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GUIDES 2021**

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Slovakia

INTERNATIONAL ARBITRATION

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

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SLOVAKIA

INTERNATIONAL ARBITRATION



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

Since 2015, there are two effective statutes governing the arbitration proceedings. The Act No. 244/2002 Coll. on Arbitration ("**the Slovak Arbitration Act**") governs procedure of domestic and international commercial arbitrations and also includes provisions regarding recognition and enforcement of foreign arbitration awards. The second one, the Act No. 355/2014 Coll. on Consumer Arbitration as amended ("**the Slovak Consumer Arbitration Act**") relates to specific arbitrations concerning consumer as a weaker party of the dispute.

In case of Slovak-based arbitrations, Act No. 160/2015 Coll. Civil Procedure Code governing civil court proceedings applies accordingly pursuant to Sec. 51(2) of the Slovak Arbitration Act. However, that would happen in very limited number of occasions, since procedure would be governed by the Slovak Arbitration Act, institutional arbitration rules, other rules agreed by the parties, procedural orders of the tribunal, etc.

The Slovak Arbitration Act does not stipulate list of mandatory provisions regarding arbitration. However, legal doctrine states that there are some mandatory provisions of the Slovak Arbitration Act due to their nature^[1]:

- 17 - Equality of the parties of arbitration
- 19 - Effects of submission of request for arbitration
- 22c and 22d - Recognition, enforcement and annulment of interim measures
- 35 - Effects of arbitral award
- 40 to 43 - Annulment of domestic arbitral award
- 44 - Enforcement of domestic arbitral award
- 46 to 50 - Recognition and enforcement of foreign arbitral award

[1] Gyárfáš, J., Števček, M. a kol. Zákon o rozhodcovskom konaní. Komentár. Praha: C. H. Beck,

2016, p. 240, 388.

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

Yes. Slovak Republic is a member state of New York Convention since 28th May 1993. Prior to that, Czechoslovakia as a predecessor state was bound by the New York Convention since 10th October 1959.

Czechoslovakia made a reservation that it "*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?

In addition to the New York Convention Slovakia is a member state to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States of 1965 and various bilateral investment treaties.

Slovakia has also succeeded to European Convention on International Commercial Arbitration of 1961.

4. Is the law governing international arbitration in your country based on the UNCITRAL Model Law? Are there significant differences between the two?

Since 2014 is Slovakia titled as UNCITRAL Model Law country after notable amendment of the Arbitration Act. It means that the Slovak Arbitration Act reflects particular features and needs of international commercial arbitrations and worldwide consensus on key

aspects of international arbitration practice.

One of the provisions of the Slovak Arbitration Act that differs from UNCITRAL Model Law is present when formulating reasons for the annulment of an arbitration award. The legislator adhered to the previous Czech-Slovak regulation instead of implementing liberal provision of UNCITRAL Model Law.

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

At the moment there are no specific plans to amend the Slovak Arbitration Act. However, in 2020 the Slovak government has stipulated in its general memorandum an intention to support arbitration proceedings.

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

There are several local arbitration institutions which are quite popular, notably the Arbitration Court of the Slovak Bar Association (*Rozhodcovský súd Slovenskej advokátskej komory*), Arbitration Court of the Slovak Chamber of Commerce and Industry (*Rozhodcovský súd Slovenskej obchodnej a priemyselnej komory*) and Permanent Arbitration Court of the Slovak Bank Association (*Stály rozhodcovský súd Slovenskej bankovej asociácie*).

However, it should be also noted that the Vienna International Arbitral Centre (“**VIAC**”) located in the capital city of Austria is very popular option which is frequently opted even in Slovak Republic. Rules of the VIAC were recently amended and entered into force on 1 July 2021.

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

Yes, pursuant to Sec. 28 of the Civil Procedure Code there are three regional courts (*Bratislava V, Banská Bystrica and Košice I*) and three district courts (*Bratislava, Banská Bystrica and Košice*) specialized on arbitration related cases. Decisions of district courts should be further examined by the Slovak Supreme Court.

8. What are the validity requirements for

an arbitration agreement under the laws of your country?

