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Bulgaria

International Arbitration

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This country-specific Q&A provides an overview of international arbitration laws and regulations applicable in Bulgaria.

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Bulgaria: International Arbitration

1. What legislation applies to arbitration in your country? Are there any mandatory laws?

The applicable national legislation for arbitration in Bulgaria primarily consists of the International Commercial Arbitration Act (ICAA). The Civil Procedural Code (CPC) outlines the types of disputes that cannot be subject to arbitration and details aspects of enforcement actions based on arbitration court resolutions. A special provision in the Bulgarian Concessions Act stipulates that only disputes related to concession agreements valued above the "European threshold" (as defined by Directive 2014/23/EU) may be resolved through arbitration. Additionally, the rules of each specific arbitration court supplement this statutory framework.

2. Is your country a signatory to the New York Convention? Are there any reservations to the general obligations of the Convention?

Bulgaria is a Contracting state of the New York Convention, which was signed in year 1958 and ratified in year 1961. There is only one reservation "Bulgaria will apply the Convention to recognition and enforcement of awards made in the territory of another contracting State. With regard to awards made in the territory of non-contracting States it will apply the Convention only to the extent to which these States grant reciprocal treatment".

3. What other arbitration-related treaties and conventions is your country a party to?

Bulgaria is also party to:

- 1) the European Convention on International Commercial Arbitration, signed in year 1961 and ratified in year 1964;
- 2) Convention on the Settlement of Investment Disputes between States and Nationals of Other States, ratified in 2000;
- 3) International Energy Charter Treaty.

4. Is the law governing international arbitration in your country based on the UNCITRAL Model

Law? Are there significant differences between the two?

The Bulgarian International Commercial Arbitration Act (ICAA) is based on UNCITRAL Model Law. The ICAA applies to both domestic and international arbitration, but its norms foresee specifics regarding recognition and enforcement of arbitral awards and towards the setting aside of an arbitral award.

5. Are there any impending plans to reform the arbitration laws in your country?

Currently, there are no plans to reform the arbitration laws in our country.

6. What arbitral institutions (if any) exist in your country? When were their rules last amended? Are any amendments being considered?

In Bulgaria there are multiple arbitration courts located in several cities. Some of the most well-established institutions are the Arbitral Court at the Bulgarian Chamber of Commerce and Industry and Court of Arbitration at the Bulgarian Industrial Association. Both their rules were last amended in 2024.

7. Is there a specialist arbitration court in your country?

In Bulgaria, while there is no specialized arbitration court. Disputes are typically handled by institutions like the Bulgarian Chamber of Commerce and Industry (BCCI) and the International Commercial Arbitration Court, Arbitral Court at the Bulgarian Chamber of Commerce and Industry and Court of Arbitration at the Bulgarian Industrial Association.

8. What are the validity requirements for an arbitration agreement under the laws of your country?

The provisions of the International Commercial Arbitration Act (ICAA) of Bulgaria require a written form in order for an arbitration agreement to be valid. This is

considered as fulfilled not only if the consent of both parties is incorporated in a sole document signed by the parties but also if such an agreement is made in letters or other exchanged written messages.

A special exception of the general rule is foreseen, and arbitration proceedings can continue in cases where:

- 1) The defendant presents explicit written consent the dispute to be resolved by the engaged arbitration authority or such statement to the arbitration authority is included in the minutes of the first open hearing;
- 2) The defendant actively participates in the procedure without objecting. Active participation can be considered for example when filing a written response to the claim, participating in open hearings, making requests to the arbitration authority, presenting evidence etc.

The validity of an arbitration agreement is by nature defined also by the rules of the Civil Procedural Code (CPC) for the types of disputes that cannot be subject to arbitration proceedings.

9. Are arbitration clauses considered separable from the main contract?

The Bulgarian International Commercial Arbitration Act (ICAA) expressly defines in its art. 19, para. 2 that an arbitration agreement is considered separate from the contract in which it is included.

10. Do the courts of your country apply a validation principle under which an arbitration agreement should be considered valid and enforceable if it would be so considered under at least one of the national laws potentially applicable to it?

