

# UNCITRAL Colloquium on the Recognition and Enforcement of Electronic Arbitral Awards

*Panel 1*

*Perspectives from arbitral institutions*

*The Netherland Arbitration Institute*

# The Rules (iii)

## iii) how institutional arbitration rules address electronic awards

1 January 2015

### **Dutch Arbitration Act | qualified electronic signature**

#### Article 1072b(3) DCCP

“The award as referred to in Article 1057(2) may also be made in electronic form by providing it with a qualified electronic signature as referred to in Article 3(12) of EU Regulation No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market repealing Directive 1999/93/EC (OJ EU 2014, L 257).”

Parliamentary history: “If, after the award is rendered, proceedings in the ordinary courts will follow, for example in the context of an annulment, the award will have to be printed out for the time being.”

1 March 2024

### **2024 NAI Arbitration Rules | qualified electronic signature**

#### Article 49(4) of the Rules

“Without prejudice to any provision of the applicable mandatory arbitration law, the award may also be made in electronic form by affixing it with a qualified electronic signature or qualified electronic signatures as referred to in Article 3(12) of Regulation (EU) No. 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJEU 2014, L 257).”

# Current practice (i)

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## **i) Current practice of making and delivering electronic awards in arbitral proceedings administered by arbitral institutions, including possibly through statistics**

- No electronic arbitral award including a qualified electronic signature issued under the NAI Arbitration Rules to date.
- No request for the enforcement of an electronic arbitral award including a qualified electronic signature (or the deposit thereof) made at the district court of Amsterdam and Rotterdam.

# Sharing of experience (ii)

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## ii) sharing of experience in the digitalization of signing and issuing electronic awards and associated challenges

Reasons why no NAI arbitral e-award was issued:

1. Concerns about the enforceability in and outside the Netherlands:
  - a) Dutch courts do not yet facilitate e-awards (no digital work stream for the enforcement of an arbitral award and the deposit of an arbitral award). However, a print of the electronic award may be used.
2. The IT tools are not considered user-friendly.
  - a) Several tests done in the last couple of years (unable to sign, wrong data collected from passports)
  - b) The institution should facilitate the e-signing process as most products are not for single use.
3. Until March 2024, the NAI arbitration rules did not provide for electronic arbitral awards.
4. In sum: the benefits of an electronic arbitral award (perception: time and efficiency) do not outweigh the potential challenges.

## Other issues (iv)

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### **iv) any others issues that recourse to electronic awards could raise in arbitral proceedings from their experience**

What could UNCITRAL do to facilitate the use of electronic awards?

1. Set-up UNCITRAL signing tool for qualified electronic signatures with services providers to issue the certificates in each region (e.g. EU Qualified Trust Service Provider) and offer this tool to arbitrators, parties and institutions.
2. Explanatory notes to the New York Convention clarifying that an original of an arbitral award can be in electronic form.
3. Request commitment from the Member States to facilitate the use of e-arbitral awards in the courts.