Pursuant to Sec. 4(2) of the Slovak Arbitration Act the arbitration agreement shall be in writing.

In relation to consumer arbitrations, Sec. 3(2) of the Slovak Consumer Arbitration Act stipulates that the arbitration agreement shall be in writing and also separated from the consumer contract itself. Therefore arbitration agreement in consumer related matters shall be executed in separate agreement.

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

Yes, they are. Invalidity of the main contract containing arbitration agreement does not constitute invalidity of the arbitration agreement pursuant to Sec. 5(2) of the Slovak Arbitration Act. Withdrawal from the main contract does not result in withdrawal from the arbitration agreement included in the main contract, unless the contracting parties stipulate otherwise pursuant to Sec. 5(3) of the Slovak Arbitration Act.

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. Pursuant to Sec. 40(1) of the Slovak Arbitration Act the court shall annul the arbitration award on the basis of invalidity of the arbitration agreement with either governing law stipulated by the parties or Slovak law provided that no governing law for arbitration agreement has been stipulated by the parties. Thus, Slovak courts do not apply validation principle.

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

Neither the Slovak Arbitration Act, nor the Slovak Consumer Arbitration Act specifically deals with multi-party or multi-contract arbitration.

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?

These issues are not expressly regulated by the Slovak law. However, Slovak legal doctrine states that it is possible to conclude arbitration agreement in favor of third party pursuant to Sec. 40/1964 Coll. Civil Code (commentary to the Slovak Arbitration Act (*Gyarfáš, J., Števček, M. a kol. Zákon o rozhodcovskom konaní. Komentár. Praha: C. H. Beck, 2016, p. 75-76*). Such agreement would be valid and effective provided that the third party would give consent to be bound by such an arbitration agreement.

Also, legal successors (non-signatories) of the contracting parties of arbitration agreement are also bound by arbitration agreement, unless stipulated otherwise pursuant to Sec. 3(2) of the Slovak Arbitration Act in commercial arbitrations and Sec. 3(1) of the Slovak Consumer Arbitration Act in case of consumer arbitrations.

We are not aware of any recent court decision of the Slovak courts on these issues.

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

Yes, there are four categories of disputes which are non-arbitrable in commercial arbitrations:

- disputes concerning issues of ownership and other in rem rights regarding real properties,
- disputes concerning personal rights,
- disputes concerning issues of enforcement of decisions,
- disputes arising from insolvency proceedings.

Corporate disputes: Inclination towards arbitrability in the European Union – In Slovakia, it is possible to include arbitration agreement in internal documents of the company since 1st January 2015.

There is also recent case law of the Slovak Constitutional Court (Case No. I. ÚS 483/2014-12) providing that non-arbitrability may be objected by the party also after first procedural action of such party.

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?

No. Only relevant Slovak legal doctrine generally states that governing law of the main contract does not have an impact on determination of governing law of the arbitration agreement and that other factors such as arbitration seat are relevant for determination of governing law of the arbitration agreement instead. (*Gyarfáš, J., Števček, M. a kol. Zákon o rozhodcovskom konaní. Komentár. Praha: C. H. Beck, 2016, p. 111*).

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

The law applicable to the substance is determined by the agreement of the parties. However, in absence of choice of law the arbitral tribunal shall determine governing law on the basis of appropriate conflict of law rules (See Sec. 31 of the Slovak Arbitration Act). It means that the arbitral tribunal shall not apply any kind of law determined upon own discretion. Thus, the arbitral tribunal shall reflect relevant conflict of law rules in case of determination of substantive law and should explain how it was determined in the reasoning of the arbitral award.

16. Have the courts in your country applied the UNIDROIT or any other transnational principles as the substantive law? If so, in what circumstances have such principles been applied?

In respect to arbitration proceedings, pursuant to Sec. 31(1) of the Slovak Arbitration Act the parties may choose *lex mercatoria* / transnational principles to govern their contract without the need of choice of any substantive law of particular state.

In some cases Slovak courts has referred to *lex mercatoria* (UNIDROIT, PECL, PETL, etc.), however these rules were not considered as the substantive law. For example, the Slovak Supreme Court applied the Principles of European Tort Law as a subsidiary source in case of multiple causation (see case No. 6 M Cdo 11/2010) since issue of multiple causation is not expressly regulated in Slovak law.

