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Code of Civil Procedure¹

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14.04.2011	RT I, 21.04.2011, 17	14.04.2011 Decision of the Supreme Court en banc declares to be in conflict with the Constitution and repeals clause 182 (2) 3) of the Code of Civil Procedure in the part that it excludes the provision of procedural assistance to natural persons for the release, in part or in full, from payment of the state fee on the appeal if the proceeding concerns the economic or professional activity of the person requesting procedural assistance and is not related to his or her rights which are not connected to his or her economic or professional activity.
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Part 1

GENERAL PROVISIONS

Chapter 1

(4) A respondent shall indicate whether the respondent consents to the petition. The respondent shall substantiate the objections thereof and where necessary, submit evidence in proof of the objections.

(5) Review of a court decision does not suspend enforcement thereof. The Supreme Court may make a ruling to suspend the enforcement proceeding or allow it to be continued only against a security, or revoke the enforcement action.

§ 709. Acceptance of petition for review

The Supreme Court accepts a petition for review if the facts submitted in the petition give reason to believe that a basis for review provided by law exists.

§ 710. Adjudication of petition for review

(1) If the Supreme Court finds that a petition for review is justified, the Supreme Court annuls the decision and refers the matter for a new hearing to the lower court which made the decision. If the facts are obvious, the Supreme Court amends the decision of a lower court or annuls the decision of a lower court and makes a new judgment or ruling.

[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) A transcript of the judgment or ruling is sent to the participants in the proceeding.

[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

Chapter 69 DETERMINATION OF COURT WITH APPROPRIATE COMPETENCE

§ 711. Procedure for determination of court with appropriate competence

(1) In the cases provided by law, a Special Panel formed by the Civil Chamber and the Administrative Chamber of the Supreme Court determines the court with appropriate competence to adjudicate the matter. The Special Panel is formed and chaired by the Chief Justice of the Supreme Court.

[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) Within two months after receiving a matter, the Special Panel determines by a ruling the court into whose competence the adjudication of the matter falls, without summoning the participants in the proceeding to the hearing of the matter. The participants in the proceeding may submit their positions to the Special Panel in writing.

(3) Upon determination of the court with appropriate competence, the Special Panel of the Supreme Court annuls the court ruling in which the court which was declared to have appropriate competence found that the matter does not fall within the competence of the court and refers the matter for adjudication to the court which made the annulled ruling.

(4) [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

(5) If the Special Panel of the Supreme Court finds that a matter is not subject to adjudication by way of civil or administrative procedure, the Special Panel terminates the proceeding by a ruling.

Part 14 ARBITRAL TRIBUNAL

Chapter 70

GENERAL PROVISIONS

§ 712. Place of conduct of arbitration proceedings

(1) The provisions of this Part apply to arbitration proceedings conducted in Estonia unless otherwise provided by law or an international agreement.

(2) The provisions of §§ 720 and 740 of this Code also apply if the place of conducting the arbitration proceedings is in a foreign state or if the place of conducting the proceedings has not yet been determined.

(3) Until determination of the place of conducting arbitration proceedings in Estonia or in a foreign state, the tasks specified in §§ 721, 724, 725, 727 and 728 of this Code are performed by Estonian courts if the place of business, residence or seat of at least one party is in Estonia.

§ 713. Extent of activity of courts

A court has the right to perform acts in arbitration proceedings only in the cases and to the extent provided by law.

§ 714. Consequences of failure to report violation of law or arbitral agreement

Upon violation of a provision of this Part regulating party autonomy or of a claim agreed on by the parties for the purpose of arbitration proceedings, a party cannot rely on such violation if the party fails to inform the arbitral tribunal of such violation immediately after the party becomes or should have become aware of the violation.

§ 715. Deeming of notices to be delivered

(1) If the place of business, residence or seat of a party or a person entitled to receive a notice is not known, a notice is deemed to have been delivered as of the date on which the party or the person entitled to receive the notice would have received the notice in the case of ordinary delivery by registered letter or in another manner providing proof of delivery at the last known address of the person.

(2) The provisions of subsection (1) of this section do not apply to the service of notices in the course of court proceedings.

§ 716. Proceedings in permanent arbitral tribunals

(1) If the parties have agreed upon conduct of arbitration proceedings in a permanent arbitral tribunal, it is presumed that the agreement of the parties also extends to the procedural rules prescribed by the rules and regulations of the arbitral tribunal or other documents regulating arbitration proceedings.

