

**ACT**  
**of the Czech Republic**  
**No. 216/1994 Sb.**  
**on arbitration proceedings and on enforcement of**  
**arbitration awards**

The Parliament of the Czech Republic has adopted the Act as follows:

PART ONE

§ 1

This Act shall regulate deciding on property disputes by independent and impartial arbitrators and enforcement of arbitration awards.

**Arbitration agreement**

§ 2

(1) The parties may conclude an agreement that property disputes between them falling within the jurisdiction of courts shall be decided by one or more arbitrators or by a steady court of arbitration (arbitration agreement) except for disputes connected with enforcement of a decision and for disputes provoked by bankruptcy and composition.

(2) The arbitration agreement may be validly concluded if the dispute between the parties can be solved by concluding a judicial settlement.<sup>1)</sup>

(3) The arbitration agreement may concern  
a) certain already arisen dispute (compromise); or  
b) all disputes that may arise from certain legal relationship or from a specified kind of legal relationships (arbitration clause).

(4) Unless the arbitration agreement stipulates otherwise, it shall apply both to rights directly following from these relationships and to the issue of their validity as well as to rights connected with these rights.

(5) The arbitration agreement shall bind also the legal successors of the parties unless the parties have explicitly excluded this rule.

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1) § 99 of the Civil Procedure Code

§ 3

(1) The arbitration agreement must be concluded in written, otherwise it shall be null and void. The written form shall be considered kept if the arbitration agreement has been concluded by telegraph, teleprinter or electronic means that enable to record their content and to determine the persons who concluded the arbitration agreement.

(2) However, if the arbitration agreement is one of the terms governing the basic agreement, the arbitration agreement shall be considered valid if a written offer to conclude the agreement including the arbitration clause was accepted by the other party in a manner from that its consent to the content of the arbitration agreement obviously follows.

PART TWO

**Arbitrators**

§ 4

(1) The position of arbitrator may be executed by a major Czech citizen capable to legal acts unless a special act<sup>2)</sup> stipulates otherwise.

(2) The position of arbitrator may be also executed by a

foreigner who is capable to legal acts according to the law of the state whose citizen it is; however, it shall be sufficient if it is capable to legal acts according to Czech law.

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2) § 52 para. 4 of the Act No. 335/1991 Sb. on courts and judges, as subsequently amended; § 4 para. 3 of the Act No. 182/1993 Sb. on the Constitutional Court.

§ 5

(1) Nobody shall be obliged to accept the position of arbitrator. However, the person who has accepted this position shall execute it in accordance with this Act and other regulations.

(2) The acceptance of the position of arbitrator must be done in written.

(3) The arbitrator may resign only for important reasons or upon consent of the parties.

§ 6

(1) The arbitrators shall keep confidentiality regarding facts they have found out in connection with execution of the position of arbitrator unless they were deprived of this obligation.

(2) The parties may deprive the arbitrator of the confidentiality obligation. Unless the parties deprive the arbitrator of the confidentiality obligation, the deprivation of confidentiality for important reasons shall be decided on by the chairman of the district court competent according to the arbitrator's residence. Unless the arbitrator's residence is located in the Czech republic, the decision shall be issued by the chairman of the district court in Prague 1.

**Determination, appointment and exclusion of arbitrators**

§ 7

(1) The arbitration agreement should usually determine the number and persons of arbitrators or stipulate the way the number and persons of the arbitrators are to be determined. The number of the arbitrators must be odd.

(2) Unless the arbitration agreement contains the provision under paragraph 1, each party shall appoint one arbitrator and these arbitrators shall elect the presiding arbitrator.

§ 8

The person who is to be or has been determined or appointed as arbitrator shall immediately inform the parties or the court of all circumstances that could throw reasonable doubts his impartiality and justifying his exclusion.

§ 9

(1) Unless the party entitled to appoint the arbitrator does so within 30 days from the delivery of the other party's request or unless the appointed arbitrators are able to agree on the presiding arbitrator, the arbitrator or presiding arbitrator shall be appointed by the court unless the parties have agreed otherwise. The application to the court may be filed by any party or by any of the appointed arbitrators.

