agree on the number of arbitrators (shall be an odd number) and the procedure for the composition of the arbitral tribunal.
- (2) If, upon composing the arbitral tribunal, the arbitration agreement does not provide for an odd number of arbitrators or the agreement gives an economic or other advantage to one party that would significantly impair the other parties, the Council may refuse to compose the arbitral tribunal in the manner agreed by the parties. In this case, section 21 of the Rules applies.
- (3) If the parties have not agreed on the number of arbitrators or the process of composing the arbitral tribunal, the Council shall decide on the number of arbitrators (one or three) as well as on the procedure for composing the arbitral tribunal, taking into account the amount in dispute, the complexity of the case, the proposals of the parties, and other important circumstances.
- (4) If, pursuant to the arbitration agreement, the dispute shall be resolved by a sole arbitrator, the parties may jointly nominate the sole arbitrator by a term set by the Council. If the parties fail to nominate the arbitrator by the term set by the Council, the Council shall appoint arbitrator.
- (5) If pursuant to the arbitration agreement, the dispute shall be resolved by three arbitrators:
  - (a) the claimant shall nominate one arbitrator by the term set by the Council;
  - (b) the respondent shall nominate one arbitrator by the term set by the Council;
  - (c) if either the claimant or the respondent fails to nominate an arbitrator by the term set by the Council, the Council shall appoint the relevant arbitrator on their behalf;
  - (d) the arbitrators nominated by the parties or appointed by the Council shall jointly nominate the presiding arbitrator by the term set by the Council or the parties shall nominate the presiding arbitrator or the Council shall appoint the presiding arbitrator, depending on the arbitration agreement;
  - (e) if the arbitrators nominated by the parties or appointed by the Council have not jointly nominated the presiding arbitrator by the term set by the Council, the Council shall appoint the presiding arbitrator.

#### **§ 21 Composition of an arbitral tribunal in multi-party proceedings**

- (1) In case of a proceeding involving several claimants or respondents, an arbitral tribunal consisting of a sole arbitrator shall be composed in the following manner:
  - (a) the claimant(s) and respondent(s) may nominate an arbitrator jointly by the term set by the Council;

- (b) if an additional claimant or respondent is allowed to join the proceedings pursuant to section 14 of the Rules, they may propose to nominate an arbitrator jointly with the other respective party;
  - (c) if the claimant(s) and respondent(s) have failed to nominate an arbitrator jointly by the term set by the Council, the Council shall appoint the arbitrator.
- (2) In case of a proceeding involving several claimants or respondents, an arbitral tribunal consisting of three arbitrators shall be composed in the following manner:
- (a) the claimant(s) jointly nominate(s) one arbitrator by the term set by the Council;
  - (b) the respondent(s) jointly nominate(s) one arbitrator by the term set by the Council;
  - (c) if an additional party is allowed to join the proceedings pursuant to section 14 of the Rules, they may nominate an arbitrator with the claimant(s) or respondent(s) respectively;
  - (d) after the claimant(s) and respondent(s) have nominated arbitrators pursuant to this section, the arbitrators nominated by the parties or the parties themselves shall jointly nominate the presiding arbitrator by the term set by the Council or the Council shall appoint the presiding arbitrator, depending on the arbitration agreement;
  - (e) if the arbitrators nominated by the parties have failed to nominate a presiding arbitrator by the term set by the Council, the Council shall appoint the presiding arbitrator.
  - (f) If the claimant(s) or the respondent(s) have failed to nominate an arbitrator by the term set by the Council, the Council may at its discretion: (i) appoint an arbitrator on behalf of the claimant(s) or the respondent(s) and appoint the presiding arbitrator; or (ii) revoke all appointed arbitrators and appoint all three arbitrators.

## **§ 22 Consent, independence, and impartiality of an arbitrator**

- (1) In order to appoint an arbitrator, the consent of a prospective arbitrator shall be obtained first. The prospective arbitrator is obligated to inform the party proposing this of all circumstances that could be a ground for his/her release from appointment.
- (2) The prospective arbitrator shall sign a declaration of independence and impartiality by the term set by the Council, where they disclose all circumstances that could give rise to justifiable doubts as to their impartiality or independence, or constitute other grounds for his/her release from appointment. The Court of Arbitration forwards the declaration to the parties immediately.
- (3) An arbitrator is obligated to immediately inform the parties of any circumstances that may give rise to justifiable doubts as to their impartiality or independence or constitute other grounds for their release from appointment also after appointment until the end of the arbitration proceedings.

## **§ 23 Appointment of the arbitrators**

- (1) The Council appoints the arbitral tribunal.
- (2) The arbitrators shall assume the rights and duties of arbitrators set forth in the Rules, including the authority to resolve the dispute and the right to ask for a fee for the performance of their duties, as of the appointment of them as arbitrators by the Council.
- (3) The Council shall decide the appointment of arbitrators by considering all known circumstances, primarily the requirements of independence and impartiality of the arbitrators and their suitability for resolving the dispute. The Council does not have to provide reasons for the decision not to appoint an arbitrator.

- (4) If a prospective arbitrator does not return the impartiality declaration by the term set by the Council, the Council is entitled to, at its own discretion: (a) extend the term set to the arbitrator for submitting a declaration; (b) provide for and additional term for nominating a new arbitrator for the party that appointed the arbitrator in question; or (b) under exceptional circumstances, not to appoint the arbitrator and appoint the missing arbitrator itself.
- (5) If a party has submitted a prospective arbitrator for appointment twice and the Council has not appointed them, the Council is entitled to appoint the missing arbitrator.

#### **§ 24 List of arbitrators**

The Council approves and publishes a list of arbitrators on the website of the Court of Arbitration. The parties may nominate an arbitrator who is not included in the list of arbitrators.

#### **§ 25 Challenge of an arbitrator**

- (1) If a party has doubts about the independence or impartiality of an arbitrator or if the terms and conditions of arbitrators as agreed by the parties are not fulfilled in the case of an arbitrator, the party is, until issuing an award, entitled to submit a written notice to the Council and the arbitral tribunal for the challenge of an arbitrator, stating the time when the party learned of the ground for challenge. A party may challenge an arbitrator appointed by it if it learned of the ground for challenge after nominating the arbitrator.
- (2) If the Council receives information outside the proceedings that rises justifiable doubts as to the independence or impartiality of an arbitrator, the Council may forward this information to the parties.
- (3) A notice of challenge of an arbitrator shall be submitted immediately, but no later than within 15 days from learning of circumstances that constitute the ground for challenge. If the notice is not filed on time or if a party has submitted a procedural document to the arbitral tribunal or participated in a hearing without submitting a notice of challenge, the party loses the right to challenge the arbitrator based on this circumstance.
- (4) Upon receiving a notice of challenge of an arbitrator, the Council shall give the other party and the arbitrators a term of 7 days for submitting their opinion.
- (5) The Council shall decide on the challenge of an arbitrator within 7 days from the term that was set to the other party and the arbitrators for submitting their opinions regarding the notice of challenge.
- (6) The arbitral tribunal may suspend the proceedings until the Council decides on notice of challenge.