(2) If this Part provides for the right of a party to file a petition with a court in the case of failure to reach an agreement concerning a procedural issue, it is not permitted in a proceeding conducted by a permanent arbitral tribunal unless the procedural issue cannot be solved based on the procedural rules of the arbitral tribunal.

Chapter 71 ARBITRAL AGREEMENT

§ 717. Definition of arbitral agreement

(1) An arbitral agreement is an agreement between the parties to have an arbitral tribunal resolve a dispute which has already arisen or may arise between them over a determined contractual relationship or a extra-contractual relationship.

(2) An arbitral agreement may be entered into as an independent agreement, or as a distinguishable term which is a part of a contract.

[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

§ 718. Validity of arbitral agreement

(1) The object of an arbitral agreement may be a proprietary claim. An arbitral agreement concerning a non-proprietary claim is valid only if the parties are able to reach a compromise concerning the object of the dispute.

(2) An arbitral agreement shall be null and void if its object is:

- 1) a dispute concerning the validity or cancellation of a residential lease contract, and vacating a dwelling located in Estonia;
- 2) a dispute concerning the termination of an employment contract.

(3) A proprietary claim in public law may be the object of an arbitral agreement if the parties are able to enter into a contract under public law concerning the object of dispute.

(4) A prohibition or restriction on referral of certain types of disputes to arbitration may be established by law.

§ 719. Format of arbitral agreement

(1) An arbitral agreement must be entered into in a format which can be reproduced in writing. An arbitral agreement may also be contained in a written confirmation.

(2) If a consumer is a party of an arbitral agreement, such agreement shall be set out in a document bearing the hand-written or digital signature of the consumer.

(3) Failure to comply with the format requirement does not affect the validity of an agreement if the parties agree to the resolution of the dispute by an arbitral tribunal.

§ 720. Arbitral agreement and securing of action in court

Regardless of whether or not the parties have entered into an arbitral agreement, the court has the right to secure the action based on a request of a party before or after the beginning of arbitration proceedings.

Chapter 72 FORMATION OF ARBITRAL TRIBUNAL

§ 721. Formation of arbitral tribunal

(1) The parties agree on the number of arbitrators. If there is no agreement, a dispute is resolved by three arbitrators.

(2) If an arbitral agreement gives one of the parties, in the formation of an arbitral tribunal, an economic or other advantage over the other party which is materially damaging to the other party, such party may request that the court appoint one arbitrator or several arbitrators differently from the appointment which already took place or from the rules of appointment agreed upon earlier. The request shall be made not later than within 15 days as of the time the party became aware of the formation of the arbitral tribunal.

(3) If a party has submitted the request specified in subsection (2) of this section to the court, the arbitral tribunal may suspend its proceeding.

§ 722. Prerequisites for appointment as arbitrator

(1) Natural persons with active legal capacity may be appointed as arbitrators.

(2) The parties may agree on the qualification requirements of arbitrators.

§ 723. Consent of arbitrator

The written consent of a candidate for arbitrator is required for his or her appointment as arbitrator.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 724. Appointment of arbitrator

(1) The parties may agree on the procedure for appointment of arbitrators.

(2) If an arbitral tribunal is to consist of three arbitrators but the parties have not agreed upon a procedure for their appointment, each party appoints one arbitrator. Such arbitrators then elect the third arbitrator who acts as the presiding arbitrator.

(3) If, in the case specified in subsection (2) of this section, a party has failed to appoint an arbitrator within 30 days after receipt of a corresponding request from the other party or the arbitrators appointed by the parties are unable to elect a third arbitrator within 30 days after their appointment, the court appoints an arbitrator based on a petition of a party.

(4) If an arbitral tribunal is to consist of one arbitrator but the parties have not agreed upon a procedure for the appointment of the arbitrator and are unable to reach a corresponding agreement, the court appoints an arbitrator based on a petition of a party.

(5) If the parties have agreed upon a procedure for the appointment of an arbitrator and one party violates the procedure, or if the parties or both arbitrators fail to reach an agreement, or a third person fails to perform the tasks assigned to him or her in the appointment proceeding, each party has the right to request that the court appoint an arbitrator, unless a different procedure for appointment of an arbitrator has been agreed upon.

