



Pursuant to Article 35, paragraph 1, subparagraph 1.1 of the Law No. 03 / L-209 on the Central Bank of the Republic of Kosovo (Official Gazette of the Republic of Kosovo, No. 77/ August 16, 2010), Article 4, paragraph 3 and Article 55, paragraph 4 of the Law No. 05 / L-045 on Insurance in Kosovo (Official Gazette of the Republic of Kosovo, No.38 / 2015), the Board of the Central Bank of the Republic of Kosovo in the meeting held on March 30, 2017 approved:

REGULATION ON ARBITRATION TRIBUNAL PROCEDURES

Article 1

Aim and Scope

1. The aim of this regulation is to establish procedures for the functioning of the Arbitral Tribunal.
2. This regulation applies to insurers, policyholders, insured persons and third parties.

Article 2

Definitions

All terms used in this regulation have the same meaning as the terms defined in Article 3 of the Law 05 / L-045 on Insurance (hereinafter: Insurance Law) and / or the following definitions for the purpose of this Regulation:

- a) *Arbitration* means the process of dispute resolution in which a neutral third party (arbitrator) renders a decision after a hearing of the evidence and facts issues a decision on the dispute in question.
- b) *Arbitrator or Arbitrate* means an individual or a group of individuals (panel) appointed by an agreement between parties or the Court to resolve the dispute.
- c) *The Arbitration Agreement* means an agreement between the parties according to the provisions of this regulation that legal disputes which have arisen between them shall be subject to arbitration.
- d) *Claimant* is a person that has the right to make a claim and require resolution or payment of benefit or proper benefits under the terms and conditions of the insurance contract. Claimant includes policyholders, insured and beneficiary's third parties.

- e) *Arbitrate* means the process of resolving a dispute.
- f) "*Tribunal*" means Arbitral Tribunal.

Article 3
The Arbitration Agreement

1. A dispute can be settled by the arbitration only if there is a parties' agreement, whereby they accept the dispute to be settled by the arbitration.
2. The Arbitration Agreement is valid only if it is concluded in writing. The arbitration agreement is considered to be affixed in writing even when it is connected with the exchange of letters, telegrams or other means that enable written evidence of the concluded agreement.

Article 4
The rights of claimant in arbitration proceedings

The claimant has the right to address the arbitration after the exhaust of judicial remedies within the Insurer, otherwise the claim will be dismissed as premature.

Article 5
Jurisdiction of the Arbitral Tribunal

If it has been agreed in writing by the parties, the arbitration may resolve all issues related to the policy liability such as handling and settlement of the claim and other issues relating to the terms of the insurance contract (policy).

Article 6
Arbitral tribunal

1. Disputes arising out of or in connection with an insurance policy may be settled by arbitration tribunals, by conciliation between the two parties, if provided for under the agreement between the parties, in accordance with the Law on Arbitration.
2. The insurer must draft and approve internal procedures, as well as publish information on non-jurisdictional disputes settlement rules.
3. The arbitral tribunal shall function as an office for the arbitration hearings, maintain a list of arbitrators, conduct other functions needed for the arbitration panels, and shall notify the parties on the decisions of the arbitration panel.

Article 7
List of Arbitrators

1. The List of Arbitrators shall consists of persons approved by the CBK. In cases of dispute, parties will select arbitrators under this Regulation.
2. The persons selected for the list of arbitrators must be individuals who meet the CBK fit and proper criteria as well as the requirements set out in CBK Guideline No. 01/2015 applicable to directors and senior managers of insurers and have competence to adjudicate issues related to insurance.
3. Arbitrators should not be officers, employees or related parties of the insurer, insurance intermediary or claim adjuster.

Article 8
Selection of Arbitral Tribunal

1. The arbitral tribunal shall be composed of either a single arbitrator or a panel of arbitrators, provided that the panel is composed of an odd number of arbitrators.
2. In the case of the conclusion of the agreement by the parties, whereby they agree that the dispute shall be settled through arbitration, the parties may agree on the procedure for appointing the arbitrator or arbitrators.
3. If the parties do not agree on the number of arbitrators or on the procedure for the appointment of the arbitrator or arbitrators within 15 days after the receipt by the respondent of the notice of arbitration, the Arbitral Tribunal shall consist of a panel of 3 arbitrators to be appointed pursuant to paragraph 4 of this Article.
4. In the event referred to in paragraph 3 above, each party shall appoint one arbitrator. The two appointed arbitrators shall appoint the third arbitrator who shall act as the chairman of the arbitral tribunal. If a party fails to appoint the arbitrator within thirty (30) days of the receipt of a request to do so, or if the two arbitrators fail to agree on the nomination of third arbitrator within thirty (30) days of their appointment, the relevant appointment shall be made by the Court upon the request of a party.
5. Only one arbitrator will be selected to solve disputes in amount up to 1,000.00 € or less.

Article 9
Procedure of Arbitrators challenge

1. A person when approached by a party for nomination as arbitrator shall disclose any circumstances likely to give rise to justifiable doubts as to his impartiality or independence. An arbitrator, once appointed, shall disclose such circumstances to the parties unless they have already been informed on these circumstances.
2. Either party may challenge any arbitrator if justifiable doubts exists for arbitrators impartiality or independence, or if the arbitrator does not have the qualifications agreed to by the parties. A party may challenge the arbitrator appointed by it only for reasons of which it becomes aware after the appointment has been made. The relevant party must make the challenge as soon as it becomes aware of the circumstances giving reason for the challenge.
3. Within fifteen (15) days after the appointment of the arbitrator or after the circumstances listed in paragraph 2 of this Article became known, the party is obliged to send notice of its challenge to the other party and the other members of the arbitral panel. The notification shall be in writing and shall state the reasons for the challenge.
4. If the arbitrator does not resign or the other party does not agree to the challenge, the Arbitral Tribunal shall decide on the challenge.
5. If a challenge under the procedure of paragraph 3 and 4 of this Article is not successful, the challenging party may within 15 days after having received notice of the decision rejecting the challenge request the Court to decide on the challenge. The Court decision shall not be subject to appeal. While such a request is pending, the arbitral panel, including the challenged arbitrator, may continue the arbitral proceedings and make an award.