#### **§ 26 Release of an arbitrator**

- (1) The Council releases an arbitrator from appointment, after asking for the opinion of the other arbitrators and parties, if:
  - (a) the arbitrator submits an request for resignation due to a valid reason;
  - (b) one party has challenged the arbitrator pursuant to the Rules and the other party agrees to the challenge;
  - (c) the Council grants a party's notice of challenge of an arbitrator;
  - (d) the parties jointly request the release of an arbitrator from appointment;
  - (e) an arbitrator cannot or does not perform his/her duties pursuant to the Rules nor within a reasonable time limit.

#### **§ 27 Replacement of an arbitrator**

- (1) A released or a deceased arbitrator shall be substituted by a new arbitrator. Unless the parties agree otherwise, a new arbitrator is nominated pursuant to the same requirements that were followed upon nominating the substituted arbitrator.
- (2) Taking into account the state of the proceedings (primarily after the last hearing) and the opinions of the arbitrators and the parties, the Council may, as an exception, decide not to substitute a released or a deceased arbitrator and allow the arbitral tribunal to conclude the proceedings in a reduced composition.
- (3) After the substitution, the arbitral tribunal, consulting with the parties, shall decide which procedural actions taken for the resolution of the dispute shall be repeated.

### **IV CONDUCT OF ARBITRATION PROCEEDINGS**

#### **§ 28 Transmission of the case file to the arbitral tribunal**

After the composition of the arbitral tribunal and the full payment of the arbitration fee required by the Council, the Council shall transmit the case file (all submissions of the parties, Council decisions, declarations of the independence and impartiality of the arbitrators, information on the payment of registration and arbitration fees, information about securing the claim, etc.) to the arbitral tribunal.

#### **§ 29 General rules of procedure**

- (1) The arbitral tribunal shall conduct arbitration proceedings independently, impartially, efficiently, and according to its best judgement, taking into account the agreements between the parties, the Rules, and the law applicable to arbitration proceedings (*lex arbitri*). The parties or the arbitrators do not have the right to agree on procedural rules that differ from these Rules.
- (2) The parties shall be treated equally during the arbitration proceedings and both parties shall be given an opportunity to present its case.
- (3) The parties shall follow the principle of good faith in regard to each other. Procedural rights shall not be abused.

#### **§ 30 Secretary of the arbitral tribunal**

- (1) If the parties agree thereto and if necessary, the arbitral tribunal may appoint a administrative secretary for the arbitral tribunal. Before appointing a secretary, the arbitral tribunal shall get the approval of the parties on the tasks and the person of the secretary.
- (2) The arbitral tribunal shall ensure the independence and impartiality of the secretary of the arbitral tribunal. Before appointment, the secretary shall sign a declaration of independence and impartiality, where he/she shall disclose any and all circumstances that could give rise to doubts as to his/her independence and impartiality. The arbitral tribunal shall forward the declaration to the Court of Arbitration without delay.
- (3) A party may request for the release of the secretary from appointment following the same procedure as set forth for the challenge of an arbitrator. The release of the secretary from appointment shall not suspend the arbitration proceedings.
- (4) The possible fee for the secretary of the arbitral tribunal shall be covered by the fee of the arbitrators.

#### **§ 31 Seat of arbitration**

- (1) The parties may agree on a seat of arbitration. In the absence of an agreement, the seat shall be deemed to be Estonia.

- (2) After consulting with the parties, the arbitral tribunal may convene for hearing the witnesses, experts, or parties or reviewing assets or documents at any location it considers appropriate, including through electronic means of communication, unless the parties have agreed otherwise.
- (3) The arbitral tribunal may convene for deliberation at any location it considers appropriate, including through electronic means of communication.
- (4) An award shall be deemed to have been made at the seat of arbitration.

### **§ 32 Language of the arbitration**

- (1) The parties may agree on the language of arbitration. In the absence of an agreement, the arbitral tribunal shall determine the language of the proceedings by taking into consideration all circumstances and the opinions of the parties.
- (2) The arbitral tribunal may require that the documents submitted to the proceedings would be translated into the language of arbitration, including if one or several arbitrators are not fluent enough in the relevant foreign language to understand the content of the documents.

### **§ 33 Applicable substantive law**

- (1) In resolving the dispute, the arbitral tribunal shall apply law the application of which was agreed upon by the parties. Where reference is made to the law of a state, it is presumed that the agreement does not extend to the state's conflict of laws rules, unless the parties have expressly agreed otherwise.
- (2) Where the parties have not agreed on the applicable law and such law has not been provided for by law either, the arbitral tribunal shall apply Estonian law or the law that it considers appropriate in light of the circumstances and the opinions of the parties.
- (3) The arbitral tribunal may resolve the dispute under the principle of equity if the parties have expressly agreed thereon. The agreement may be concluded until the issuance of the award. Upon resolving the dispute under the principle of equity, the arbitral tribunal may not derogate from the imperative provisions of the law of the relevant state that would be applied if the dispute were resolved without the agreement on the application of the principle of equity.
- (4) Upon resolving the dispute, the arbitral tribunal shall take into account the terms and conditions of the contract and the relevant customary practices insofar as allowed under the applicable law.

### **§ 34 Competence of the arbitral tribunal in granting interim relief**

- (1) Unless the parties have agreed otherwise, the arbitral tribunal may, upon the request of a party, grant interim relief with measures that the arbitral tribunal considers necessary.
- (2) The arbitral tribunal may not impose measures of interim relief that restrict personal freedom.
- (3) The arbitral tribunal may require that the party requesting interim relief provide a reasonable security in relation to interim relief, which shall be paid to the bank account of the Chamber.
- (4) The arbitral tribunal shall send the order of granting interim relief to the party that applied for the relief. A party is entitled to turn to a court with an request to allow for the enforcement of the order to grant interim relief.
- (5) Where it comes to light that interim relief in arbitration proceedings was not justified, the party that requested the relief shall compensate the opposing party for the harm caused to that party as a result of the granting of relief or of providing a security to avoid the application of relief measures.

