

Unofficial translation
Excerpt (selected articles)

CIVIL PROCEDURE ACT
OF THE REPUBLIC OF MACEDONIA
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Chapter Thirty
PROCEDURE BEFORE SELECTED COURTS (ARBITRAL INSTITUTIONS)

Article 439

The provisions of this Chapter shall regulate the procedure in front of selected courts, whose seat is in the Republic of Macedonia unless the provisions of other law or an international agreement state that certain selected courts, seated in the Republic of Macedonia are considered foreign selected courts.

Article 440

For disputes with an international element concerning rights, that the parties can freely dispose of, the parties can agree on the competence of a domestic or a foreign selected court, if, at least one of the parties is a natural person with domicile or habitual residence outside the Republic of Macedonia, or a legal person with a registered seat outside of Republic of Macedonia, and if those disputes are not in the exclusive jurisdiction of a court in the Republic of Macedonia.

Article 441

- (1) Disputes without an international element concerning rights, that the parties can freely dispose of, can be brought before permanently selected courts, established at the chambers of commerce or other organizations provided by law unless the law provides that those types of disputes are resolved exclusively by another court.
- (2) Competence of selected courts in other cases can be granted only by law.

Article 442

- (1) Agreement for the resolving of disputes in front of a selected court can be concluded for existing disputes, as well as regarding the future disputes that can arise from certain legal relations. The agreement shall be valid only if it is concluded in writing.
- (2) The agreement for the resolving of disputes in front of a selected court shall be considered concluded in writing when it is also concluded by the exchange of letters, telegrams, telexes, electronic mail, or other means of telecommunication enabling written evidence for the concluded agreement.
- (3) The agreement for the resolving of disputes in front of a selected court shall be considered to be concluded in writing when the plaintiff invokes the existence of such agreement in the lawsuit and the defendant does not dispute its existence in the response to the lawsuit.
- (4) The existence of the agreement can only be proved with documents.

Article 443

The agreement for the resolving of disputes in front of a selected court shall be also valid when it is contained in the general terms and conditions of one of the parties.

Article 444

- (1) The number of judges shall be odd.

- (2) Unless the number of judges is established in the agreement of the parties, each party shall appoint one judge and they shall jointly elect a president.
- (3) The judges of courts can only be elected as president of the selected court.

Article 445

- (1) If the parties have agreed on the competence of a selected court, other courts where the lawsuit related to the same dispute has been filed and between the same parties, shall upon objection of the defendant, declare themselves incompetent, shall abolish the undertaken activities in the procedure and shall dismiss the lawsuit.
- (2) The objection referred to in paragraph (1) of this Article can be raised by the defendant at the latest on a pre-trial hearing, and if a pre-trial hearing is not held, at the main hearing before it enters into argumentation related to the substance of the dispute.

Article 446

- (1) The party that has to appoint a judge of the selected court according to the agreement for the selected court shall notify and summon the opposing party in a period of 15 days to perform its appointing.
- (2) The summons in terms of paragraph (1) of this Article shall be valid only if the addressing party has appointed its selected judge and has notified the opposing party thereof.
- (3) When under the agreement for the selected court, the appointing of the judge should be performed by a third party, each party can address the summons referred to in paragraph (2) of this Article to the third party.
- (4) The person summoned to appoint a judge of the selected court shall be bound to the appointing being performed as soon as such appointing has been announced to the opposing party.

Article 447

- (1) If the judge of the selected court is not appointed on time, and nothing else results from the agreement, the judge shall be appointed by the court, on the party's proposal.
- (2) If the selected judges cannot agree on the selection of the president, and nothing else results from the agreement, the president shall be appointed by the court, on a proposal of one of the judges or a proposal of one of the parties.
- (3) The court which would have been competent for the dispute, had there not been an agreement on the selected court, shall be competent for appointing a judge, or the president of the selected court.
- (4) No special appeal shall be allowed against the court's decision.
- (5) The party that does not wish to exercise its right from paragraph (1) or (2) of this Article can file a lawsuit in front of the competent court for appointing, requesting the termination of the agreement for the selected court.

Article 448

- (1) Aside from the provisions of Article 447 of this Law, each party may request the court to declare the termination of the agreement on the selected court with a lawsuit:
 - 1) if the parties cannot agree upon the selection of judges which should be jointly appointed; and
 - 2) if an appointed person in accordance with the agreement on the selected court refuses or cannot perform this duty.
- (2) The court designated in Article 447 paragraph (3) of this Law shall decide upon this claim.
- (3) At the hearing for contending the claim, the court shall summon the parties, but the court can issue a decision even in cases when the duly summoned parties have not appeared.