Moreover, if the Slovak law would be governing, then rules of soft law agreed by the parties would apply unless peremptory norms stipulate otherwise (See Sec. 264(2) of the Commercial Code). Therefore, transnational principles have significant importance.

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

Arbitrators shall have full legal capacity and have no criminal records. In addition public officials, judges and certain other professions subject to Slovak law are incompatible with appointment as arbitrator. As a general rule, the arbitrators shall be impartial and to act with due care. Selected arbitrator shall confirm appointment in writing.

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

Yes. Default requirements pursuant to Sec. 8(2) of the Slovak Arbitration Act would apply as to the selection of a tribunal, unless the parties agree on special process of appointment of arbitrator/arbitrators.

In case of three member tribunal (or tribunal with more members) each party nominates arbitrator and arbitrators nominated by the parties nominate the president of the arbitral tribunal; if party would fail to nominate arbitrator within 15 days since request from other contracting party or if arbitrators appointed by the parties would fail to appoint president within 15 days since their appointment, then the authorized third party or court would appoint the arbitrator upon request of the contracting party.

In sole arbitrator cases the arbitrator would be appointed by authorized third party or court upon request of the contracting party.

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

Yes, in situations mentioned in answer to question No. 18 above. In case of selection of arbitrators by the courts, the courts shall consider required qualification of the arbitrator stipulated by the parties and independence and impartiality of the potential arbitrator pursuant to Sec. 6(3) of the Slovak Arbitration Act.

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

Yes. The parties may challenge arbitrator on the basis of impartiality. The parties may agree upon procedure for challenging arbitrators until commencement of the

arbitration proceedings. In case of institutional arbitration, institutional arbitration rules may stipulate such a procedure, however the party shall not be deprived of a right to examine unsuccessful challenge before the court (see Sec. 9(3) of the Slovak Arbitration Act).

If the procedure for challenging of arbitrators is neither stipulated by the parties nor by the institutional arbitration rules, then the party shall submit challenge of arbitrator in writing within 15 days from the day when it has become aware of impartiality of the arbitrator. If the challenged arbitrator does not resign or other party would not agree with the challenge, then the arbitral tribunal shall resolve the challenge upon request of the party within 60 days. If the challenge was not successful or if the arbitral tribunal did not render decision within period prescribed above, then the challenging party may request the court to decide on challenge. Appeal against decision of court regarding challenge is not possible.

21. Have there been any recent developments concerning the duty of independence and impartiality of the arbitrators

No new rules or provisions have been adopted recently in this respect.

22. Have there been any recent decisions in your concerning arbitrators' duties of disclosure, e.g., similar to the UK Supreme Court Judgment in Halliburton v Chubb?

Duty of disclosure is enshrined in the Slovak Arbitration Act itself. Pursuant to Sec. 9(1) the arbitrator shall without undue delay notify the parties about all facts which could eventually be capable to disqualify the arbitrator from hearing and deciding the dispute if there may be doubts about his impartiality due to relationship of the arbitrator to the merits or the parties of the dispute.

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

Arbitration proceedings are neither suspended nor terminated if the mandate of an arbitrator terminates and the tribunal is not fully constituted.

24. Are arbitrators immune from liability?

This issue is not expressly regulated by the Slovak law. Slovak case law is silent as well in this matter.

However, Slovak legal doctrine and Czech case law are of the opinion that arbitrators may be responsible only in case when breach of legal duty led to annulment of arbitral award (see also decisions of Supreme Court of Czech Republic case no. 25 Cdo 167/2014 and case no. 23 Cdo 2570/2007).

25. Is the principle of competence-competence recognized in your country?

Yes. This principle is reflected in Sec. 21(1) of the Slovak Arbitration Act which stipulates that the tribunal is entitled to decide on jurisdiction including objections regarding existence or validity of arbitration agreement.