- (6) The security paid by the party that requested interim relief is returned if the other party has not submitted a claim for the compensation for damages within 2 months from the time when:
  - (a) an award takes effect by which the secured claim is denied or dismissed, or in the case the proceedings are terminated on any other ground except by virtue of approving a compromise between the parties; or
  - (b) it comes to light that there was no interim relief claim or ground at the time when interim relief was granted.

### **§ 35 Case management conference and the conduct of arbitration**

- (1) Within no more than 14 days from receiving the case file from the Council and if necessary, the arbitral tribunal shall arrange a case management conference with the parties to determine the opinion of the parties regarding the conduct of the arbitration proceedings (primarily the seat, language, schedule of the arbitration proceedings, specified procedure for forwarding notices, the format of hearings, potential counterclaim, possible issues related to data protection and cyber security, and the manner of signing orders and awards).
- (2) A case management conference is conducted as an in-person meeting or through suitable means of communication. The arbitral tribunal shall decide on the means by which the case management conference would be conducted after consulting the parties.
- (3) Within no more than 21 days from receiving the case file from the Council, the arbitral tribunal shall issue an order which, *i.a.*, approves the schedule of the arbitral proceedings, determining time limits for submitting evidence, requests and submissions.
- (4) The arbitral tribunal may issue an order of the arbitral tribunal on any procedural issue, which the arbitral tribunal shall immediately forward to the parties and the Court of Arbitration.
- (5) The arbitral tribunal may conduct additional case management conferences during the arbitration, specifying thereafter by an order also the time-schedule, if necessary.
- (6) Upon a request of the parties or on its own initiative, the arbitral tribunal may amend the approved time-schedule if it is, in the opinion of the arbitral tribunal and in view of the general rules of procedure (section 29 of the Rules), necessary for the purposeful conduct of the arbitration.
- (7) If the arbitration proceedings deviate significantly from the approved time-schedule (a procedural action is delayed for more than 14 days), the arbitral tribunal shall notify the Court of Arbitration of this fact in a format which can be reproduced in writing, explaining the reasons for the delay.

### **§ 36 Statement of claim**

The claimant shall submit a statement of claim by the term set by the arbitral tribunal where they disclose:

- (a) the relief sought by the claimant and the value of the claim;
- (b) the factual circumstances on which the claim is based and the evidence proving those circumstances that the claimant is submitting or intends to submit;
- (c) legal grounds of the relief sought by the claimant;
- (d) opinion of the claimant regarding the necessity to hold a hearing;
- (e) if the claimant submits a statement of claim instead of a request for arbitration, then the information listed in section 10(1) of the Rules.

### **§ 37 Statement of defence and counterclaim**

- (1) By the term set by the arbitral tribunal, the respondent shall submit a statement of defence, where they disclose:
  - (a) their statement on the dispute falling under the jurisdiction of the Court of Arbitration, if the respondent has not submitted it before;
  - (b) their statement regarding the relief sought by the claimant (whether the respondent accepts the claim and to what extent);
  - (c) the factual circumstances on which the objections of the respondent are based and evidence proving the circumstances which the respondent submits or is planning to submit;
  - (d) legal grounds of the objections of the respondent;
  - (e) if the respondent would like to submit a counterclaim later, then the reasoning for submitting a counterclaim at a later date;
  - (f) opinion of the respondent regarding the necessity to hold a hearing.
- (2) If the respondent would like to submit a counterclaim, then the information listed in section 10 of the Rules shall be submitted regarding the counterclaim along with the statement of defence. A counterclaim may be submitted later in the proceedings upon a justified reason and the consent of the arbitral tribunal.
- (3) If, in the assessment of the arbitral tribunal, the counterclaim can be resolved along with the claim, the arbitral tribunal shall notify the Council of the submission of the counterclaim and request for an additional arbitration fee to be determined pursuant to the procedure set forth by the Rules. The arbitral tribunal shall not review a counterclaim and shall dismiss the counterclaim if the arbitration fee is not been paid by the due date set by the Council.
- (4) The respondent failing to submit a response does not prevent the proceedings from continuing.

### **§ 38 Additional statements and specification of the time-schedule**

- (1) After the submission of a statement of claim, statement of defence, and a possible counterclaim, the arbitral tribunal shall, if necessary, specify with the parties the need to amend the time-schedule. If a counterclaim is submitted, the fact that an arbitration fee determined by the Council shall be paid for the resolving the counterclaim shall be taken into consideration in the conduct of the proceedings.
- (2) The parties may amend or supplement their claim, response, or counterclaim until the term set by the arbitral tribunal, provided that the amended claim/counterclaim would not fall outside the arbitration agreement.
- (3) The arbitral tribunal may, after consulting the parties, set a term for the submission of final statements (cut-off date), after which only requests regarding the conduct of the hearings may be submitted. For a justifiable reason, the arbitral tribunal may accept other requests of the parties also after the aforementioned term.

### **§ 39 Evidence**

- (1) Any information, on the basis of which the arbitral tribunal ascertains the circumstances or lack thereof that substantiate the claims and objections of the parties, as well as other circumstances relevant to correctly resolving the case, can be used as evidence in arbitration. The admissibility, relevance, and weight of the evidence is determined by the arbitral tribunal.
- (2) Unless the parties have agreed otherwise, both parties shall prove the facts on which the claims and objections of the party are based. The parties may agree a division of the

burden of proof that is different from what has been provided by law, as well as agree on which evidence may be used to prove a certain factual circumstance.

- (3) Evidence does not need to be provided of a circumstance which the arbitral tribunal deems generally known. Circumstances that the arbitral tribunal may deem generally known are those regarding which reliable information is available from sources external to the proceedings.
- (4) An assertion made by a party concerning a fact does not need to be proved if the opposing party admits it. Admission means unconditional and express acceptance of the factual assertion by means of a written submission addressed to the arbitral tribunal, or at the hearing, where such admittance is recorded in the minutes.
- (5) The arbitral tribunal has the right to request:
  - (a) a party to specify the evidence that it plans to rely on as well as the facts it wishes to prove with such evidence;
  - (b) upon a request of a party or, as an exception, on its own initiative, evidence necessary for the resolution of the dispute.

