



# PRIAC endeavours to revive arbitration in the Czech Republic

12 December 2023

At the end of November, the Marriott Hotel in Prague hosted the 2<sup>nd</sup> Annual PRIAC DAY Conference. The event, where business and law meet and interact, is organised by the International Arbitration Court in Prague at the Czech Commodity Exchange in Kladno (PRIAC) under the auspices of the Confederation of Industry of the Czech Republic, the Confederation of Employers' and Entrepreneurs' Unions of the Czech Republic, and the Association of Small and Medium-Sized Enterprises and Crafts of the Czech Republic. The key topics discussed by the attending professionals were the enhancement of arbitration as a reliable instrument and the most effective type of resolution of business disputes in the Czech Republic, and support for Czech companies in the domains of export and international trade.

Several dozen representatives of businesses, law firms and company lawyers had expressed their interest in attending this professional economic and legal conference. The conference ran smoothly and was hosted with great skill and professionalism by JUDr. Vít Horáček, Ph.D., MBA, Chairman of the PRIAC Board.

# PRIAC

INTERNATIONAL ARBITRATION COURT  
OF CZECH COMMUNITY EXCHANGE IN PRAGUE

The first speech was given by **JUDr. Martin Maisner, PhD., MCI Arb., Vice-Chairman of the Czech Bar Association (CBA) Board and Chairman of the CBA Division for Arbitration Law**, who supported PRIAC DAY with the inspiring idea that *“anything done for arbitration by anyone at all is a good deed, because it is the most effective method of resolving business disputes”*. Mr Maisner expressed his conviction that the *“bottleneck of arbitration”* and the main obstacle that principally affects and limits the use of arbitration clauses in contracts was, indeed, attorneys and company lawyers. However, he has wielded his power and authority to gradually educate them and change their approach.



**Ing. František Chaloupecký, Vice-President of the Confederation of Industry of the Czech Republic**, praised the efficiency and effectiveness of resolving disputes in arbitration in his speech. Unfortunately, this method of dispute resolution has, in his words, a bad reputation in the Czech Republic. But he also highlighted that the Confederation trusts and believes in cooperation with the PRIAC, and consequently a Memorandum of Cooperation was signed by and between the PRIAC and the Confederation of Industry of the Czech Republic. He also appreciated PRIAC activities in establishing international contacts and cooperation with arbitration courts in regions

that are attractive for export and import from the perspective of Czech companies.

Those aspects were addressed, on behalf of the PRIAC, by **prof., prof. zw., Dr. et Mgr. Ing. (oec), prof. hon. Alexander Bělohávek, dr.h.c., Vice-Chairman of the PRIAC Board**, who outlined the PRIAC's cooperation with arbitration courts in Kazakhstan and Kyrgyzstan, which serve as forums for the resolution of disputes in the territories of these Central Asian countries and which could potentially become a springboard for expansion into China. He also highlighted the successful cooperation with the Turkish arbitration court ITOTAM, and invited the participants to a two-day event to be held in early March by ITOTAM in cooperation with the PRIAC. He mentioned the PRIAC's cooperation with the Austrian Arbitration Centre (VIAC) and the Belgian CEPANI as examples of the PRIAC's endeavour to establish cooperation with all major foreign arbitration courts.



### **Arbitration as part of the economic transformation**

**Ing. Martin Pýcha** attended the PRIAC DAY Conference as **Chairman of the Agricultural Association of the Czech Republic** and as Vice-President of the Confederation of Employers' and Entrepreneurs' Unions of the Czech Republic. In his speech, he described the onerous situation of Czech agricultural businesses, and presented graphs showing that farmers are definitely not to blame for the food price increase over the recent period. He also pointed out that the desired transparency of food prices could be attained by setting up a functioning agrarian exchange market on the Czech Moravian Commodity Exchange Kladno for basic agricultural foodstuffs, with

PRIAC arbitration being an important component of effective dispute resolution. Mr Pýcha asked the PRIAC to demonstrate to farmers the advantages of arbitration using specific examples and thus persuade them to include arbitration clauses in their contracts.