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

Local courts examine whether the dispute shall be resolved in arbitration proceeding only upon objection of respondent expressed in answer to claim pursuant to Sec. 5 and Sec. 6 of the Act No. 160/2015 Coll. Civil Procedure Code. Local courts would terminate litigation proceeding provided that the dispute shall be resolved in arbitration.

Therefore the respondent is obliged to notify the court in relation to apparent breach of an arbitration agreement by the claimant in order to avoid litigation.

27. How are arbitral proceedings commenced in your country? Are there any key provisions under the arbitration laws relating to limitation periods or time bars of which the parties should be aware?

Arbitration proceedings are commenced by delivery of claim (request) pursuant to Sec. 16 of the Slovak Arbitration Act.

Submission of claim leads to suspension of statutory limitation periods pursuant to either Sec. 403 of the Commercial Code or Sec. 112 of the Civil Code (depends on classification of the legal relationship pursuant to Slovak law).

28. In what circumstances is it possible for a state or state entity to invoke state immunity in connection with the commencement of arbitration proceedings?

There is no specific provision of the Slovak law which would stipulate that state immunity is valid reason for disputing the commencement of arbitration proceedings. The parties may object lack of jurisdiction of the arbitration tribunal only on the basis of invalidity or non-existence of the arbitration agreement.

In general, the parties are also not able to object jurisdiction of the courts in arbitration related litigations. This rule is enshrined in Art. 17 of the UN Convention on Jurisdictional Immunities of a State and its property from the jurisdiction of the courts of another State (as a customary rule of public international law).

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

Slovak law does not provide for the authority of the local courts to compel participation of party in the arbitration. In such case the arbitral tribunal would conduct proceeding without respondent (and would draw adverse inferences from inactivity of the respondent).

30. 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?

Third parties shall not join arbitration proceedings, unless they are party to the arbitration agreement. Moreover, group of companies doctrine is not applicable under the Slovak law and therefore other companies from relevant group are not bound by the arbitration agreement.

However, there is one exception stipulated in Sec. 2(1) of the Slovak Arbitration Act pursuant to which the parties may agree that the dispute which is already subject to litigation shall be heard in arbitration proceedings.

31. Can local courts order third parties to participate in arbitration proceedings in

your country?

No. The Slovak Arbitration Act does not provide for such authority of the local courts.

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

Local courts would may issue interim measures either prior to commencement of arbitration or during the constitution of the tribunal in pending arbitration proceeding (Sec. 2(2) of the Slovak Arbitration Act).

Sec. 22 (3) provides list of interim measures which are available. However, please note that respective list is not exhaustive:

- a. party shall deposit certain amount or asset to court's custody,
- b. party shall not with dispose with certain right or assets,
- c. party shall take action, refrain from taking action or endure some action,
- d. party shall secure certain evidence.

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

No. Legal instruments such as anti-suit or anti-arbitration injunctions are not available pursuant to Slovak law. However, pursuant to Sec. 5(1) of the Civil Procedure Code, in litigation the respondent may object in his answer to claim that the dispute shall be heard and decided in arbitration proceeding. In addition, in the inverse case when the arbitration proceeding was initiated prior to the litigation, Sec. 8(1) of the Civil Procedure Code stipulates that the court shall suspend court proceedings until the arbitral tribunal decides over jurisdiction or the matter itself.

34. 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 tribunal shall consider only evidence submitted by the parties and is free in assessment of evidence. Furthermore, the tribunal is free in selection of method of taking evidence. Apart from that, there are no specific

rules governing evidentiary matters in arbitration.

Slovak courts may assist the tribunal in taking evidence provided that the tribunal is not able to obtain evidence (Sec. 27 subs. 3 of the Slovak Arbitration Act). However, local courts shall not compel witnesses to participate in arbitration proceedings, as admitted by explanatory memorandum to the Slovak Arbitration Act. There is no legal duty to provide witness statement in arbitration proceedings.

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

Slovak counsels are bound by the Act on Advocacy and by ethical guidelines issued by the Slovak Bar Association.

Arbitrators shall act with due care, independently and impartially.