#### **§ 40 Expert appointed by the arbitral tribunal**

- (1) Upon a request of a party or on its own initiative after consulting the parties, the arbitral tribunal may appoint one or several experts to submit their expert opinion regarding issues formulated by the arbitral tribunal, unless otherwise agreed by the parties. The arbitral tribunal may require a party to provide to the expert relevant information and documents or items necessary for the expertise.
- (2) The arbitral tribunal shall immediately transmit the written expert opinion to all parties and shall set a term for submitting their statements regarding the expert opinion. The parties are entitled to review all documents that form the basis of the expert opinion.
- (3) Upon a request of a party or where required by the arbitral tribunal, the expert who provided the expert opinion shall participate in the hearing, unless the parties have agreed otherwise. At the hearing, the parties may ask questions from the expert and allow their own expert to submit their opinion regarding the disputed issue.
- (4) An expert appointed by the arbitral tribunal shall be independent and impartial in relation to the parties, their representatives, and the arbitral tribunal. An expert may be challenged following the same procedure as set forth for the challenge of an arbitrator. The release of an expert does not suspend the arbitration proceedings.

#### **§ 41 Gathering of evidence**

- (1) Upon a request of a party or on its own initiative after consulting the parties, the arbitral tribunal may invite a witness to the hearing or conduct an inspection, unless agreed otherwise by the parties.
- (2) A party shall ensure that the witness attends the hearing. A witness failing to attend a hearing shall not prevent the proceedings from continuing.
- (3) The arbitral tribunal may obligate a party to allow to hold an inspection.

#### **§ 42 Assistance of the court**

Where the arbitral tribunal does not have jurisdiction to perform an evidentiary or other judicial operation, the arbitral tribunal may order court assistance or, issue an order allowing a party to request court assistance.

#### **§ 43 Hearing before the arbitral tribunal**

- (1) The arbitral tribunal shall arrange a hearing upon a request of a party or, if necessary, on its own initiative.

- (2) The arbitral tribunal, taking into account the opinion of the parties, shall set in schedule a time, place and means for hearing the matter, as well as the preliminary agenda of the hearing, and shall notify the parties thereof in good time.
- (3) Arbitrators, parties, and their representatives may participate in the hearing. The arbitral tribunal may allow the administrative secretary, the person keeping a record of the hearing, and/or technical assistants to participate in the hearing. Upon a request of a party, the arbitral tribunal may allow an interpreter or another person to participate in the hearing. A person who is not related to the proceedings and who participates in the hearing shall confirm in writing that they undertake to indefinitely protect the confidentiality of any and all information related to the arbitration proceedings.
- (4) The absence of a party (including its representative) shall not prevent the hearing from being held, unless the party has not been duly informed of the hearing. The arbitral tribunal may postpone hearing the matter for other reasons.
- (5) The arbitral tribunal, taking into account the opinions of the parties, may decide to hear the witnesses by a video conference with the help of means of communication.
- (6) Minutes shall be taken of the hearing. The extent of the content of the minutes shall be determined by the arbitral tribunal. If the hearing is recorded, the recording is added to the minutes. The arbitrators shall sign the minutes.

#### **§ 44 Written proceedings**

- (1) Upon the consent of the parties, the arbitral tribunal may conduct written proceedings.
- (2) The arbitral tribunal is entitled to decide on the jurisdiction of the arbitral tribunal in written proceedings without the consent of the parties.

#### **§ 45 Consequences of default**

- (1) If the respondent fails to timely respond to the claim, the arbitral tribunal shall continue with the proceedings. The respondent's failure to submit a response shall not be deemed acceptance of the claim.
- (2) Where a party fails to appear at the hearing or fails to timely produce documentary evidence, the arbitral tribunal may continue the proceedings and issue an award based on the facts already established.
- (3) Where the arbitral tribunal considers the failure to be sufficiently justified, the arbitral tribunal shall set to the party that failed to take action a new reasonable term for taking the action.

#### **§ 46 Notifying of a violation (waiver)**

- (1) In case of a violation of a requirement stemming from the agreement of the parties, an order of the arbitral tribunal, the Rules, and/or the laws applicable to the arbitration proceedings (*lex arbitri*), a party waives the right to rely on the violation if it does not notify the arbitral tribunal or, in its absence, the Council of the violation without delay after it became or should have become known of it, but not later than during the first procedural action following their learning of the violation.
- (2) The Council is entitled to request explanations from the arbitral tribunal about the violation of requirements of these Rules during arbitration proceedings and to remind the arbitral tribunal that the latter is obligated to conduct the proceedings in accordance with the Rules.

#### **§ 47 Suspension of proceedings**

- (1) The arbitral tribunal shall suspend the arbitral proceedings by an order:
  - (a) in case of a release of an arbitrator until nominating or appointing a new arbitrator;

- (b) in case of the death of a party for the period determined by the arbitral tribunal.
- (2) Taking into account the opinion of the parties, the arbitral tribunal may suspend the arbitration proceedings in case of other circumstances that significantly interrupt the proceedings for the period determined by the arbitral tribunal. First and foremost, the submission of a request for challenge of an arbitrator is a good reason.

#### **§ 48 Closing of arbitration proceedings**

- (1) Arbitration proceedings are deemed closed after the last arbitration hearing or after the term for the submission of written statements has passed (where this was agreed upon). After the close of the proceedings, the parties do not have the right to submit additional claims, reasons, statements, or evidence and the arbitral tribunal shall retire to deliberate on the award.
- (2) In exceptional circumstances, upon a request from a party or on its own initiative, the arbitral tribunal may reopen the proceedings before issuing the arbitral award.

#### **§ 49 Special rules of expedited proceedings**

- (1) Upon an agreement of the parties or in case so agreed on in the arbitration agreement, the case may be resolved by way of expedited proceedings, in which case the Rules apply along with special rules set forth in this section.
- (2) In case of expedited proceedings, the following questions are regulated as follows:
  - (a) The claimant shall only submit a statement of claim without submitting a request for arbitration.
  - (b) The Council shall appoint a sole arbitrator or several arbitrators without asking for the opinion of the parties.
  - (c) The arbitral tribunal shall approve the time-schedule without asking for the opinion of the parties.
  - (d) In addition to the statement of claim and the statement of defence, both parties shall have the right to submit an additional statement (including one related to evidence) at most once within 14 days from the arbitral tribunal issuing an order to that effect.
  - (e) The dispute shall be resolved in written proceedings.
  - (f) The award shall consist of only the resolution, except in instances when a party applies for a descriptive part and reasoning, whereas the relevant request shall be submitted with the last submission.
  - (g) The arbitral tribunal shall issue the award within 3 months from the time that the case file was transmitted to the arbitral tribunal.