No validation principle is being applied by the Bulgarian courts for arbitration agreements.

11. Is there anything particular to note in your jurisdiction with regard to multi-party or multi-contract arbitration?

There are no specific provisions in the Bulgarian legislation regarding multi-party or multi-contract arbitration. The parties have the initiative to address such topics and it will depend on their consent if they will be accepted.

12. In what instances can third parties or non-signatories be bound by an arbitration agreement? Are there any recent court decisions on these issues?

The most important recent court decision on that matter was the Decision of the Supreme Court of Cassation dated 21.02.2024 on interpretative case No.1 from 2023. This case was brought in front of the Supreme Court of Cassation due to contradicting practices of the other courts on the matters with third parties which are non-signatories to an arbitration agreement and possible binding effect in cases of transfer of receivables. The Supreme Court of Cassation has ruled that an arbitral tribunal is competent to review and decide on disputes and that the arbitration agreement retains its effect where an arbitration agreement has been entered into by two parties and later there is transfer to another party of the receivables. The same Interpretative decision also stipulates that to enter into an arbitration agreement that is part of a material contract, it is sufficient to have a proxy being authorized to enter into the contract without the need for express authorization for conclusion of the arbitration agreement.

13. Are any types of dispute considered non-arbitrable? Has there been any evolution in this regard in recent years?

Under the acting Civil Procedural Code (CPC), non-arbitral disputes are the ones for rights in rem or possession of immovable property, alimony, employment rights or a dispute where one of the parties is a consumer under the definition of the Bulgarian Consumer Protection Act (CPA). There has been no evolution since the addition of consumer disputes back in year 2017.

14. Are there any recent court decisions in your country concerning the choice of law applicable to an arbitration agreement where no such law has been specified by the Parties?

There have been no recent court decisions with respect to choice of applicable law when no specific law has been chosen by the parties. As a general principle in such cases the Bulgarian courts apply the Bulgarian law.

15. How is the law applicable to the substance determined? Is there a specific set of choice of law rules in your country?

The parties can decide on which will be the applicable law to the substance of their disputes. In case no choice is made, the arbitral tribunal will determine the applicable law in accordance with the conflict of law provisions of the Bulgarian International Private Law Code (IPLC). As part of the European Union also the provisions of Regulation (EU) No 593/2008 (Rome I) are applicable. The general approach is to define to which State law the factual relations of the dispute are most closely related.

16. In your country, are there any restrictions in the appointment of arbitrators?

The provisions of the Bulgarian International Commercial Arbitration Act (ICAA) stipulate that an arbitrator may be only a person complying cumulatively with the following:

- is an adult citizen (has turned 18 years under local legislation),
- who has not been placed under guardianship,
- has not been convicted of a crime of general nature,
- has a university education degree,
- has at least 8 years of professional experience,
- possesses high moral qualities.

As a general rule arbitrators must be independent and impartial and when chosen, the individuals are obliged to present all facts that raise reasonable doubts about their impartiality or independence.

17. Are there any default requirements as to the selection of a tribunal?

As far as selection of arbitral tribunal is concerned, the Bulgarian International Commercial Arbitration Act (ICAA) provides as a default rule that it shall consist of three arbitrators. The parties have the freedom to agree on the selection of tribunal in their arbitration clause. If there is no specific agreement on the selection, the procedure for selection of tribunal shall be governed by the specific rules of the competent arbitral authority chosen by the parties.

18. Can the local courts intervene in the selection of arbitrators? If so, how?

As per art. 16 and art. 17 of the Bulgarian International Commercial Arbitration Act (ICAA), local courts can intervene in limited cases, such as:

1. Removal of an Arbitrator: If a party requests the removal of an arbitrator due to concerns

about impartiality or independence, and the arbitration authority denies this request, the party may petition the Sofia City Court to rule on the matter. The court's decision in this case is final.