§ 725. Appointment of arbitrator by court

- (1) The court appoints an arbitrator within 30 days after receipt of a corresponding petition.
- (2) The court considers the following in appointing an arbitrator:
 - 1) the conditions agreed upon by the parties concerning the appointment of an arbitrator;
 - 2) any circumstances which ensure the appointment of an independent, impartial and competent arbitrator.
- (3) A ruling on appointment of an arbitrator is not subject to appeal.

§ 726. Removal of arbitrator

(1) An arbitrator may be removed if circumstances exist which create a reasonable doubt in his or her impartiality, independence or competence or if the conditions agreed upon by the parties are not fulfilled with respect to the arbitrator. A party may request the removal of the arbitrator appointed thereby if the grounds for removal of the arbitrator became known to the party after the appointment of the arbitrator.

(2) A candidate for arbitrator discloses immediately any circumstances which may create a doubt in his or her impartiality or independence or which may constitute the basis for his or her removal due to another reason. Unless an arbitrator has disclosed such circumstances to the parties earlier, he or she has the obligation to immediately inform the parties of such circumstances during the period between his or her appointment and the end of the arbitration proceeding.

§ 727. Procedure for removal of arbitrator

- (1) The parties may agree on the procedure for removal of arbitrators.
- (2) If the parties have not agreed on a procedure for removal, a party may submit a petition for removal to the arbitral tribunal within 15 days after the date of formation of the arbitral tribunal or the date of becoming aware of the circumstance specified in subsection 726 (1) of this Code. If an arbitrator refuses to remove himself or herself or if the other party does not agree to the removal, the arbitral tribunal decides on the removal without the participation of the arbitrator to be removed.
- (3) If the issue of removal cannot be decided pursuant to the procedure provided in subsection (2) of this section, a party may submit a petition for removal to the court within 30 days after the date on which the party became aware of the rejection of the petition for removal.
- (4) The arbitral tribunal may suspend its proceedings until the time the court adjudicates the petition for removal.

§ 728. Inability of arbitrator to perform duties

(1) In the case an arbitrator is unable to perform his or her duties within a reasonable period of time, his or her competence as an arbitrator ends if he or she removes himself or herself or the parties agree on the termination of his or her competence. If an arbitrator refuses to remove himself or herself or the parties fail to reach an agreement concerning the termination of the arbitrator's competence, each party may file a petition with the court for declaration of the termination of the arbitrator's competence, unless the parties have agreed otherwise.

(2) The provisions of subsection (1) of this section do not preclude a party's right to terminate a contract entered into with an arbitrator.

§ 729. Replacement of arbitrator

(1) Upon termination of a contract entered into with an arbitrator, a new arbitrator is appointed to replace him or her. The appointment is conducted in adherence to the same requirements which were applied upon appointment of the replaced arbitrator. The arbitral tribunal suspends its proceeding until the appointment of a new arbitrator. After suspension the proceeding is resumed from the point at which the proceeding was when it was suspended.

(2) The parties may agree on a procedure for replacement of arbitrators different from the procedure specified in subsection (1) of this section.

Chapter 73

COMPETENCE OF ARBITRAL TRIBUNAL

§ 730. Right of arbitral tribunal to determine its competence

(1) An arbitral tribunal has the right to determine its competence and in connection therewith, also resolve the matter of existence of an arbitral agreement and of the validity of such agreement. In doing so, the arbitral tribunal views the arbitral agreement as an independent agreement not connected to other terms and conditions of the contract.

(2) An objection relating to the competence of an arbitral tribunal shall be submitted not later than in the response to the action. A party may file an objection regardless of whether the arbitrator was appointed by such party.

(3) An objection related to the exceeding of limits of competence by an arbitral tribunal shall be submitted not later than at the time of commencement of the arbitration proceeding concerning which the allegation of exceeding the limits of competence is made.

(4) In the case provided in subsection (2) or (3) of this section, an arbitral tribunal may permit submission of objections at a later time, if a party failed to submit an objection on time with good reason.

(5) If an arbitral tribunal considers itself to have appropriate competence in the matter, the tribunal makes a separate decision concerning an objection submitted pursuant to subsection (2) or (3) of this section.