### **V AWARD AND TERMINATION OF THE PROCEEDINGS**

#### **§ 50 Time limit for the resolution of dispute**

- (1) The arbitral tribunal shall resolve a dispute as fast as possible, but no later than within 6 months from the time that the case file was transmitted to the arbitral tribunal. The time limit of 6 months for the resolution of the dispute is suspended for the time that the arbitration proceedings are suspended.
- (2) If a counterclaim is submitted in a case, then the calculation of the time limit for the resolution of the dispute is reset from the time that the counterclaim is transmitted to the arbitral tribunal.
- (3) The award shall be issued within 30 days from the closing of the arbitration proceedings (section 48 of the Rules).

- (4) The Council may extend the time limits set forth in subsections (1) and (3) of this section upon a justified request of the arbitral tribunal.

#### **§ 51 Issuing of awards and orders by the arbitral tribunal**

- (1) If several arbitrators participate in the proceedings, the award or order is deemed to be issued when the majority of the arbitrators vote in favour.
- (2) If one of the arbitrators refuses to participate in issuing an award or an order, the rest of the arbitrators may issue an award or order without him/her. The parties shall be notified in advance of the intention to issue an award or order without the arbitrator who refused to participate.
- (3) The presiding arbitrator may issue orders regarding specific procedural matters if other members of the arbitral tribunal have authorised him/her to do so.

#### **§ 52 Format and delivery of an award**

- (1) An award shall be made in writing in the language of the arbitration and signed by the arbitrators. Upon the consent of the parties, if possible, the award may be signed by a digital signature accepted in the agreed country. An award shall be stamped with the seal of the Court of Arbitration, unless the decision is signed digitally.
- (2) Where the award has been made by several arbitrators, the signatures of the majority of the arbitrators suffice, provided that the reason for the absence of the signature is stated.
- (3) Upon the request of the dissenting arbitrator, the dissenting opinion of the arbitrator in minority shall be stated after the signatures, and it shall be signed by the dissenting arbitrator. If an award is signed digitally, the digitally signed dissenting opinion shall be added to the award.
- (4) An award shall state the date it was made and the seat of arbitration, the data of the parties, a summary of the proceedings, the claims of the parties, and the decision of the arbitral tribunal regarding the claims. The award shall allocate and determine the costs of the arbitration. An award shall provide reasons to reasonable and necessary extent, unless the parties have agreed otherwise or the award is based on a compromise.
- (5) The arbitral tribunal shall forward the digitally signed award to a party via email on the business day following the day of issuing the award, at the latest. The arbitral tribunal shall complete (where necessary, through the Court of Arbitration) all actions to deliver the award issued on paper to the parties on the business day following the day of issuing the award at the latest.

#### **§ 53 Compromise**

- (1) The parties are allowed to agree on a compromise.
- (2) The arbitral tribunal shall terminate the proceedings if the parties reach a compromise. Upon a request of the parties, the arbitral tribunal shall record the compromise in the agreed wording in the form of an award, unless the content of the compromise is contrary to public order or good morals. The parties shall also sign the award.

#### **§ 54 Interim award and separate award**

- (1) If a party applies for a termination of the proceedings (including a dismissal of the claim) due to the Court of Arbitration not having jurisdiction, the arbitral tribunal shall either:
  - (i) issue an interim award on the existence of jurisdiction; or
  - (ii) issue a final award on termination of the proceedings due to the Court of Arbitration not having jurisdiction.
- (2) Taking into account the opinion of the parties, the arbitral tribunal may issue separate awards regarding different issues under dispute, including:

- (a) if a party has invoked application of a limitation period, the arbitral tribunal may first resolve only the limitation period objection, and then respectively issue: (i) an interim award regarding the dismissal of the limitation period objection; or (ii) upon granting the limitation period objection, a final award dismissing the claim;
- (b) if proving the amount of the claim is extremely expensive or complicated in the case of a monetary claim, the arbitral tribunal may first determine whether the claim is justified without determining the claim amount, and respectively issue: (i) an interim award on the justification of the claim; or (ii) a final award on the dismissal of the claim if the claim is unjustified;
- (c) if several related independent claims are joined to one arbitration or if one claim of several claims or part of a claim submitted in the case is ready for a final award, the arbitral tribunal may issue a separate award regarding each of them if this would expedite the process;
- (d) if the claimant has paid the part of the arbitration fee payable by the respondent pursuant to the Rules, the arbitral tribunal may, upon a respective request of the claimant, issue a separate award whereby the respondent shall be ordered to compensate this portion of the arbitration fee.

#### **§ 55 Rectification, supplementation, and clarification of award**

- (1) Upon a request of a party, the arbitral tribunal may:
  - (a) rectify any calculation and typing errors and other such mistakes in its award;
  - (b) clarify the award to the extent requested;
  - (c) make a supplementary award concerning a claim presented in the course of arbitration proceedings but not determined in the award.
- (2) A request for the rectification, supplementation and/or clarification of the award shall be submitted within 30 days from the receipt of the award.
- (3) The arbitral tribunal shall send the request to supplement or clarify its award to the other party for information.
- (4) The arbitral tribunal shall make a decision on the rectification, clarification, or supplementation of the initial award within 30 days from receiving the request.
- (5) The arbitral tribunal may rectify an award without a request of a party.
- (6) The rectification, supplementation, and clarification of the award is subject to the provisions regulating the format and content of awards.

#### **§ 56 Entry into force and the effect of an award**

- (1) An award enters into force on the date on which it is issued.
- (2) An award shall be carried out without delay after entering into force. If the arbitral tribunal has set a different term for fulfilment, the award shall be carried out by the term set by the arbitral tribunal.
- (3) An award is set aside pursuant to the grounds and procedure stipulated in the law applicable to arbitration proceedings (*lex arbitri*).