The following speech at the PRIAC DAY Conference was given by **Ing. Aleš Rod, Ph.D., Research Director at the Center for Economic and Market Analysis and member of NERV (government's National Economic Council)**. He pointed out, among other major issues, that despite the relatively favourable position of the Czech Republic according to the Index of Economic Freedom (with the Czech Republic ranking 26<sup>th</sup> on the Index), its status as concerns the enforceability of contracts is rather lacking. Indeed, several speakers have concurred that the problem does not inhere in the quality of the Czech judiciary, which is certainly commendable, but in the long duration of business disputes and in the fact that the litigation seldom ends in the first-instance court.

Conversely – according to Mr Aleš Rod, arbitration is efficient and effective. The proceedings can be handled by arbitrators who specialize in the given field, which substantially shortens the arbitral proceedings compared to litigation in courts, where the latter often use expert witnesses to help them resolve the disputes. Hence, he believes that the necessary process of transformation of the Czech economy will require a significantly higher number of business disputes to be submitted to arbitration.



**Ing. Jaromír Čermák, Vice-Chairman of the Czech Moravian Commodity Exchange Kladno,** explained how arbitration clauses were effectively incorporated into and used with

respect to executed contracts. He pointed out that the trades executed on the commodity exchange in 2023 amounted to CZK 13.5 billion so far, and more than 10,000 contracts

were entered into on the exchange, i.e. ten thousand arbitration clauses. He added that those arbitration clauses mainly served to prevent disputes – very few disputes arise, and the effectiveness of the PRIAC makes sure that they are resolved within three months. If any party to the dispute resides abroad, the proceedings are prolonged by no more than two months. Enforceability of the law on the exchange is guaranteed. The overwhelming majority of contracts are therefore duly fulfilled.

The application of arbitration clauses in the forestry and wood industry sectors was explained to the participants by **Mgr. Štěpán Holub, member of the PRIAC Board**. His colleague from the PRIAC Board, **JUDr. Ing. Petr Koblůvský, Ph.D., LL.M.**, presented a speech in which he focused on the possibility of using arbitration clauses in the energy sector.

### **Extensive scope of arbitration**

A major speech at the PRIAC DAY Conference was given by **JUDr. David Řezníček, LL.M., Ph.D., member of the PRIAC Board**, who addressed the statutory limitation of PRIAC arbitrability in view of the Act on Commodity Exchanges. He emphasised the fact that the disputes submitted to the PRIAC include not only disputes from trades executed on the exchange (otherwise subject to court jurisdiction), but also business disputes from OTC trades with commodities that are traded on the exchange and services relating to the sale of commodities. However, the list of tradable commodities is so extensive that it essentially covers all common business needs.

The competence to resolve business disputes from OTC trades with commodities that are traded on the exchange and services relating to commodities, as well as any associated legal issues according to the generally recognised legal interpretation, ensure that the PRIAC has very broad jurisdiction. Consequently, the PRIAC is seized with a broad range of business disputes in the B2B segment. This benefits all potential applicants because, as opposed to traditional courts, arbitration is more efficient, more effective, cheaper and offers easier enforceability of claims. **The average length of arbitration at the PRIAC does not exceed the period of three to five months, after which an enforceable arbitral award is issued.**



**The 2<sup>nd</sup> Annual PRIAC DAY Conference** confirmed that the prospects of arbitration in the Czech Republic are indeed promising, and that PRIAC has been gradually gaining the trust and support of business associations, confederations and unions. The crucial task at hand is to show and present “best practices”, i.e. the general experience with arbitration, to persuade businesses and entrepreneurs about the efficiency and effectiveness of arbitration. This should guarantee the gradual revival of arbitration in the Czech Republic.

*Ing. Jaroslav Martínek, PP Partners*

*Photograph for illustration purposes: PRIAC archive*