(6) A party may file a petition with the court specified in subsection 755 (4) of this Code for amendment of the decision of an arbitral tribunal specified in subsection (5) of this section within 30 days after communication of the decision in written form. Filing of a petition does not suspend the arbitration proceeding but the arbitral tribunal may decide to suspend the arbitration proceeding for the time such petition is adjudicated.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

(7) If an arbitral tribunal has declared itself to be incompetent, ordinary jurisdiction is restored, unless the parties have agreed otherwise.

(8) The provisions of this section do not apply if the court has accepted an action for establishment of the validity of an arbitral agreement or the right of an arbitral tribunal to conduct proceedings in a matter. The court shall not accept such action if an arbitral tribunal has already been formed in the matter and the tribunal has not yet declared itself to be incompetent in the matter.

§ 731. Securing of action in arbitral tribunal

(1) An arbitral tribunal may secure an action based on a petition of a party unless the parties have agreed otherwise. The measures for securing actions which restrict personal freedoms shall not be applied. In connection with securing an action, an arbitral tribunal may demand that both parties provide a reasonable security.

(2) The decision on securing an action made based on subsection (1) of this section is enforced based on a court ruling. The court makes the ruling based on a request of a party and allows the enforcement thereof only if application of the same measure for securing the action has not already been requested from the court. The court may rephrase a ruling on securing an action if this is necessary for application of the measure for securing the action. A security shall be provided for a petition for securing an action submitted to the court in the same manner as in the case of securing an action filed with the court.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) The court may annul the securing of an action based on a petition or amend it on the same grounds and pursuant to the same procedure as in the case of securing an action in court proceedings.

(4) Until the formation of an arbitral tribunal which is to resolve the dispute, a competent body of a permanent arbitral tribunal may forward a party's petition for securing an action to the court. The petition is adjudicated pursuant to the procedure provided by law for adjudication of petitions on securing actions.

(5) If it becomes evident that securing an action in the arbitration proceeding was not justified, the party which requested the securing of the action shall compensate the opposing party for the damage created to such party as a result of securing the action or providing a security in order to prevent the application of the measures for securing the action.

Chapter 74

ARBITRATION PROCEDURE

§ 732. General principles of procedure

(1) The parties shall be treated as equal in arbitration proceedings. Both parties shall be granted an opportunity to present their positions.

(2) To the extent not provided for in subsection (1) of this section, the parties have the right to agree on the procedure for the proceeding or refer to the rules and regulations of an arbitral tribunal. The parties shall not deviate from the mandatory provisions of this Part.

(3) If the parties have not agreed on the procedure for the proceeding and such procedure is not provided by this Part either, the procedure for the proceeding is determined by the arbitral tribunal. An arbitral tribunal has the right to decide on the admissibility of evidence, to examine evidence and to be free in its evaluation of the outcome of giving evidence.

§ 733. Place of conduct of arbitration proceeding

(1) The parties may agree on the place of conduct of arbitration proceeding. In case there is no agreement, the arbitral tribunal determines such place and in doing so, endeavours to select a location suitable to both parties.

(2) Regardless of the provisions of subsection (1) of this section, an arbitral tribunal may meet at a place which the tribunal considers suitable in order to hear witnesses, experts or parties, to conduct discussions between the members of the tribunal or to examine things or documents, unless otherwise agreed by the parties.

(3) With the consent of the parties, an arbitral tribunal has the right to permit one of its members to hear witnesses or experts.

§ 734. Language of proceeding

(1) The parties may agree on the language of arbitration proceeding. If there is no agreement, the language of the proceeding is determined by the arbitral tribunal.

(2) Unless otherwise prescribed by the agreement of the parties or a ruling of an arbitral tribunal, the petitions of the parties, the decision of the arbitral tribunal and other notices of the arbitral tribunal shall be prepared and the sessions of the arbitral tribunal shall be held in the language agreed upon or prescribed.

(3) An arbitral tribunal may demand the submission of written certificates together with a translation thereof into the language agreed upon between the parties or prescribed by the arbitral tribunal.

§ 735. Commencement of arbitration proceeding

Unless otherwise agreed by the parties, an arbitration proceeding commences and the action is deemed to have been filed on the date on which the defendant receives the statement of claim for resolution of a dispute by arbitration.