#### **§ 57 Termination of arbitration proceedings**

- (1) The Council may decide to terminate arbitration proceedings until the composition of an arbitral tribunal if:
  - (a) in the opinion of the Council, the composition of an arbitral tribunal is impossible in accordance with the Rules, including if the Court of Arbitration clearly lack jurisdiction to resolve the dispute;
  - (b) the parties agree on terminating the proceedings;
  - (c) the parties do not participate in the proceedings;

- (d) in the opinion of the Council, it is impossible to continue with the arbitration for other reason, including the failure of the claimant, notwithstanding the relevant request, to submit to the Court of Arbitration information enabling to serve procedural documents to the respondent.
- (2) The Council may decide to terminate the arbitration proceedings before and after the composition of the arbitral tribunal if the parties fail to transfer to the deposit account of the Court of Arbitration by the due date set by the Council the arbitration fee required by the Council or other amounts payable pursuant to the Rules.
- (3) The arbitral tribunal shall terminate the proceedings by an order if:
  - (a) the parties agree on the termination of proceedings without a compromise regarding substantive claims;
  - (b) the claimant submits a request to terminate the proceedings, except if respondent objects to it and the arbitral tribunal recognises the legal interest of the respondent in finally resolving the dispute;
  - (c) the parties do not participate in the proceedings;
  - (d) the arbitral tribunal finds that the continuation of the proceedings is impossible due to the termination of the arbitration agreement, to equal division of the votes of the arbitrators, or for other reasons.
- (4) Termination of the proceedings by a decision of the Council or an order of the arbitral tribunal shall not exclude the possibility of initiating new proceedings.
- (5) Arbitration proceedings are terminated if:
  - (a) the parties agree on the termination of the proceedings by reaching a compromise regarding substantive claims, which is recorded in award;
  - (b) by a final award, including if the arbitral tribunal determines that the Court of Arbitration lacks jurisdiction;
  - (c) other grounds set forth by law or the Rules exist.

## **VI COSTS OF ARBITRATION**

### **§ 58 Costs of arbitration**

- (1) The costs of arbitration consist of the following expenses:
  - (a) registration fee;
  - (b) fees of the arbitrators (including the fee for the possible secretary of the arbitral tribunal);
  - (c) administrative costs of the Court of Arbitration;
  - (d) travel and other justified expenses of the arbitrators (expenses of the arbitrators);
  - (e) expenses of an expert appointed by the arbitral tribunal and other justified expenses of the arbitral tribunal (including the costs of using postal services);
  - (f) expenses of the parties related to the arbitration proceedings, including legal costs of the parties, that have been submitted to the arbitral tribunal and to the extent that is deemed reasonable by the arbitral tribunal.
- (2) The arbitrators are entitled to a fee and the compensation of travel and other reasonable expenses pursuant to the Rules. The Council decides whether the expenses of the arbitrators are reasonable.
- (3) The costs of arbitration are determined in the final award or, if the proceedings are terminated before making a final award, in the order terminating arbitration proceedings.
- (4) Before rendering a final award or an order terminating arbitration proceedings, the arbitral tribunal shall ask the Council to determine the costs listed in sections 58 (1) d) and e) of

the Rules, if necessary. The Council shall determine the costs listed in section 58 of the Rules in accordance with the Rules and its guidelines.

- (5) Agreements between the arbitral tribunal and the parties regarding the fees of the arbitrators are void.
- (6) In its final award or an order terminating arbitration proceedings, the arbitral tribunal shall:
  - (a) state the costs of the arbitration;
  - (b) determines the fee for the arbitrators, its division, and the expenses of the arbitrators;
  - (c) determines the allocation of necessary costs of the arbitration and the costs related to attending the hearings between the parties, unless the parties have agreed otherwise.
- (7) The arbitral tribunal may issue a separate award on the fee of the arbitrators and its division.
- (8) The arbitral tribunal determines the allocation of costs of arbitration between the parties. Unless the parties have agreed otherwise, the costs of arbitration shall in principle be borne by the unsuccessful party, taking into account the extent granting the relief sought. Depending on the course of the proceedings and the conduct of the parties during the proceedings, primarily the compliance of the parties with the general rules of the proceedings, the arbitral tribunal may, at its own discretion, allocate the costs partly or completely differently.
- (9) Regardless of the allocation of costs between the parties, the parties share the liability for paying the fees payable to the arbitral tribunal and the Court of Arbitration.

**§ 59 Advance on the costs of arbitration, i.e. the arbitration fee**

- (1) The Council shall fix the amount payable as a advance on costs of the arbitration and its allocation (hereinafter **the arbitration fee**) pursuant to the Rules.
- (2) The arbitration fee shall include advance on: (a) arbitrators' fees and expected expenses; and (b) administrative costs of the Court of Arbitration.
- (3) Presumably, both parties shall pay half of the arbitration fee.
- (4) If a party fails to pay the arbitration fee fixed by the Council by the due date, the Council shall set a term for the payment of the arbitration fee to the other party (parties). If the other party pays the arbitration fee, the arbitral tribunal may, upon a request of a party that paid the fee, issue a separate award on the compensation of the arbitration fee.
- (5) If the Council has previously fixed the arbitration fee in a case (for example, upon allowing a new party to join the proceedings or joining the proceedings), the Council decision shall be amended and the already paid amounts shall be considered as part of the arbitration fee payable by the respective party.
- (6) If proposed by the arbitral tribunal or if it is otherwise necessary (taking into account the amendment of claims, increase in the volume and complexity of the procedure, increase in the expected expenses of the arbitral tribunal, and other important circumstances), the Council may obligate the parties to pay an additional arbitration fee during the arbitration proceedings.
- (7) The arbitral tribunal shall immediately inform the Council of any circumstances that may affect the amount of the costs of the arbitration.
- (8) Upon a request of a party, the Council may decide that part of the arbitration fee may be paid as a bank guarantee or in the form of other security.
- (9) After issuing the final award or the termination of the proceedings for other reasons, the arbitration fee shall be used for covering the costs of arbitration listed in subsections 58

- (1)–(5) of the Rules. If the arbitration fee exceeds the final costs of arbitration fixed by the Council, the leftover amount of the arbitration fee shall be reimbursed to the parties.
- (10) Based on a reasoned request of the arbitral tribunal, the Council may use the arbitration fee for covering the costs of the arbitration listed in subsections 58 (4) and (5) of the Rules also during the arbitration proceeding (including, to a reasoned extent, before the costs are borne).
- (11) Amounts transferred to the account of the Chamber as arbitration fee are not subject to interest.

## **§ 60 Implementing Provision**

Arbitration proceedings that have been initiated in 2023 before the amendments to the Rules, which were confirmed by a decision of the Board of the Estonian Chamber of Commerce and Industry on 14.12.2023, took effect shall be conducted pursuant to the version of the Rules that was in force until that time.