(2) Unless the parties have agreed otherwise, the court shall appoint a new arbitrator upon the request of any party or any arbitrator if the appointed arbitrator resigns or is not able to execute the position of arbitrator.

§ 10

(1) When appointing an arbitrator or presiding arbitrator under § 9, the court shall consider the requisites for his impartial decision making.

(2) The provision of § 5 shall apply analogously.

§ 11

Unless other reasons are stipulated by this Act, the already determined or appointed arbitrator shall be excluded from discussing the case if the circumstances mentioned in § 8 become clear subsequently.

§ 12

(1) The already determined or appointed arbitrator shall resign from the position of arbitrator if the circumstances mentioned in § 11 have become clear as for him.

(2) Unless the arbitrator resigns, the parties may agree on the procedure to result in his exclusion. Any of the parties may ask the court for his exclusion.

§ 13

**Steady courts of arbitration**

(1) Steady courts of arbitration may be established only on the basis of law.

(2) Steady courts of arbitration may issue their statutes and rules of procedure that shall be published in the Commercial Bulletin;<sup>3)</sup> these statutes or rules of procedure may determine the way of appointment of arbitrators, their number and may link the choice of arbitrator to a list of arbitrators kept by the steady court of arbitration. The statutes and rules of procedure may also determine the way of proceedings and decision making as well as regulate other issues connected with the activities of the steady court of arbitration and arbitrators including the rules concerning costs of proceedings and remuneration of arbitrators.

(3) Should the parties have agreed on the competence of a concrete steady court of arbitration and not stipulated otherwise in the arbitration agreement, they shall be considered to have submitted to the rules mentioned in paragraph 2 as in force at the moment of commencement of the proceedings before the steady court of arbitration.

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3) The government's decree No. 63/1992 Sb. on Commercial Bulletin.

**PART THREE**

**Arbitration proceedings**

§ 14

(1) The arbitration proceedings shall be commenced upon a lawsuit and shall be considered commenced on the day when the lawsuit was delivered to the steady court of arbitration or to the arbitrator mentioned in paragraph 2. Submission of the lawsuit shall have the same legal effects as if the lawsuit in the same case was submitted to the court.

(2) Unless the lawsuit is submitted to a steady court of arbitration, it shall be submitted to the presiding arbitrator if he has been determined or appointed; unless the presiding arbitrator has been determined or appointed, the lawsuit shall be submitted to any determined or appointed arbitrator.

(3) The steady court of arbitration as well as the arbitrator mentioned on paragraph 2 shall affix the lawsuit

with a remark concerning the date of delivery of the lawsuit.

§ 15

(1) The arbitrators shall be entitled to decide on their jurisdiction. Should they find out that they have no jurisdiction to decide in the case, they shall decide on it by a decree.

(2) The objection of lack of jurisdiction based on non-existence, invalidity or expiry of the arbitration agreement may be raised no later than at the moment of the party's first procedural act concerning the merit unless the invalidity of the agreement is based on the fact that the agreement was not possible to conclude in the case.

§ 16

Should the party have asserted its claim before arbitrators during the limitation period or during the period of existence of the right and should the arbitrators decide that they have no jurisdiction over the case or should the arbitration award be quashed by court and should the party file a lawsuit or application for continuation of proceedings again with the court or other competent authority within 30 days from the day when the decision on the lack of jurisdiction or on quashing of the arbitration award was delivered to the party, the legal effects of the filed lawsuit shall remain unaffected.

§ 17

The arbitration proceedings shall take place in the location agreed on by the parties. Unless the location is determined in this way, the proceedings shall take place in the location determined by the arbitrators with regard to lawful interests of the parties.

§ 18

The parties shall have an equal position in the arbitration proceedings and shall be provided with full opportunity to assert their rights.