Article 449

- (1) A judge of a selected court shall be obliged to withdraw whenever there are reasons for withdrawal, referred to in Article 64 of this Law. Due to the same reasons, the parties can request a withdrawal of a judge of the selected court.
- (2) The party that has independently or together with the opposing party appointed a selected judge can request its withdrawal, only if the reason for the withdrawal has arisen or the party has become aware of it after the selected judge was appointed.
- (3) Unless the parties have agreed otherwise, the court anticipated in Article 447 paragraph (3) of this Law shall decide upon the request for withdrawal.

Article 450

Unless the parties have agreed otherwise, the selected judges shall establish the procedure (terms of reference) in the selected court.

Article 451

- (1) Hearing of witnesses in the selected court shall be performed without taking an oath.
- (2) The selected court cannot use coercive means or impose sanctions and punishments against the witnesses, parties, and other persons participating in the procedure.
- (3) The selected court can request from the competent court assistance for providing legal aid (Article 170) or taking evidence that the selected court is not able to obtain by itself. The provisions of this Law on taking evidence before a judge commissioned by a rogatory letter shall apply.

Article 452

The selected court can decide *ex aequo et bono*, only if the parties have expressly granted such authorization.

Article 453

- (1) When the selected court is composed of more than one judge, the award shall be reached with the majority votes, unless otherwise determined in the agreement for the selected court by the parties.
- (2) If the selected court cannot reach the necessary majority for the award, it is obliged to notify the parties.
- (3) Unless the parties have agreed otherwise if the requirements of paragraph (2) of this Article are met, each party can file a lawsuit in front of the competent court referred to in Article 447 paragraph (3) of this Law, and request termination of the agreement for the selected court.

Article 454

- (1) The award of the selected court has to be reasoned unless the parties have agreed otherwise.
- (2) The original award and all official copies of the award shall be signed by all selected judges. The award shall be also valid when a judge refuses to sign it, as long as the majority of judges have signed it, and the refusal of the judge is explicitly noted in the award.
- (3) Copies of the award shall be delivered to the parties through the court referred to in Article 447 paragraph (3) of this Law. The permanently selected court shall perform the delivery of the award themselves.

Article 455

The original award, as well as the confirmations for its delivery, shall be kept by the court referred to in Article 447 paragraph (3) of this Law, and if the award was rendered by the permanently selected court, the records would be kept at the premises of that court.

Article 456

- (1) The award of the selected shall be final and binding unless the agreement envisages the possibility to appeal the award in front of the selected court of higher instance.
- (2) On a request of a party the court referred to in Article 447 paragraph (3) of this Law shall put a certificate on the legal validity and enforceability of the award. The permanently selected courts are required to put certificates regarding the legal validity and enforceability of their awards.

Article 457

- (1) The award of the selected court can be set aside with a lawsuit filed by one of the parties.
- (2) The court referred to Article 447 paragraph (3) of this Law shall be competent for deciding upon the lawsuit.

Article 458

Annulment of the award of the selected court can be requested if:

- 1) no agreement has been concluded for the selected court or if that agreement is not valid (Articles 440 through 444);
- 2) the composition of the selected court or their conduct is in violation of this Law or violation of the agreement for the selected court;
- 3) the award is not reasoned as required by Article 454 paragraph (1) of this Law, or if the award or the official copies of the award have not been signed in the manner determined in Article 454 paragraph (2) of this Law;
- 4) the selected court has exceeded its powers granted by the agreement of the parties;
- 5) the award is incomprehensible or contradictory;
- 6) the award is against the Constitution of the Republic of Macedonia and to its public policy.
- 7) Grounds for the repetition of the procedure (as an extraordinary remedy) listed in Article 392 of this Law, exist.

Article 459

- (1) The lawsuit for annulment of the award can be filed to the competent court in a period of 30 days. If the annulment is requested due to the reasons stated in Article 458 points 1 through 6 of this Law, this period shall begin from the day the award is delivered to the party, and if the party has become aware of these reasons on a later date, then the period shall commence from that date. If an annulment is requested by virtue of Article 458 point 7 of this Law, the period for the request shall be in accordance with the provisions of Article 393 paragraphs (1) and (2) of this Law.
- (2) After one year of the legal validity of the award of the selected court, annulment of the award cannot be requested.

Article 460

The parties cannot agree to derogate from the application of the provisions of Article 449 paragraphs (1) and (2), Article 454 paragraphs (2) and (3), and Articles 457, 458, and 459 of this Law.