§ 736. Action and response to action

(1) A statement of claim sets out:

- 1) the name of arbitral tribunal or name of arbitrator;
- 2) the data of the plaintiff and defendant;
- 3) the claim of the plaintiff;
- 4) the circumstances on which the claim is based and evidence in proof of such circumstances which the plaintiff is submitting or intends to submit;
- 5) a list of annexed documents.

(2) The defendant must present a position concerning the action within the term agreed upon by the parties or prescribed by the arbitral tribunal.

(3) A party may amend or supplement its action in the course of the arbitration proceeding unless the parties have agreed otherwise. An arbitral tribunal does not permit amendment or supplementation of an action if this would cause an unreasonable delay in the proceeding.

(4) The provisions of subsections (1)–(3) of this section also apply to counterclaims.

§ 737. Session of arbitral tribunal and written proceedings

(1) An arbitral tribunal organises a proceeding in oral or written form unless the parties have agreed otherwise. If the holding of a session is not precluded by the parties, the arbitral tribunal holds a session at a suitable time in the course of the proceeding based on the petition of one of the parties.

(2) The parties are immediately notified of a session of the arbitral tribunal and any other meeting of the arbitral tribunal organised for the examination of evidence.

(3) If a party submits a document, the arbitral tribunal immediately informs the other party of such document and sends a transcript of the document to the party. Both parties shall be informed and sent transcripts of expert opinions and other written documents which the arbitral tribunal may consider upon making the decision.

§ 738. Consequences of failure to perform acts

(1) If the defendant fails to respond to the action by the prescribed due date, the arbitral tribunal continues its proceedings. The defendant's failure to respond is not deemed to be admittance of the claim.

(2) If a party fails to appear at a session or fails to submit documentary evidence by the prescribed due date, the arbitral tribunal may continue the proceeding and make a decision based on the facts already established.

(3) If the arbitral tribunal considers the failure to perform an act specified in subsections (1) or (2) of this section to be sufficiently justified, the tribunal disregards the failure to perform such act. Regarding other acts, the parties may agree on different consequences of failure to perform the acts.

§ 739. Expert appointed by arbitral tribunal

(1) An arbitral tribunal may appoint one or several experts to provide an expert opinion on questions prepared by the arbitral tribunal unless the parties agree otherwise. An arbitral tribunal may demand that a party provide an expert with relevant information and with the things or documents necessary for the expert assessment.

(2) Unless the parties agree otherwise, an expert who has provided an expert opinion must participate in a session if a party submits a request to such effect or the arbitral tribunal so demands. A party has the right to question an expert in a session and to invite the party's own expert to present an opinion on the disputed matter.

(3) An expert appointed by an arbitral tribunal may be removed and a corresponding petition for removal may be submitted to the arbitral tribunal pursuant to the same procedure which regulates the removal of arbitrators.

§ 740. Assistance of court in attestation acts and other court activities

(1) If an arbitral tribunal is not competent to perform an attestation act or to conduct another court activity, the arbitral tribunal or a party, with the consent of the tribunal, may request the assistance of a court.

(2) In adjudicating the petition specified in subsection (1) of this section, the court adheres to the procedural provisions regulating attestation and other court activities. Arbitrators have the right to participate in an attestation proceeding conducted by a court and to pose questions.

(3) The court prepares minutes of a procedural act and immediately sends a transcript of the minutes to the arbitral tribunal and the parties.

(4) The arbitral tribunal may suspend arbitration proceedings until a court activity has been conducted.

§ 741. Confidentiality requirement

Unless the parties have agreed otherwise, an arbitrator is required to maintain the confidentiality of information which became known to him or her in the course of performance of his or her duties and which the parties have a legitimate interest in keeping confidential.

Chapter 75

DECISION OF ARBITRAL TRIBUNAL AND TERMINATION OF PROCEEDING

§ 742. Applicable law

(1) In resolving a dispute, an arbitral tribunal applies the legislation, the application of which has been agreed upon by the parties. In making a reference to the law of a state, an agreement is not presumed to include the conflict of laws rule of such state unless the parties have expressly agreed otherwise.

(2) An arbitral tribunal applies Estonian law if the parties have not agreed on applicable law and applicable law does not arise from an Act.