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

Arbitrators shall keep confidentiality over all information related to arbitration proceedings pursuant to Sec. 8 (4) of the Slovak Arbitration Act (even after termination of the proceedings): An arbitrator shall, even after the end of his mandate, keep confidential all facts of which he became aware during or in connection with the performance of his function as an arbitrator, unless otherwise stated in this Act or special laws. The arbitrator may be relieved of this obligation only by the parties to the respective arbitration. The confidentiality obligation of the arbitrator under this Act does not apply to disclosure of information to law enforcement authorities and courts for the purpose of their proceedings in connection with the subject matter of the arbitration, arbitration procedure or other matters relating to the performance of the arbitrator's function or activity of the permanent court of arbitration and in connection does not apply to disclosure of information to inspection authorities in scope of their duties pursuant to special laws.

Sec. 26(1) of the Slovak Arbitration Act represents other provision related to confidentiality of arbitration stipulating that oral proceedings in arbitration are not public unless otherwise agreed between the parties.

If public entity is one of the parties, then such a public

entity shall limit provision of information or reject provision of information related to arbitration proceedings (except information regarding outcome of arbitration proceedings) pursuant to 11(1)(e) of the Act No. 211/2000 Coll. on free access to information.

There are no other rules of the Slovak law directly linked to confidentiality of arbitration except aforementioned provisions.

37. Are there any recent decisions in your country regarding the use of evidence acquired illegally in arbitration proceedings (e.g. 'hacked evidence' obtained through unauthorized access to an electronic system)?

There is no recent decision of the Slovak courts regarding the use of illegally acquired evidence in arbitration proceedings.

However, in respect to civil litigations, the Civil Procedure Code stipulates that even an illegally acquired evidence may be considered under special circumstances (constitutional test of proportionality). This is also supported by decision of the Czech Constitutional Court case no. II. ÚS 1774/14. Therefore, the arbitration tribunals would be able to resolve issue of the use of illegally acquired evidence in arbitration with analogy to provisions of the Civil Procedure Code or Czech case law.

38. How are the costs of arbitration proceedings estimated and allocated?

Pursuant to Sec. 29 of the Slovak Arbitration Act, costs of the arbitration consists particularly of expenses of the parties and their representative, costs of evidence, administrative expenses, fees and expenses of the arbitrators, fees of experts and interpreters and counsel fees. However, issue of estimation and allocation of costs is not expressly regulated by the Slovak Arbitration Act. This fact provides the tribunal with freedom in cost related matters.

In general, arbitrators would allocate costs on the basis of "cost-follow-the-event" principle instead of the American rule. It means that unsuccessful party would borne the costs of the arbitration proceedings. However, there may be deviations from this practice (on the basis of institutional rules or determinations of the arbitral tribunal).

39. Can pre- and post-award interest be included on the principal claim and costs incurred?

Pursuant to Slovak law, pre- and post-award interests may be granted by the arbitral tribunal since these are considered as claims of substantive law pursuant to either Commercial Code (8% or 9% of the claim unless contractually stipulated otherwise) or Civil Code (5 % of the claim). Interest may be claimed from the date when the claim has become due and payable up to date of payment.

40. 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?

Foreign awards are recognized and enforced on the basis of the New York Convention and Sec. 46–50 of the Slovak Arbitration Act. Party seeking recognition and enforcement of foreign arbitral award shall submit written request for the recognition and enforcement of foreign award accompanied with foreign award and arbitration agreement. Translation of these documents should be submitted as well provided that these documents were not originally produced in Slovak.

If the law of the country where the arbitration proceedings were conducted would stipulate that the award should be reasoned, then foreign award without reasoning would not be recognized and enforced pursuant to Sec. 50(1)(d) of the Slovak Arbitration Act.

In relation to domestic arbitral awards, these should be annulled in case when award is not reasoned. Pursuant to Sec. 40(1)(a)(4) the court shall annul domestic arbitral award if arbitration proceeding was conducted contrary to provision of the Slovak Arbitration Act. Pursuant to Sec. 34(2)(g) of the Slovak Arbitration Act the arbitral award should be reasoned, unless the parties agreed otherwise or resolved the case by settlement.

41. 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?