2. Inability to Perform Duties: If an arbitrator is unable to fulfill their duties or is unjustifiably inactive, their powers may cease. If the arbitrator does not voluntarily recuse themselves and the parties do not agree to terminate their powers, either party can petition the Sofia City Court to intervene. Again, the court's decision is final.
3. Appointment of an Arbitrator: In cases involving a three-arbitrator panel, while not directly provided for by the courts, if one party fails to appoint an arbitrator within 30 days of receiving a request, or if the two appointed arbitrators cannot agree on the third arbitrator within 30 days, the chairman of the Bulgarian Chamber of Commerce and Industry can appoint the necessary arbitrator upon request by one of the parties

19. Can the appointment of an arbitrator be challenged? What are the grounds for such challenge? What is the procedure for such challenge?

If there is no additional agreement between the parties, each of them may challenge the appointment of an arbitrator within 15 days as of knowing the formation of the arbitration tribunal. The grounds can be that there are conditions that raise reasonable doubts about the arbitrator's impartiality or independence or that the arbitrator does not meet the legally defined requirements to be appointed. The request shall be made to the arbitration court and if there is no positive decision, the party may petition the Sofia City Court.

20. Have there been any recent developments concerning the duty of independence and impartiality of the arbitrators, including the duty of disclosure?

Duty of independence and impartiality of the arbitrators, including the duty of disclosure are fundamental for the role of the arbitrators and have been legally stipulated as requirements in the Bulgarian International Commercial Arbitration Act (ICAA). No recent development on that topic.

21. What happens in the case of a truncated tribunal? Is the tribunal able to continue with the proceedings?

If an arbitrator is unable to perform his duties or is unjustifiably inactive his powers shall cease. If the arbitrator does not recuse himself or the parties do not agree to terminate his powers, each party can petition the Sofia City Court to rule on the matter. The decision of the court is final and a new arbitrator should be selected.

22. Are arbitrators immune from liability?

Currently no legal provisions foresee immunity of arbitrators in Bulgaria. In order for arbitrators to be liable for their actions in the capacity of arbitrator, generally they should have committed a crime, while acting in that capacity.

23. Is the principle of competence-competence recognised in your country?

The competence-competence principle is recognized in Bulgaria.

24. What is the approach of local courts towards a party commencing litigation in apparent breach of an arbitration agreement?

The presence of an arbitration agreement does not ultimately derogate the competence of the Bulgarian courts. When a litigation has been initiated it is the power and responsibility of the defendant to object that the dispute is arbitrable and that the litigation procedure in front of the general court should be terminated.

25. What happens when a respondent fails to participate in the arbitration? Can the local courts compel participation?

A respondent failing to participate in arbitration does not obstruct the arbitration to proceed and be completed. The provisions of the Bulgarian International Commercial Arbitration Act (ICAA) allow the arbitration proceedings to be conducted even when the respondent has not replied to a claim or without the presence of both parties.

For the stability of the future arbitration award, it is important that the respondent has been duly notified about the commencement of arbitration proceedings, as the opposite can lead to setting aside by the Supreme

Cassation Court.

26. Can third parties voluntarily join arbitration proceedings? If all parties agree to the intervention, is the tribunal bound by this agreement? If all parties do not agree to the intervention, can the tribunal allow for it?

There are no explicit regulations in the Bulgarian legislation on the possibilities of third parties to voluntarily join an arbitration proceeding.

Generally, intervention of third parties can happen only if there is consent by both parties in the dispute. In cases of involvement a subsequent consent of the third party is also needed. The rules of Arbitral Court at the Bulgarian Chamber of Commerce and Industry and Court of Arbitration at the Bulgarian Industrial Association both include specific provisions in that sense.

27. What interim measures are available? Will local courts issue interim measures pending the constitution of the tribunal?

The Bulgarian International Commercial Arbitration Act (ICAA) specifically stipulates in its art. 9 the possibility for each party in arbitration proceedings to petition a state court with request for securitization of the claim or securitization of evidence. This right can be exercised before or during the arbitration proceedings. The arbitration tribunal cannot impose any interim measures.

The possible interim measures include freezing of movable property or receivables, injunction on immovable property, suspension of enforcement or other measures determined as appropriate by the court.

28. Are anti-suit and/or anti-arbitration injunctions available and enforceable in your country?

Anti-suit and anti-arbitration injunctions are not available and enforceable in Bulgaria.