(3) An arbitral tribunal may resolve a dispute based on the principle of justice if the parties have expressly agreed on it. Such agreement can be made until the time the arbitral court makes its decision. In resolving a dispute based on the principle of justice, an arbitral tribunal shall not deviate from the imperative provisions of the law of the state which would be applied in case the dispute would be resolved without the agreement on application of the principle of justice.

(4) In resolving a dispute in the case provided in subsections (1) or (2) of this section, an arbitral tribunal takes account of the terms and conditions of the contract and of customary practices regarding contracts in so far as this is possible under the legislation which is applied.

§ 743. Making of decision by arbitral tribunal

(1) If several arbitrators participate in a proceeding, an arbitral tribunal has made its decision if the majority of the arbitrators vote in favour of it, unless the parties have agreed otherwise.

(2) If one of the arbitrators refuses to participate in making a decision, the rest of the arbitrators may make the decision without him or her, unless the parties have agreed otherwise. The parties shall be informed beforehand of the intention to make the decision without the arbitrator who refused to participate.

(3) As regards individual procedural issues, decisions may be made or orders may be given by the presiding arbitrator if he or she holds an authorisation to such effect given by the parties or the other members of the arbitral tribunal.

§ 744. Compromise

(1) The arbitral tribunal terminates a proceeding if the parties reach a compromise. The arbitral tribunal prepares the compromise based on a petition of the parties in the wording agreed upon by the parties in the form of a decision of the arbitral tribunal unless the content of the compromise is contrary to public order or good morals. The decision is also signed by the parties.

(2) The decision of an arbitral tribunal prepared in the wording agreed upon is issued to the parties, and the decision sets out the fact that it is a decision of an arbitral tribunal. Such decision of an arbitral tribunal has the same legal force as an ordinary decision of an arbitral tribunal.

(3) If, a declaration of intention of a party needs to be notarised in order to make it valid, then in the case of a decision of an arbitral tribunal prepared in an agreed wording, the notarial certification is deemed to be substituted if the decision was made by a permanent arbitral tribunal operating in Estonia.

§ 745. Format and content of decision of arbitral tribunal

(1) An arbitral tribunal determines the time for making a decision and notifies the parties thereof.

(2) An arbitral tribunal prepares a decision in writing and an arbitrator signs the decision. In the case a decision is made by several arbitrators, it is sufficient that the majority of them sign if the reason for missing signatures is indicated.

(3) The dissenting opinion of an arbitrator who maintained a minority position in voting is set forth after the signatures if the arbitrator so requests, and it is signed by the arbitrator who maintained the minority position.

(4) Unless the parties agree otherwise or the decision is based on a compromise, the reasons for a decision of an arbitral tribunal shall be provided.

(5) A decision of an arbitral tribunal shall set out the date of making the decision and the place of the arbitration proceeding.

(6) An arbitral tribunal serves a transcript of a decision on the parties on the working day following the day on which the decision is made.

§ 746. Entry into force and effect of decision of arbitral tribunal

(1) A decision of an arbitral tribunal enters into force on the date on which the decision is made.

(2) A decision of an arbitral tribunal has the same effect on the parties as a court judgment which has entered into force.

§ 747. Termination of arbitration proceeding

(1) An arbitration proceeding ends after the arbitral tribunal makes a decision on the merits of the matter or the decision specified in subsection (2) of this section.

(2) An arbitral tribunal terminates a proceeding by a decision if:

- 1) the plaintiff withdraws the action, except in the case the defendant contests the withdrawal and the arbitral tribunal recognises the defendant's legal interest in the final resolution of the dispute;
- 2) the parties agree on the termination of the proceeding;
- 3) the parties fail to participate in the proceeding;
- 4) the arbitral tribunal finds that continuation of the proceeding is impossible due the termination of the arbitral agreement, equal division of the arbitrators' votes or for another reason.

(3) Upon termination of an arbitration proceeding, the competence of the arbitrators also ends. This does not preclude or restrict the right and obligation of an arbitrator to continue the performance of the duties assigned to him or her by law.

(4) In the cases specified in clauses (2) 1)–3) of this section, an arbitration proceeding which has been terminated cannot be reopened.

§ 748. Arbitration proceeding in case of death of party

(1) An arbitral agreement or an arbitration proceeding does not end in the case of the death of a party, unless the parties have agreed otherwise.

(2) In the case of the death of a party, an arbitral tribunal suspends the proceeding for a term determined by the tribunal. The term may be extended based on a petition of the legal successor of the deceased party.