Pursuant to Sec. 49(1) of the Slovak Arbitration Act recognition and enforcement of foreign award is carried out automatically without need of special recognition

and enforcement proceeding. There is no timeframe for the recognition and enforcement of an award, since this is carried out automatically. However it is possible to object recognition and enforcement of an award pursuant to Sec. 50 of the Slovak Arbitration Act. There is no prescribed statutory length for such procedure and total length of proceeding may be affected by multiple factors.

42. 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?

No. Foreign arbitral awards are automatically recognized in enforcement proceedings and therefore no recognition procedure is necessary pursuant to Sec. 49(1) of the Slovak Arbitration Act.

In relation to enforcement of a foreign award, foreign arbitral awards are enforced in a same way as domestic arbitral award.

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

This issue is not expressly regulated by the Slovak Arbitration Act. However, remedies granted outside the scope of arbitration agreement, remedies granted in non-arbitrable matters and remedies which would be contrary to public policy would not be recognized and enforced by the local courts.

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

Arbitration awards may not be appealed. On the other hand, domestic arbitration awards may be challenged (annulled) for the reasons stipulated in Sec. 40 (1) of the Slovak Arbitration Act:

- i. defects of arbitration agreement;
- ii. *ex-parte* arbitration;
- iii. dispute is outside the scope of arbitration agreement/arbitration agreement was not concluded;
- iv. procedural defects significantly impacting arbitral award itself; and
- v. dispute is non-arbitrable or award would be contrary to Slovak public policy.

Party seeking annulment of arbitral award shall submit claim to the local court within 60 days since the arbitral award was delivered. Issues i – iv. listed above shall be proven by the party seeking annulment while issue v. shall be considered by the local courts without any activity of the party seeking annulment of the award. It is also important to emphasize that the arbitral award remains enforceable during annulment proceedings, unless the court decides that enforceability is postponed.

45. 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)?

No. Section 42 of the Slovak Arbitration Act expressly forbids waiver of right for challenge to an award.

46. To what extent might a state or state entity successfully raise a defence of state or sovereign immunity at the enforcement stage?

In commercial matters (or so-called *acta iure gestionis* matters), state would not be successful in invoking sovereign immunity in order to preclude enforcement of arbitral award. Moreover, Slovak law does not stipulate that sovereign immunity is a valid reason for rejection of enforcement.

47. 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 party is not entitled to challenge recognition and enforcement of an award since this right only belongs to a party against which a foreign arbitral award is recognized or enforced (Sec. 50 subs. 1 of the Slovak Arbitration Act). Similarly, third parties are not entitled to apply for annulment of domestic arbitral awards before local courts since Sec. 40 (1) of the Slovak Arbitration Act stipulates that only parties of arbitration proceedings are entitled to submit such claim.

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

No, there are no recent court decisions of local courts in

this matter.

However, there is a notable decision held in ICSID, involving Slovak Republic as a defendant. In ICSID Case No. ARB/14/14 (*EuroGas v Slovak Republic*) Slovak Republic had applied for security for costs on the basis that the claimants are funded by a third-party litigation funder. The tribunal refused the application stating that security for costs may only be granted in exceptional circumstances while third party funding does not meet such criteria. Presence of third part funding does not itself justify security for costs.

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

Yes. Pursuant to Sec. 22(1) of the Slovak Arbitration Act the arbitral institution (emergency arbitrators) may grant interim measure upon request of party prior to constitution of arbitral tribunal. However, decisions made by emergency arbitrators would be enforceable only if the parties in arbitration agreement conclude that reliefs made by emergency arbitrators are permitted.

Therefore, active approach of the parties in this matter is necessary.

50. 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 Slovak law does not stipulate special rules in relation to simplified or expedited procedures. On the other hand, the Slovak Arbitration Act does not prevent parties from choosing simplified or expedited procedures pursuant to institutional rules. Therefore, institutional rules of simplified or expedited proceedings are applicable if provided in the procedural rules of the respective arbitration court.

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

No formal rules promoting diversity in choice of arbitrators and counsels were adopted in Slovak Republic yet.

52. 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?

As far as we are aware, there are no notable decisions.

53. 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?

There are no recent domestic court decisions regarding issue of corruption in arbitration.