§ 19

(1) The parties may agree on the way the arbitrators should conduct the proceedings. Procedural issues may be decided on by the presiding arbitrator empowered thereto by the parties or by all arbitrators.

(2) If no agreement according to paragraph 1 was concluded, the arbitrators shall proceed in a way they consider suitable so that the factual basis necessary for deciding on the case is found out without useless formalities and upon granting the parties equal opportunities to assert their rights.

(3) Unless the parties have agreed otherwise, the proceedings shall be conducted orally. The arbitration proceedings shall never be public.

§ 20

(1) The arbitrators may examine witnesses, experts and parties if they voluntarily appear and bear their testimony. Also other evidence may be carried out only if it has been granted to the arbitrators.

(2) Procedural measures the arbitrators are unable to carry out themselves shall be carried out by the court upon their request; the court shall satisfy the request unless the

requested measure is inadmissible according to law. In doing so, the court shall issue all decisions necessary for the realisation of the request.

(3) The costs arisen to the court in carrying out the procedural measures under paragraph 2 shall be covered by the steady court of arbitration or by the arbitrators.

#### § 21

Should any of the parties have not or not fully taken part in the proceedings without its fault before the arbitration award was elaborated or have not done without its fault any legal act necessary for assertion of its right, the arbitrators shall take appropriate measures so that the party can do subsequently what it has missed.

#### § 22

Should jeopardise of enforcement of the arbitration award become clear during the proceedings or even before its commencement, the court may order a preliminary measure upon request of any of the parties.

#### **Decision**

#### § 23

The arbitration proceedings shall end in that the arbitrators issue

a) an arbitration award; or  
b) a decree if no arbitration award is issued; the decree shall be signed, grounded and delivered in the same way as an arbitration award; should a lawsuit filed with a steady court of arbitration be withdrawn before a senate is constituted or an arbitrator is appointed, the decree on cessation of proceedings shall be issued and signed by the chairman of the steady court of arbitration.

#### § 24

(1) During the proceedings, the arbitrators shall induce the parties to solve their dispute by a settlement.

(2) Upon request of the parties, the settlement may be concluded in the form of an arbitration award.

#### § 25

(1) The arbitration award shall be approved of by the majority of arbitrators, elaborated in written and signed by at least the majority of arbitrators. The verdict of the arbitration award must be definite.

(2) The arbitration awards shall be grounded unless the parties have agreed on that no grounds are necessary; the same rule shall also apply to the arbitration award issued under § 24 para. 2.

(3) In deciding on the case, the arbitrators shall proceed according to the law applicable to the dispute; they may decide the dispute according to principles of equity if they have been explicitly entrusted therewith by the parties.

#### § 26

Mistakes in writing and calculations as well as other obvious errors occurring in the arbitration award shall be corrected by the arbitrators or by the steady court of arbitration at any time upon the request of any of the parties. Such correction shall be approved of, signed and delivered in the same way as an arbitration award.

#### § 27

The arbitration agreement may stipulate that the arbitration award may be reviewed by other arbitrators upon request of any of or both parties. Unless the arbitration agreement stipulates otherwise, the request for revision shall be delivered to the other party within 30 days from the day of the delivery of the arbitration award to the requesting party. The revision of the arbitration award shall be a part of the arbitration proceedings and shall be regulated by provisions of this Act.

#### § 28

(1) The written arbitration award shall be delivered to the parties with a clause affixed proving that it has become final and conclusive after the delivery to the parties.

(2) An arbitration award that is not possible to review under § 27 or as for that the period for submission of request for revision under § 27 has elapsed in vain shall, after at the moment of its delivery, acquire effects of a final and conclusive judgment of a court and shall be judicially enforceable.

#### § 29

(1) Within 20 years after the arbitration award issued by a steady court of arbitration became final and conclusive, the arbitration award with a finality clause affixed as well as all other documents proving the course of the arbitration proceedings shall be lodged into the custody of the steady court of arbitration.