(3) A proceeding which has been suspended is continued at the point it was suspended unless the parties have agreed otherwise.

§ 749. Decision on costs of arbitral tribunal

(1) The decision of an arbitral tribunal provides for the division, between the parties, of the costs of the arbitration proceeding and of the necessary costs incurred by the parties as a result of the arbitration proceeding, unless otherwise agreed by the parties.

(2) If the size of the costs has not been determined or cannot be determined before the end of the arbitration proceeding, the costs are provided for in a separate decision of the arbitral tribunal.

§ 750. Correction, supplementation and clarification of decision of arbitral tribunal

(1) Based on the request of a party, an arbitral tribunal may:

- 1) correct calculation and typing errors and other such mistakes in a decision of the arbitral tribunal;
- 2) clarify a decision to the extent requested;
- 3) make a supplementary decision concerning a claim which was submitted in the course of the arbitration proceeding but was not resolved by the decision.

(2) The request specified in subsection (1) of this section may be submitted within 30 days after service of the decision unless the parties have agreed on a different term.

(3) An arbitral tribunal also sends a request for supplementation or clarification of the decision to the other party for information.

(4) An arbitral tribunal makes an initial decision on the correction or clarification of a decision within 30 days after the receipt of the request, and in the case supplementation was requested, within 60 days after the receipt of the request.

(5) An arbitral tribunal may also correct a decision without a request of a party.

(6) The provisions concerning the format and content of decisions of arbitral tribunals apply to the correction, supplementation and clarification of a decision of an arbitral tribunal.

Chapter 76 ANNULMENT OF DECISION

§ 751. Annulment of decision of arbitral tribunal

(1) Based on the petition of a party, the court annuls a decision of an arbitral tribunal made in Estonia if the party proves that:

- 1) the active legal capacity of a person who entered in the arbitral agreement was restricted;

- 2) the arbitral agreement is null and void pursuant to the law of Estonia or another state, based on whose law the parties agreed to evaluate the validity of the arbitral agreement;
- 3) a party was not notified of the appointment of an arbitrator or of the arbitration proceeding in conformity with the requirements, or a party was unable to present or protect the positions thereof due to another reason;
- 4) the decision of the arbitral tribunal concerns a dispute which was not specified in the arbitral agreement or which exceeds the limits determined by the arbitral agreement;
- 5) the formation of the arbitral tribunal or the arbitration proceeding did not conform to the provisions of this Part or to the permitted agreement of the parties, and such fact can be presumed to have significantly influenced the decision of the arbitral tribunal.

(2) The court annuls a decision of an arbitral tribunal based on the request of a party or at the initiative of the court if the court establishes that:

- 1) pursuant to Estonian law, the dispute should not have been resolved by an arbitral tribunal;
- 2) the decision of the arbitral tribunal is contrary to Estonian public order or good morals.

(3) If annulment of a decision of an arbitral tribunal whereby several claims were resolved is requested based on clause (1) 4) of this section and the arbitral tribunal was competent to decide on a part of those claims, the court annuls the decision in the part of the claims on which the arbitral tribunal was not competent to decide.

(4) The court may annul a decision of an arbitral tribunal based on a petition of a party and refer the matter back to the arbitral tribunal if this is reasonable.

(5) Annulment of a decision of an arbitral tribunal is not presumed to result in the nullity of the arbitral agreement.

§ 752. Submission of petition for annulment

(1) A petition for annulment of a decision of an arbitral tribunal may be submitted to the court within 30 days after the date of service of the decision of the arbitral tribunal. If a petition for correction, supplementation or clarification of the decision of the arbitral tribunal is submitted after the decision has been served, such term is extended for 30 days as of the date of service of the decision pertaining to the petition.

(2) A petition for annulment cannot be filed if the court has recognised the decision or declared the decision to be subject to enforcement.

Chapter 77 PREREQUISITES FOR RECOGNITION AND ENFORCEMENT OF DECISIONS OF ARBITRAL TRIBUNAL

§ 753. Recognition and enforcement of decision of arbitral tribunal made in Estonia

(1) A decision of an arbitral tribunal is recognised in Estonia and enforcement proceedings based on the decision of the arbitral tribunal are carried out only if the court has recognised the decision and declared the decision to be subject to enforcement. A decision made in a proceeding of a permanent arbitral tribunal operating in Estonia is subject to recognition and enforcement without separate recognition and declaration of enforceability by the court.

