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BBCA Legal is an international law firm established more than 40 years ago involved in all aspects of maritime and road transport, insurance and commercial law.

The firms' monthly newsletter aims to share relevant aspects of the legal news, in order to keep our clients updated with the latest events of our common market.

In the July edition, we presented an article about Spanish alternative court procedure for commercial disputes not exceeding the amount of 15,000, regarding transport-related contracts, in which participate the Transport Arbitration Councils *Juntas Arbitrales de Transporte (JAT)*. In the October edition, we want to explain how it works in Poland. We analyze interesting newly created arbitral tribunal alternative dispute resolution which name is "*Ultima Ratio"* electronic arbitration court.

The Code in Poland gives us the opportunity to resolve a dispute by way of arbitration. Arbitration courts in Poland are independent of common courts, and their judgments have the same legal force as a state court. The proceedings are not public here as in the case of common courts. In addition, unlike the Spanish *JAT*, the parties themselves may appoint arbitrators (this is the only case allowed by Polish law) who elect a chairman arbitrator among themselves. Arbitrators in given

cases are often not lawyers but specialists in a given field. They are people with extensive substantive knowledge in the area under consideration.

While in the case of the Spanish *JAT*, the main condition for using this kind of dispute resolution is the amount of the dispute not exceeding EUR 15,000, on the other hand, in Poland the arbitration applies only if there has been a consensus between the parties, i.e. an agreement with an arbitration clause. It may be in the form of a separate document or may be included in an appropriate contract of carriage. However, what is important, it must be made in writing.

In April 2019, the first fully electronic *Ultima Ratio* arbitration court began operating in Poland. In this system, there are no traditional court proceedings. Hearings of witnesses are in the form of a teleconference, which record is placed on the profile of the case. The entire proceeding is conducted in electronic form, including submission of pleadings, service of court orders and conducting hearings. As a rule, testimonies of witnesses are made in the form of statements signed by them. What is important, cases are recognized by one arbitrator, who is drawn randomly and is not elected as in the case of an ordinary arbitration court. The judgment should be issued no later than 21 days from the date of filing the

claim. The claim will be forwarded electronically as well as by registered mail. You can attach evidence in the form of scans of letters, photos, audio recordings and films to the case. The arbitrator may contact the plaintiff and the defendant in the chat. Importantly, the arbitrators will not have to deal with any extra-territorial activities. As a consequence, they will have much more time to analyze the merits of the case than judges of common courts or other arbitration courts.

As in the case of Spanish *JAT,* arbitration in Poland is also the procedure less complicated and formalized and at the same time more beneficial for entrepreneurs. Despite this, it is difficult to say today whether carriers will use the possibilities of the newly created online arbitral tribunal. One of the main problems of carriers in transport is unpaid invoices, what often occur to the contractors, not the principal. Contractors generally have little influence on the content of the transport contracts. The principal, in turn, is unlikely to be interested in settling his disputes in a short time, in that case, 21 days. Time will show if this form of alternative dispute resolution will become popular and introduced in other countries.

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