The four steps on the way to conflict resolution at the BNTCC Arbitral Tribunal

# STEP 1: documentation and assessment

To handle one's documentation correctly is the most important factor deciding whether our case is heard by a regular court or, as we would rather have it, an arbitral tribunal. Documentation as discussed here can take the form of a stand-alone contract or a so-called arbitration clause. The latter can feature in any contract binding the two parties. Polish law mandates that matters of arbitration be put down on paper.

Note: art. 1162 § 2 KPC

Matters of arbitration are also considered properly recorded when they are spoken of in documents exchanged between the parties or conversations using communication devices where relevant content can be recorded.

Importantly, both international and Polish arbitration has it so that any mention of arbitration as a means of conflict resolution between the parties featured in a contract outlasts the contract in all cases. This autonomy of arbitration clauses is supported by art. 1180 § 1 zd. 2 KPC.

§ …

Any dispute pertinent to this agreement or resulting from attempts to carry it out will be heard by the Arbitral Tribunal of the Blockchain and New Technologies Chamber of Commerce in Warsaw. Arbitration of the dispute will be in accordance with tribunal regulations in effect on the day the tribunal takes up the dispute.

**The existence of an arbitration clause is one of the factors deciding**

**whether it is possible for a dispute to be heard by an arbitral tribunal. Polish civil code stipulates what kinds of disputes can be referred to an arbitral tribunal.**

*Note: art. 1157 KPC*

*Unless otherwise specified, any dispute concerning the ownership of tangible and intangible assets capable of being settled out of court can be heard by an arbitral tribunal with the exception of alimony cases" (art. 1157 KPC)*

# STEP TWO: Selecting an arbitrator

In line with BNTCC regulations, there exists a list of BNTCC arbitrators but outside arbitrators can be nominated by the parties as well. Any natural person of full capacity can be an arbitrator.

Note: art. § 2 1170 KPC

A sitting judge cannot be an arbitrator. Only retired judges can be arbitrators.

Worth noting also is that tribunal regulations allow the arbitrators themselves to select an umpire from outside the tribunal. The role of the umpire is to avoid deadlock which could arise from an even number of arbitrators deciding a case. Most disputes are heard by two arbitrators plus an umpire.

Additionally, tribunal regulations allow you to appoint an emergency arbitrator when it is necessary for assets to be secured. The emergency arbitrator decides whether to secure or not prior to discovery. An application to appoint an emergency arbitrator should suggest the means of securing the assets in question along with a justification for the measure. Proof of payment for the application is also required.

# STEP THREE: Arbitration

Arbitration at the tribunal happens in either Polish or another language with an interpreter present.

A dispute is officially taken up by the tribunal on the day a request to hear a dispute is filed. Be sure to include within the request information about the parties involved, the nature of the dispute, substantiating documentation, and possible arbitrator selection by the parties. At this level you don't have to make any specific claims or try to justify them. All that is needed is for the opposing party to clearly understand that the dispute is legal in nature.

Keep in mind that the opposing party can respond to your request in writing. Both your application and the opposing party's response can have relevant documents attached to them. The initial request to review a dispute can be extended in scope and otherwise altered unless the tribunal denies permission to do so.

The actual meeting of the parties at the tribunal is not unlike any other gathering but courtroom-specific elements like witness testimonies and expert witnesses are present here as well. Both parties have equal rights to make their case and to put forth evidence. This includes witness testimonies, documentary evidence, inspection of other evidence and any other kind of evidence considered by the tribunal to be of note.

Both parties and the arbitrators are to be present at the meeting. Regulations allow other arbitrators to participate drawn from the list of BNTCC arbitrators, however, without a vote or ability to voice their opinion. This includes the tribunal chairman. Present at the meeting can also be two persons per party known as trusted representatives by each party's permission.

Arbitral tribunal meetings are not open to the public.

# STEP FOUR: The verdict and enforcement

The verdict is to be given in writing and signed by the arbitrators. Included in it the verdict are: the substantiating documentation allowing for the case to be heard, party and arbitrator information, substantiation for the verdict found and time and location. Since 144 countries are currently signatories to the 1958 United Nations convention on the Recognition and Enforcement of Foreign Arbitral Awards, your verdict is enforceable almost around the globe. Having received a verdict, be sure to submit it to a regular court of law for validation. The losing party unwilling to submit to the sanctions placed on them by the verdict can then expect an enforcement clause-authorized visit from a bailiff.