(2) The court refuses to satisfy a petition for declaring a decision of an arbitral tribunal to be subject to enforcement and annuls the decision if a cause for annulment of the decision of the arbitral tribunal exists.

(3) The court disregards a cause for annulment of a decision of an arbitral tribunal which only allows annulment of the decision based on a petition of a party if no petition for annulment of the decision of the arbitral tribunal has been submitted within the term prescribed by law.

§ 754. Enforcement of decision of arbitral tribunal made in foreign state

(1) The decisions of arbitral tribunals of foreign states are recognised and accepted for enforcement in Estonia only pursuant to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958 and other international agreements.

(2) The provisions regulating the recognition of court decisions of foreign states correspondingly apply to the recognition and enforcement of the decisions of arbitral tribunals of foreign states, unless otherwise provided by law or an international agreement.

(3) If a decision of an arbitral tribunal of a foreign state which has been declared to be subject to enforcement is annulled in the foreign state, the debtor may submit a petition for annulment of the declaration of enforceability of the decision.

Chapter 78

JUDICIAL PROCEEDING

§ 755. Competence of courts

(1) A petition filed with the court pursuant to this Part is adjudicated by the county court specified in the arbitral agreement or, in the absence of an arbitral agreement, by the county court of the territorial jurisdiction of the place of the arbitration proceeding.

(2) If the place of an arbitration proceeding is not in Estonia, an issue placed within the jurisdiction of the court by law is adjudicated by Harju County Court.

(3) In the case of an attestation proceeding or other court activity, the court competent to assist an arbitral tribunal according to jurisdiction is the county court within whose territorial jurisdiction the activity must be carried out.

(4) A petition for annulment of a decision of an arbitral tribunal is filed with the circuit court specified in the arbitral agreement and, in the absence of an agreement, to the circuit court of the territorial jurisdiction of the place of the arbitration proceeding. A decision of an arbitral tribunal may also be annulled at the initiative of the county court adjudicating a petition for declaration of the decision of the arbitral tribunal to be subject to enforcement.

§ 756. Procedural principles

(1) The court adjudicates a petition by a ruling made in a proceeding on petition. Before making a decision, the opposing party shall be heard if this is reasonable.

(2) The court schedules a court session if annulment of a decision of an arbitral tribunal is requested, or if a fact based on which the court may annul the decision of the arbitral tribunal at its own initiative must be considered in the case of a petition for the recognition or declaration of enforceability of a decision of an arbitral tribunal.

(3) The court has the right to order without first hearing the opinion of the opposing party that until adjudication of the petition, the decision of the arbitral tribunal is subject to provisional compulsory enforcement or that the measure for securing the action ordered by the arbitral tribunal can be applied. Compulsory enforcement of a the decision of the arbitral tribunal may only consist of application of the measures for securing the action. The defendant has the right to avoid compulsory enforcement by providing a security in the amount in which the petitioner is entitled to request compulsory enforcement of the decision.

(4) A ruling on annulment of a decision of an arbitral tribunal or a ruling on refusal to declare a decision of an arbitral tribunal enforceable is subject to appeal. Other rulings made in conformity with the provisions of this Part, including a ruling made on the basis of subsection 730 (6) of this Code concerning the competence of an arbitral tribunal, are not subject to appeal.

[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

§ 757. Specifications of declaration of enforceability of decisions of arbitral tribunal

(1) When filing a petition for declaration of a decision of an arbitral tribunal to be subject to enforcement, the decision of the arbitral tribunal or a certified transcript thereof, and the arbitral agreement must also be submitted.

(2) A ruling whereby the court declares a decision of an arbitral tribunal to be subject to enforcement is subject to immediate enforcement.

(3) The provisions of subsections (1) and (2) of this section also apply to the decisions of arbitral tribunals of foreign states.

Chapter 79

EXTRA-CONTRACTUAL ARBITRAL TRIBUNALS

§ 758. Application of provisions to extra-contractual arbitral tribunals

The provisions of this Part also apply to arbitral tribunals which are formed in a manner permitted by law based on a will or succession contract or in another manner not based on an agreement between the parties.