Arbitral awards impacted by criminal offences of arbitrators, experts or witnesses (including corruption) would be annulled or non-enforceable due to inconsistency with public policy. This is explicitly stated in explanatory memorandum to Act No. 336/2014 Coll. amending and supplementing the Slovak Arbitration Act.

On the basis of presumption of innocence, the suspect is deemed not guilty unless proven otherwise in criminal proceedings by the prosecutor.

54. Have there been any recent court decisions in your country considering the judgment of the Court of Justice of the European Union in Slovak Republic v Achmea BV (Case C-284/16) with respect to intra-European Union bilateral investment treaties or the Energy Charter Treaty? Are there any pending decisions?

As of today, we are not aware of any recent decision considering CJEU Achmea judgement. However, there are several pending decisions – Achmea BV itself filed the claim within the Slovak court again, once the arbitral award of 2012 has been set aside by the German court based on the CJEU ruling. Moreover, there are further two claims of health insurance providers (i.e. the Achmea competitors) based on similar legal and factual background (although the claims have been already decided by the court of first instance, the questions of implication of CJEU Achmea ruling regarding the Intra-EU BITs have not been assessed, and the court dealt mostly with other legal and factual issues.)

55. Have there been any recent decisions in your country considering the General Court of the European Union's decision Micula & Ors (Joined Cases T-624/15, T-694/15 and T-694.15), ECLI:EU:T:2019:423, dated 18 June 2019? Are there any pending decisions?

There are no recent or pending decision considering EU General Court Micula decision (please note that in abovementioned cases of health insurance providers referred to in answer to question 55 above this question could be further discussed by the court).

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

Unlike measures adopted by the ICC, VIAC, HKIAC or LCIA, Slovak local arbitral institutions did not adopt specific COVID-19 countermeasures.

However, certain Slovak law firms (including SOUKENÍK – ŠTRPKA law firm) represented their clients (parties to the arbitration proceedings) on remote virtual hearings in complex international commercial arbitration cases. Since remote hearings are not explicitly forbidden neither by the Slovak Arbitration Act nor by institutional rules of relevant local arbitral institutions, we consider that it would be possible to organize arbitration hearings remotely also in case of local arbitral institution proceedings.

57. 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?

As discussed in previous answer, domestic institutions were not really proactive in terms of innovations regarding use of technology during pandemic situation.

As explained above, there were no recent developments regarding virtual hearings. However, since virtual hearings are not forbidden by the Slovak law, it would be possible to conduct remote hearings.

In this manner we would also like to mention recent decision of the Austrian Supreme Court (accepted by domestic arbitration community) case No. 18 ONc 3/20s pursuant to which it would be possible to hold virtual

hearing despite objection of one of the parties. Moreover, conducting arbitration hearing remotely as such does not violate right to a fair trial.

58. In your country, does the insolvency of a party affect the enforceability of an arbitration agreement?

Pursuant to Sec. 1(3)(a) of the Slovak Arbitration Act any disputes arising during insolvency or restructuring proceeding cannot be subject matter of an arbitration proceeding.

59. Is your country a Contracting Party to the Energy Charter Treaty? If so, has it expressed any specific views as to the current negotiations on the modernization of the Treaty?

Yes, Slovak Republic is a Contracting Party to the Energy Charter Treaty.

Slovakia supports present proposals of the European Commission. On the other hand, Slovak Republic does not support stricter deadlines or threshold values.

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

There were no notable developments in the recent years. In February 2021, the European Commission referred Slovak Republic to the European Court of Justice over poor air quality due to high levels of particulate matter.

In the neighbouring Czech Republic, the claimants – Czech NGO, Czech municipality Svatý Jan pod Skalnou and four Czech citizens filed in April 2021 a lawsuit against the Czech Ministry of Environment, Ministry of Industry and Trade, Ministry of Agriculture, Ministry of Transport and the Government of the Czech Republic for being inactive on climate change and to protect their human rights such inaction of public authorities is causing.

61. Has your country expressed any specific views concerning the work of the UNCITRAL Working Group III on the future

of ISDS?

To the extent of our knowledge and publicly available data no such views were expressed.

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