29. Are there particular rules governing evidentiary matters in arbitration? Will the local courts in your jurisdiction play any role in the obtaining of evidence? Can local courts compel witnesses to participate in arbitration

proceedings?

The evidentiary matters in arbitration proceedings are governed by the rules of the competent arbitration court. It may collect any type of evidence admissible under the general provision of the Bulgarian legislation, including appointment of experts. The rules of Arbitral Court at the Bulgarian Chamber of Commerce and Industry and Court of Arbitration at the Bulgarian Industrial Association both include specific provisions in that sense.

As a legislative norm, art. 37 of the Bulgarian International Commercial Arbitration Act (ICAA) stipulates that the arbitration court or the party concerned, upon approval by the arbitration court, may request from the competent state court to collect evidence which is hard to be collected by the arbitration court.

30. What ethical codes and other professional standards, if any, apply to counsel and arbitrators conducting proceedings in your country?

The legal framework does not include specific requirements for the arbitrators beyond the restrictions in the appointment and the requirements to be independent and impartial. Each arbitration court has its own ethical principles defined in an Ethical Code or similar document, which should be observed by all arbitrators participating in tribunals.

31. In your country, are there any rules with respect to the confidentiality of arbitration proceedings?

There are no specifically defined legal norms on the topic of confidentiality regarding arbitration proceedings. Such rules are usually defined in the Rules of the specific arbitration court. For example, the rules of the Court of Arbitration at the Bulgarian Industrial Association foresees explicitly that Arbitrators, mediators and parties involved in the proceedings are required to keep confidential information that comes to their knowledge during the arbitration or mediation, while the rules of the Arbitral Court at the Bulgarian Chamber of Commerce and Industry foresee that arbitration proceedings in front of this arbitration court are confidential and any materials regarding the dispute are provided only to a participating party, its legal representative or procedural representative.

32. How are the costs of arbitration proceedings estimated and allocated? Can pre- and post-award interest be included on the principal claim and costs incurred?

The Bulgarian International Commercial Arbitration Act (ICAA) does not include stipulations on the matters of costs. Each arbitration court has adopted its own specific Tariff. The usual practice is that arbitration fees are defined depending on the material interest of the specific case and that the initial costs are undertaken by the party initiating the arbitration proceedings or requesting specific actions. In the final arbitration award, the respective tribunal should rule on the allocation of all costs in the proceedings, while considering the outcome of the case. The losing party should bear a proportional part of the costs depending on the amount of the claim that is awarded.

Pre- and post- award interest can be included on the principal claim, but cannot be included on the costs.

33. What legal requirements are there in your country for the recognition and enforcement of an award? Is there a requirement that the award be reasoned, i.e. substantiated and motivated?

The international treaties concluded by the Republic of Bulgaria shall apply to the recognition and enforcement of a foreign arbitral award.

Claims for recognition and enforcement of foreign arbitral awards and arbitration agreements concluded before them, unless otherwise provided for in an international treaty to which the Republic of Bulgaria is a party, shall be brought before the Sofia City Court and Articles 118-122 of the Code of Private International Law shall apply to their consideration, with the exception of the right of the debtor to raise an objection for the extinction of the claim.

A foreign arbitral award is recognised and its enforcement is permissible when:

1. the foreign court or authority had jurisdiction according to the provisions of Bulgarian law, but not if the nationality of the plaintiff or the registration thereof in the State of the court was the only ground for the foreign jurisdiction over disputes in rem;
2. the defendant was served a copy of the statement of action, the parties were duly summonsed, and fundamental principles of

Bulgarian law, related to the defense of the said parties, have not been violated;

3. if no effective judgment has been given by a Bulgarian court based on the same facts, involving the same cause of action and between the same parties;
4. if no proceedings based on the same facts, involving the same cause of action and between the same parties, are brought before a Bulgarian court earlier than a case instituted before the foreign court in the matter of which the judgment whereof the recognition is sought and the enforcement is applied for has been rendered;
5. the recognition or the admission to enforcement do not contradict the Bulgarian public order.