Article 10
Arbitral proceedings

1. The parties shall be treated equally and each party shall be given at every stage of the arbitral proceedings full opportunity to present its case.
2. The parties may freely choose their representatives to act as their authorized representatives during the arbitration proceedings. No duly authorized representative by the party may be excluded from the arbitration proceedings. The arbitrators can require that the parties submit documents describing the details of the complaint and such other evidence or proof they consider necessary to enlighten the case.

3. The Arbitral Tribunal shall function according to the internal procedure rules in accordance with the Law on Arbitration and the applicable Law on Contested Procedure, or by applying the arbitration rules of a permanent institution for arbitration.

Article 11

The costs of arbitral proceedings

1. Unless the parties have agreed otherwise, the arbitral tribunal shall fix the costs of arbitration in its award. Such costs shall include:
 - a) the fees of the arbitral tribunal;;
 - b) arbitrators costs;
 - c) cost of experts advice and of other assistance required by the arbitral tribunal and agreed to by the parties;
 - d) travel and other expenses of witnesses to the extent such expenses are approved by the arbitral tribunal;
 - e) cost of legal representation and assistance of the successful party if such costs were claimed during the arbitral proceedings, and only to the extent that the arbitral tribunal determines that the amount of such cost to be reasonable; and
 - f) any fees and expenses of the court when appointing arbitrators.
2. The fees of the arbitral tribunal shall be reasonable, taking into account the amount in dispute, the complexity of the subject-matter, the time spent by the arbitrators and any other relevant circumstances of the case. In the event of a dispute as to the extent or amount of the fees to be paid to the arbitral tribunal, the Court shall have jurisdiction to settle such dispute.
3. Unless otherwise agreed by the parties, the cost of arbitration shall be borne by the unsuccessful party. The arbitral tribunal may apportion each of the costs listed in Paragraph (1) of this Article between the parties, if the arbitral tribunal determines that apportionment is reasonable under the circumstances of the case.

Article 12

Prior notice

1. All arbitration proceedings require at least a ten (10) days prior notice to the parties, unless such notice is waived under a signature of the party to whom notice is due.

2. The notification must be sent to the parties, by mail or by courier in such manner that the person to whom it is party to the case receives the notification ten (10) days after the dispute is submitted to and accepted by the arbitrator (s).

Article 13
Attendance of the parties

1. The Arbitral Tribunal must exert every effort to require the attendance of the parties or their duly authorized representatives in case investigation or hearing. The Tribunal can if it considers it necessary and reasonable, declare a party in default and commence the arbitration hearing in the absence of a party, provided that the requirement to prior notice has been observed.
2. If one of the parties, duly notified, fails to appear at a hearing or to produce documentary evidence within the established period of time, the arbitral panel may continue with the proceedings and make an award on the basis of the evidence available.

Article 14
Decision making period

The Arbitral Tribunal must take the decision in writing on the case, within fifteen (15) days, counted from the date of the arbitration hearings ending.

Article 15
Recording of sessions

1. The Arbitral Tribunal shall record all the documents received by the disputed parties, the hearings minutes, written decisions and legal reasoning on the basis of which the decision was taken.
2. The record of arbitration shall be held as confidential by the Arbitral tribunal. Information relating to the arbitration can only be released to the CBK upon its written request.

Article 16
Recordkeeping

Arbitral Tribunal shall keep and secure the record of arbitration for a period of at least five (5) years from the date of its decision.

Article 17
Arbitral awards

1. The award of arbitral tribunal shall be made in writing and shall be final and binding on the parties. The award shall have the same effect between the parties as a final and binding court decision.
2. The award shall state the reasons upon which it is based, unless the parties have agreed that no reasons are to be given.
3. An award shall be signed by the arbitrator or arbitrators, and it shall contain the date and place on which the award was made. In arbitral proceedings with more than one arbitrator, the signatures of the majority of all members of the arbitral tribunal shall be sufficient, provided that the award states the reasons for the absence of other signature(s).
4. Copies of the award signed by the arbitrators shall be delivered to both parties, subject to the prior receipt of any outstanding taxes.
5. The award may be made public only with the consent of all parties.

Article 18
Judicial Remedies

Against the decision of the arbitration panel, relevant parties have the right to exercise judicial remedies as defined on Article 36 of the Law No. 02/L-75 on Arbitration.

Article 19
Reporting to the CBK

For the purposes of the CBK, the Arbitral Tribunal must submit a report on the arbitral decisions for insurances to the CBK within the first fifteen (15) days of January, April, July and October of each year.

Article 20
Application of other regulatory provisions

For issues not defined by this Regulation, shall apply provisions of the Law No. 02/L-75 on Arbitration.

Article 21
Repeal

With the entrance into force of the this Regulation, the Rule 10 on Amending Rule on The Establishment of Arbitration, dated July 29, 2008 shall be repealed.

Article 22
Entry into force

This Regulation shall enter into force fifteen (15) days after its adoption by the CBK Board.

Chairman of the Board of the Central Bank of Republic of Kosovo

Prof. Dr. Bedri Peci