## **Annex: Guidelines for the calculation of the costs of arbitration**

- 1. Registration fee.** The amount of the registration fee (section 11 of the Rules) shall be **500 euros** and it shall be paid to the account of the Chamber in euros. The registration fee shall not be refunded.
- 2. Arbitration fee.** Arbitration fee is the advance on costs related to the arbitration proceedings (except the expenses of the parties in relation to the arbitration proceedings) that shall be paid in euros. At the beginning of the proceedings, the Council shall determine the advance on costs of the arbitration, *i.e.*, the amount of the arbitration fee, based on the expected costs of the arbitration pursuant to the Rules (including this guideline). On the basis of the decision of the Council, this amount shall be deposited by the parties to the account of the Chamber. At the end of the proceedings, based on the final award or an order terminating the arbitration proceedings, the arbitrators shall have the right to claim the payment of the arbitrator fees jointly from the parties (see subsection 58 (9) of the Rules). In accordance with section 8, the Chamber shall transfer the respective amount to the arbitrators from the account of the prepaid fees deposited on the account of the Chamber. The payment of the fees to the arbitrators on account of the deposited amounts (but not by the Chamber) shall be considered the fulfilment of agreement between the Chamber, the arbitral tribunal, and the parties. Similarly, the Chamber shall transfer to the arbitrators the amount allocated by a decision of the Council as compensation for the actual expenses borne by them and the Chamber shall have the right to cover the administrative costs of the Court of Arbitration allocated by a decision of the Council, which has been deposited on the account of the Chamber. Where the arbitration fee fixed by the Council turns out to be higher than the final costs of the relevant arbitration (sections 58 (1) 1–5) of the Rules), the Council shall, on the basis of the decision of the Council, reimburse the overpaid amount to the parties from the arbitration fee paid to the Chamber based on the decision of the Council (subsection 59 (9) of the Rules).
- 3. Fixing the amount of the arbitration fee.** The Council shall fix the amount of the arbitration fee (see section 59 of the Rules) according to tables 1 and 2 (in the version in force at the time when the arbitration proceedings were initiated) based on the number of claims and the amount in dispute, the number of parties to the proceedings, the complexity of the dispute, the number of arbitrators, and the expected costs of the arbitration (see sections 58 (1) 1–6) of the Rules).
- 4. Determining the amount in dispute.**
  - a) In case of a monetary claim, the amount in dispute shall be calculated as the aggregate value of all claims (including interest and delay interest claims) at the time of submitting the claim.
  - b) In case of alternative claims, the highest claim shall be the basis.
  - c) A claim submitted in any other currency than euro is calculated into euros to evaluate the amount in dispute based on the daily exchange rate of Eesti Pank<sup>1</sup> valid on the date of the request for arbitration or the statement of claim.
  - d) In case of a non-monetary claim, the Council shall proceed from the normal value of the claim when determining the amount in dispute and take into account the circumstances disclosed to the Council and the nature of the dispute.

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<sup>1</sup> The Bank of Estonia.

5. **Expedited proceedings.** In the case of expedited proceedings, the arbitration fee fixed by the Council in accordance with this annex shall be reduced by 25%.
6. **The Court of Arbitration as a competent authority.** In case the Court of Arbitration acts as a competent authority administering arbitration proceedings under other arbitration rules, the registration fee and the administrative costs of the Court of Arbitration in the amount of 1,000 euros shall be paid.
7. **Additional arbitration fee.** Upon imposing an additional arbitration fee in accordance with subsection 59 (6) of the Rules, the Council shall take into account that the entire advance of the fees of the arbitrators shall not exceed the maximum amount for the specific claim amount according to table 1.
8. **Distribution of the fees of arbitrators between the arbitrators.** The distribution of the fees of arbitrators (in percentages) between the arbitrators shall be decided by the arbitral tribunal by sending the respective decision to the Council before making a final award. Based on reasoned application of an arbitrator, as an exception, distribution of fees between the arbitrators may be decided, by the Council by hearing the opinions of the arbitrators. Generally, the fee of the presiding arbitrator shall be 40–50% of the fee of the arbitrators, and the fee of other co-arbitrators shall be 25–30% of the fee of the arbitrators.
9. **Reducing the fee of the arbitrators.** By a decision of the Council, the fee of the arbitrators may be reduced as an exception if the arbitral tribunal has delayed the arbitration proceedings without good reason, including if it has failed to issue an award within the time limit set forth in the Rules.
10. **Payment of the fee to the arbitrators.**
  - a) The basis for the payment of the arbitrators' fee, which has been deposited on the account of the Chamber, to the arbitrators is the final award (or a respective separate award) or an order terminating the arbitration proceedings, respectively indicating the amount payable as a fee to each arbitrator.
  - b) The fee can be paid to an arbitrator by transferring it to the account of the arbitrator as a natural person or through a legal person indicated by the arbitrator.
  - c) In case of paying the fee of the arbitrator to a natural person who is a tax resident of Estonia, the Chamber shall, on behalf of the relevant party, from the fee withhold the income tax, unemployment insurance premium, and the mandatory funded pension contribution and pay the social tax and unemployment insurance premium pursuant to the valid legislation.
  - d) Upon paying the fee of an arbitrator through a legal person or to a sole proprietor, the legal person shall issue an invoice for the respective amount to the party (parties) who is (are) liable for the costs of the proceedings according to the final award (but not to the Chamber because the arbitrators did not provide the service to the Chamber but to the parties) and inform the Chamber thereof. The invoice, including the possible VAT, shall not exceed the amount payable as a fee to the respective arbitrator.
  - e) Every arbitrator is responsible for the calculation of taxes applicable to the arbitrators.
  - f) Before being appointed, every arbitrator shall disclose to the Council the requirements of taxation applicable to their fee (including whether the arbitrator

would be remunerated as a natural person or through a legal person and whether VAT would be applicable to the fee payable to them, as well as the VAT rate). In case of any changes in this information, the arbitrator shall inform the Council immediately.

- g) The fees of the arbitrators shall be paid to the arbitrators within 30 days from the performance of duties set forth in section 28 of the Rules by the arbitral tribunal.

**11. Compensation of the expenses of the arbitrators.**

- a) If an arbitrator wishes the compensation of expenses related to the arbitration proceedings (sections 58 (1) 4) and 5) of the Rules) at the expense of the arbitration fee, the arbitrator shall submit the respective expense documents (primarily invoices) pursuant to subsection 58 (4) of the Rules to the Council and shall request the Council to determine the expenses.
- b) The Council shall assess the necessity and reasonableness of the expenses and shall determine the amount of expenses to be compensated from the arbitration fee.
- c) The arbitral tribunal documents the expenses that the Council has decided to compensate in the decision of the arbitral tribunal or an order to terminate the arbitration proceedings.
- d) The basis for the payment of compensation of expenses of an arbitrator from the arbitration fee deposited on the account of the Chamber is the final award (or a respective separate award) or an order terminating the arbitration proceedings.
- e) The arbitral tribunal may request the prepayment of expenses of the arbitration proceedings from the arbitration fee.