Within the above procedure the Bulgarian court may not review the merits of the dispute.

The arbitral award must be reasoned, unless the parties have agreed otherwise or it is rendered upon a settlement on agreed terms. It must indicate the date and place of the arbitration.

In case of domestic arbitral award, the enforcement is subject to the provisions of the Civil Procedural Code (CPC). According to the legal framework the creditor party should request issuance of a writ of execution by the district court, based on the permanent address or the seat of the debtor.

34. What is the estimated timeframe for the recognition and enforcement of an award? May a party bring a motion for the recognition and enforcement of an award on an ex parte basis?

There is no legally defined timeframe for the recognition and enforcement of an award. Ex parte recognition or enforcement proceedings are not allowed. The timeframe for the procedure can take between 6 months and several years, depending on the specific actions of the parties, mainly the defendant.

35. Does the arbitration law of your country provide a different standard of review for recognition and enforcement of a foreign award compared with a domestic award?

The arbitration law in the Republic of Bulgaria does provide different standards for the recognition and enforcement of foreign and domestic awards.

For domestic awards, they become effective and binding upon being handed to the parties and can be immediately subject to enforcement proceedings without the need for a separate recognition procedure.

For foreign awards, they must go through a recognition process before they can go through enforcement process. This process involves the Bulgarian state courts and is subject to the provisions of the New York Convention, to which Bulgaria is a signatory.

36. Does the law impose limits on the available remedies? Are some remedies not enforceable by the local courts?

Under Bulgarian law, remedies are generally enforceable as long as they do not violate public order or mandatory legal provisions. This means that while most remedies are available, any that are contrary to public policy or the law may not be enforceable by local courts.

37. Can arbitration awards be appealed or challenged in local courts? What are the grounds and procedure?

Pursuant to Article 47 of the Bulgarian International Commercial Arbitration Act (ICAA), an arbitral award may be set aside by the Supreme Court of Cassation in a single instance proceeding initiated within three months from the day on which the claimant was served with the award.

The grounds for appeal and annulment of the arbitral award are exhaustively listed in the law, which are as follows:

- the party was incapacitated when the arbitration agreement was concluded;
- the arbitration agreement has not been concluded or is invalid according to the law chosen by the parties or, in the absence of choice, according to ICAA;
- the party was not duly notified of the appointment of an arbitrator or of the arbitration proceedings or, for reasons beyond her control, was unable to take part in the proceedings;
- the award resolves a dispute not provided for in the arbitration agreement or contains a ruling on matters outside the subject matter of the dispute;
- the commencement of the arbitral tribunal or the arbitral proceedings is not in accordance

with the agreement of the parties unless it is contrary to mandatory provisions of ICAA, and if there is no agreement – where the provisions of ICAA are not applied.

38. Can the parties waive any rights of appeal or challenge to an award by agreement before the dispute arises (such as in the arbitration clause)?

The parties may not waive the right to appeal or challenge an arbitral award under an agreement before the dispute arises – such a preliminary waiver is null void.

39. In what instances can third parties or non-signatories be bound by an award? To what extent might a third party challenge the recognition of an award?

Third parties or persons who have not participated in the arbitration proceedings may be bound only in cases of legal succession which has occurred as a matter of law after the commencement of the arbitration proceedings. For challenging an arbitral award, the same principle applies with the addition that there must be universal succession.

40. Have there been any recent court decisions in your jurisdiction considering third party funding in connection with arbitration proceedings?

There is no express provision in the legislation governing this matter, but in view of the general principle of contractual freedom, third-party funding of arbitration proceedings is possible.

41. Is emergency arbitrator relief available in your country? Are decisions made by emergency arbitrators readily enforceable?

The Bulgarian legal framework does not foresee the institute of emergency arbitrator relief.

42. Are there arbitral laws or arbitration institutional rules in your country providing for simplified or expedited procedures for claims under a certain value? Are they often used?