(2) Within 30 days after the arbitration award issued by arbitrators became final and conclusive, the arbitration award as well as all other documents proving the course of the arbitration proceedings shall be lodged into the custody of the district court in whose district the arbitration was issued; should the arbitration award have been issued outside the territory of the Czech Republic, the award shall not be lodged into the judicial custody.

(3) The parties may inspect the documents mentioned in paragraphs 1 and 2 and make extracts therefrom.

#### § 30

Unless the law stipulates otherwise, the provisions of Civil Procedure Code shall apply to the arbitration proceedings adequately.

### PART FOUR

#### **Quashing of an arbitration award by court and cessation of an ordered enforcement of a decision**

#### § 31

Upon the request of any of the parties, the court shall quash the arbitration award if

a) no arbitration agreement can be concluded in the concerned case;  
b) the arbitration agreement is null and void for other reasons, was cancelled or does not apply to the concerned case;  
c) any of the arbitrators who took part in the case was not called on to decide on the case on the basis of the arbitration agreement or otherwise or was not capable to become an arbitrator;  
d) the arbitration award was not approved of by the majority of arbitrators;  
e) the party was not provided with the possibility to discuss the case before the arbitrators;  
f) the arbitration award adjudges the party to a performance that was not requested by the entitled party or that is impossible or unlawful under Czech law;

g) it becomes clear that reasons for resumption of civil judicial proceedings are given in the case.<sup>4)</sup>

4) § 228 para. 1 letter a) and b) of the Civil Procedure Code.

#### § 32

(1) The request for quashing of the arbitration award must be filed within three months from the delivery of the arbitration award to the party that demands that the arbitration award be quashed unless this Act stipulates otherwise.

(2) The request under paragraph 1 shall not suspend enforceability of the arbitration award. However, the court may, upon request of the obliged party, suspend enforceability of the arbitration award if an immediate enforcement of the arbitration award results in a considerable infringement to this party.

#### § 33

The request for quashing of the arbitration award based on reasons mentioned in § 31 letter b) and c) shall be rejected by the court if the requesting party did not assert such reason before it started to act in the merits of the case although it was able to do so.

#### § 34

(1) Should the arbitration award have been quashed for reasons mentioned in § 33 letter a) or b) and should the quashing judgment of the court have become final and conclusive, the court shall continue in the proceedings upon request of any of the parties and shall decide on the case.

(2) Should the arbitration award have been quashed for other reasons than those stipulated in paragraph 1, the arbitration agreement shall remain valid. The arbitrators who issued the quashed arbitration award shall be excluded from new discussing and deciding on the case. Unless the parties agree otherwise, new arbitrators shall be appointed in the way determined by the arbitration agreement or upon a subsidiary application of the provisions of this Act.

#### § 35

(1) Even without a prior request for quashing of the arbitration award by the court, the party against whom a judicial enforcement of the arbitration award was ordered may apply for cessation of the ordered enforcement; apart from reasons mentioned in a special act,<sup>5)</sup> the application may be based also on the following circumstances:  
a) the arbitration award is affected by a defect mentioned in § 31 letter a), d) or f); or  
b) the party had to have a legal representative, was not represented by such representative in the proceedings and its acts were not subsequently approved of; or  
c) the person who acted on behalf of the party or its legal representative in the proceedings was not empowered thereto and its acts were not subsequently approved of.

(2) Should the request under paragraph 1 have been filed, the court carrying out the enforcement shall interrupt the proceedings and order that the obliged party file an application for quashing of the arbitration award with the competent court within 30 days. Unless the application is filed within this period, the court shall continue in the enforcement proceedings.

(3) Should the arbitration award have been quashed, the parties may proceed analogously according to § 34.

5) § 268 of the Civil Procedure Code.

### PART FIVE

#### Provisions related to abroad

#### § 36

(1) The issue whether the arbitration agreement is admissible in the concrete case shall be considered according to this Act. Other requisites of the arbitration agreement shall be considered according to this Act if the arbitration award is to be issued in inland.