**12. Falling due of the claim for administrative costs of the Court of Arbitration.**

- a) The Chamber's right to claim the administrative costs of the Court of Arbitration (see table 2) shall fall due pursuant to the final award or, if the proceedings are terminated before making a final award, based on an order terminating the arbitration proceedings or a decision of the Council terminating the proceedings, which the final costs of arbitration, including the amount of the administrative costs of the Court of Arbitration, are determined.
- b) Depositing the arbitration fee on the account of the Chamber based on the decision of the Council at the beginning of the arbitration proceedings shall not be considered a payment of a fee to the Chamber (the Court of Arbitration) or a compensation of administrative costs.

**13. Termination of the proceedings before the case is transmitted to the arbitral tribunal.** If the proceedings are terminated before the case is transmitted to the arbitral tribunal, the arbitration fee that has already been paid shall be reimbursed to the parties by a decision of the Council in the following manner:

- a) the prepayment of the fee of the arbitrators shall be reimbursed to the extent decided by the Council, taking into account the work performed by the arbitrators and other relevant circumstances;
- b) 80% of the prepayment of the administrative costs of the Court of Arbitration shall be reimbursed;
- c) actual expenses shall be deducted from the prepayment of other costs of the proceedings and the rest of the amount shall be reimbursed to the parties.

**14. Lack of jurisdiction of the Court of Arbitration.** If, during the arbitration proceedings, an award of the arbitral tribunal or judgement of a court of the seat of the arbitration takes

effect according to which the Court of Arbitration has no jurisdiction over the dispute, the paid arbitration fee shall be reimbursed to the parties by a decision of the Council as follows:

- a) the prepayment of the fee of the arbitrators shall be reimbursed to the extent decided by the Council, taking into account the work performed by the arbitrators and other relevant circumstances;
- b) the prepayment of the administrative costs of the Court of Arbitration shall be reimbursed to the extent decided by the Council, taking into account the state of the arbitration proceedings, work performed by the Council, and other relevant circumstances;
- c) actual expenses shall be deducted from the prepayment of other costs of the proceedings and the rest of the amount shall be reimbursed.

**15. Termination of the arbitration proceedings before a final award.** If the arbitration proceedings are terminated before the final award is rendered (including if a compromise is reached and the claim is withdrawn), the Council shall, upon determining the cost of the arbitration, take into account the state of the arbitration proceedings, the work performed by the arbitral tribunal, and other relevant circumstances.

**16. Release of an arbitrator.** Upon releasing an arbitrator pursuant to section 26 of the Rules, the Council shall determine the fee payable to the arbitrator and the amount of expenses compensated to the arbitrator, taking into account the reason for the release, the state of the arbitration proceedings, the work performed by the arbitrator, and other relevant circumstances.

**17. Rectification, supplementation, and clarification of an award.** Additional fee is not paid to the arbitrators in case of a rectification, supplementation, and clarification of the award pursuant to section 55 of the Rules, also if a court sets award aside and sends it back to the arbitral tribunal and the resolution of the dispute by the same arbitral tribunal is justified. Considering all circumstances, the Council shall be entitled to impose an additional arbitration fee on the parties.

**18. Usage of the administrative fee of the Court of Arbitration.** 40% of the administrative fee of the Court of Arbitration shall be kept by the Chamber and 60% by the Court of Arbitration, the latter to be held on a separate account of the Chamber and used pursuant to decisions of the Council, among other things, for covering expenses related to the development of the Court of Arbitration and achieving the objectives of the Court of Arbitration, as well as for the fees of the members of the Council (including covering expenses related to participating in the activities of the Council).

**19. Fees of arbitrators (Table 1)**

| Amount in dispute (EUR) | Amount of the fee (EUR) | Additional fee as a percentage of the amount of the claim |
|-------------------------|-------------------------|-----------------------------------------------------------|
| Up to 20,000            | 4,000–5,000             |                                                           |
| 20,001–50,000           | 5,000–10,000            |                                                           |
| 50,001–75,000           | 10,000–12,000*          |                                                           |
| 75,001–100,000          | 12,000–14,000*          |                                                           |
| 100,001–150,000         | 14,000–17,000*          |                                                           |

| <b>Amount in dispute (EUR)</b> | <b>Amount of the fee (EUR)</b> | <b>Additional fee as a percentage of the amount of the claim</b>                                                                                                 |
|--------------------------------|--------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 150,001 -200,000               | 17,000–20,000*                 |                                                                                                                                                                  |
| 200,001–300,000                | 20,000–25,000*                 |                                                                                                                                                                  |
| 300,001–400,000                | 25,000–30,000*                 |                                                                                                                                                                  |
| 400,001–500,000                | 30,000–35,000*                 |                                                                                                                                                                  |
| 500,001–1,000,000              | 35,000–55,000*                 |                                                                                                                                                                  |
| 1,000,001–2,000,000            | 55,000–750,000*                |                                                                                                                                                                  |
| 2,000,001–3,000,000            | 75,000–100,000*                |                                                                                                                                                                  |
| 3,000,001–4,000,000            | 100,000–125,000*               |                                                                                                                                                                  |
| 4,000,001–5,000,000            | 125,000–150,000*               |                                                                                                                                                                  |
| Starting from 5,000,001        | 150,000*                       | 1.0% of the claim exceeding 5,000,000 euros; however, the rate of the fee of the arbitrators shall not exceed EUR 350,000, unless the Council decides otherwise. |

\* In case of a sole arbitrator, the Council usually decides that the fee of the arbitrator is about 40–80% of the respective rate of the fee of arbitrators (table 1) based on the number of claims, the complexity of the dispute, and other circumstances.

## **20. Administrative fee rates of the Court of Arbitration (Table 2)**

| <b>Amount in dispute (EUR)</b> | <b>Administrative fee (EUR)</b> |
|--------------------------------|---------------------------------|
| Up to 20,000                   | 1,000                           |
| 20,001–50,000                  | 2,250                           |
| 50,001–75,000                  | 3,250                           |
| 75,001–100,000                 | 4,500                           |
| 100,001–150,000                | 5,000                           |
| 150,001–200,000                | 5,500                           |
| 200,001–300,000                | 6,500                           |
| 300,001–400,000                | 8,000                           |
| 400,001–500,000                | 10,000                          |
| 500,001–1,000,000              | 12,500                          |
| 1,000,001–2,000,000            | 15,000                          |
| 2,000,001–3,000,000            | 17,500                          |
| 3,000,001–4,000,000            | 20,000                          |
| 4,000,001–5,000,000            | 22,500                          |
| Starting from 5,000,001        | 25,000                          |