The cost of the claim is not among the criteria for distinguishing the proceedings under which disputes are to be arbitrated. Separately it can be pointed out that

there are provisions in the individual rules of some arbitration courts that allow to expedite proceedings, while the Arbitral Court at the Bulgarian Chamber of Commerce and Industry has even introduced separate rules on expedited proceedings, which can be applicable upon consent of the parties.

43. Is diversity in the choice of arbitrators and counsel (e.g. gender, age, origin) actively promoted in your country? If so, how?

In general, the Bulgarian legislation proclaims the principle of non-discrimination based on gender, age, origin, etc., but there are no special provisions or active promotion regarding diversity in the selection of arbitrators.

44. Have there been any recent court decisions in your country considering the setting aside of an award that has been enforced in another jurisdiction or vice versa?

The Supreme Court of Cassation has a constant case law on this issue, according to which in order for a foreign arbitral award to be recognized and enforced in Bulgaria, special attention is required that the signatures of the arbitrators under the award and the signature of the secretary of the arbitration under the certificate that the award is final and enforceable should be notarized and apostilled (if applicable depending on the country).

45. Have there been any recent court decisions in your country considering the issue of corruption? What standard do local courts apply for proving of corruption? Which party bears the burden of proving corruption?

No recent court decisions have been adopted on the issue of corruption involving arbitrators. Generally, corruption is prosecuted as a criminal offense and cannot be subject to arbitration. With regard to corruption of arbitrators, the issue shall be reviewed besides in the criminal aspect also in the light of the requirements arbitrators to be independent and impartial.

46. What measures, if any, have arbitral institutions in your country taken in response to the COVID-19 pandemic?

During the COVID-19 pandemic arbitral tribunals

increased the possibilities for using digital solutions in the proceedings. This trend has remained as a current practice including possibility to conduct proceedings via video conference, electronic document exchange etc.

47. Have arbitral institutions in your country implemented reforms towards greater use of technology and a more cost-effective conduct of arbitrations? Have there been any recent developments regarding virtual hearings?

In recent years the Arbitral Court at the Bulgarian Chamber of Commerce and Industry and Court of Arbitration at the Bulgarian Industrial Association, along with other arbitration courts have reformed their rules in order to foresee the extended usage of the possibilities that technology provides. They have introduced different digital solutions allowing for video conference proceedings, monitoring online case development, electronic exchange of documents and evidence and electronic way of questioning witnesses and conducting hearings.

48. Have there been any recent developments in your jurisdiction with regard to disputes on climate change and/or human rights?

Arbitral tribunals under Bulgarian law do not deal with these matters, but in the field of human rights national courts legislate actively. Interpretative Decision No. 2/2020 of the General Assembly of the Civil Chamber, which decided that "The objective substantive law in force in the territory of the Republic of Bulgaria does not provide for the possibility for the court to admit in the proceedings under Chapter III, Section VIII of the Civil Registration Act the change of the data concerning the

sex, name and unique civil number in the civil status records of an applicant who claims to be transsexual."

In another case, the CJEU held that the Metropolitan Municipality was obliged to issue identity documents (but not a birth certificate) to a child who was a citizen of the Union (and had two mothers – one Bulgarian, the other English), and to recognize the birth certificate issued, naming the parents, for the purposes of free movement and residence within the EU. The Sofia City Administrative Court, guided by the decision of the Court of Justice of the European Union, ordered Sofia Municipality to issue such a birth certificate, but subsequently the Supreme Administrative Court overturned this decision and dismissed the challenge against Sofia Municipality's refusal to issue such a birth certificate.

49. Do the courts in your jurisdiction consider international economic sanctions as part of their international public policy? Have there been any recent decisions in your country considering the impact of sanctions on international arbitration proceedings?

International economic sanctions should be part of the public policy of the courts. There are no recent court or arbitral decisions concerning the impact of sanctions on international arbitration proceedings.

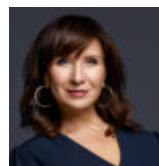
50. Has your country implemented any rules or regulations regarding the use of artificial intelligence, generative artificial intelligence or large language models in the context of international arbitration?

Not at the moment, but in view of the adopted concept of Development of Artificial Intelligence in Bulgaria by 2030, work should be initiated in this direction.

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