(2) The form of the arbitration agreement shall be considered according to the law applicable to other requisites of the arbitration agreement; however, the requirement of form shall be considered met if the parties complied with the law of the place or places where the will was expressed.

#### § 37

(1) Should the arbitration proceedings contain an international element, the arbitrators shall decide according to the law chosen by the parties. The chosen law or the law applicable according to the rules of conflict of laws shall be applied only within the scope of substantive law provisions unless the parties have agreed on something else; rules of conflict of laws contained in the chosen or otherwise applicable law shall not be taken into consideration.

(2) Unless the parties have agreed on a substantive law under paragraph 1, the arbitrators shall decide according to the law determined by the inland rules of conflict of law.

#### § 38

Arbitration awards issued abroad shall be recognised and enforced in inland in the same way as Czech arbitration awards upon the requirement of reciprocity. The requirement of reciprocity shall be considered guaranteed also if the foreign state generally declares foreign arbitration awards enforceable upon the requirement of reciprocity. The writ of enforcement shall always list the grounds.

#### § 39

However, recognition and enforcement of foreign arbitration award shall be rejected if  
a) the arbitration award is not final and conclusive or enforceable according to the law of the state where it has been issued; or  
b) the arbitration award is affected by a defect mentioned in § 31; or  
c) the arbitration award violates ordre public.

#### § 40

Recognition of a foreign arbitration award shall not be declared in a special decision. The foreign arbitration award shall be recognised by being taken into consideration upon conditions mentioned in § 39.

### PART SIX

#### Instance and local competence of courts

#### § 41

First instance proceedings concerning invalidity of the arbitration agreement as well as first instance proceedings according to this Act shall fall within the competence of the court competent to proceedings in the case under special act<sup>6)</sup> if there was no arbitration agreement.

6) § 9 of the Civil Procedure Code.  
§ 3 of the Act No. 436/1991 Sb. on certain measures in judicial system, on elections of assessors and deprivation or recalling from their position and on state administration of courts of the Czech Republic.

§ 42

(1) Measures mentioned in § 20 para. 2 shall be taken by the district court in whose district the measure is to be taken.

(2) Should the requested measure under paragraph 1 be taken abroad, it shall fall within the competence of the district court in whose district the arbitration proceedings take place.

§ 43

Local competence to the proceedings under this Act shall be exercised by the court in whose district the arbitration proceedings take or took place if this place is located in inland. Otherwise, the proceedings shall be conducted by the court competent to the case if there was no arbitration agreement. Apart from this rule, the proceedings under § 9 and § 12 para. 2 may be conducted by the court in whose district the residence or registered office of the plaintiff or defendant is located if the local competence of a court in inland can not be found out.

§ 44

Unless this Act stipulates otherwise, the proceedings before court under this Act shall be analogously regulated by the provisions of the Civil Procedure Code.

PART SEVEN

**Amendment to the Civil Procedure Code**

§ 45  
(not translated)

PART EIGHT

**Intertemporal and final provisions**

§ 46

Disputes concerning invalidity of arbitration agreements and concerning quashing of arbitration awards issued on the basis of an arbitration agreement regarding that judicial proceedings had been commenced and not finally concluded at the moment when this Act became effective shall be discussed and concluded by the courts competent until the date of effectivity of this Act.

§ 47

The provisions of this Act shall apply unless an international agreement binding on the Czech Republic and published in the Collection of laws stipulates otherwise.

§ 48

This Act shall apply if the arbitration agreement was concluded after this Act became effective. In other cases, the hitherto provisions shall apply.

§ 49

The following acts shall be repealed:

1. Act No. 98/1963 Sb. on arbitration proceedings in international business and on enforcement of arbitration awards.
2. § 30 para. 2, 4, 5 and 6 of the Act No. 214/1992 Sb. on stock exchange;
3. § 28 para. 2, 4, 5, 6 and 7 of the Act No. 229/1992 Sb. on commodity exchange.

§ 50

This Act shall become effective on January 1, 1995.