

## **Arbitration Court of the Slovak Bar Association**

### **REPORT ON ACTIVITY**

#### **Activity Report referred in Section 12 Para. 6 of Act No. 244/2002 Coll. on Arbitration for 2019**

The Arbitration Court of the Slovak Bar Association (hereinafter referred to as “SBA Arbitration Court”) having its seat at Kolárska 4, Bratislava, is a permanent arbitration court, the founder of which is, pursuant to the Chapter Four of the First Part of Act No. 244/2002 Coll. on Arbitration, as amended, the Slovak Bar Association (the “SBA”) as a self-regulated professional organization and legal person established by Act No. 586/2003 Coll. on the Legal Profession and on Amending Act No. 455/1991 Coll. on Trade Licenses (the Trade Licensing Act), as amended.

The Arbitration Court of the Slovak Bar Association, as an independent organizational unit of the Slovak Bar association, submits a report on activity for the calendar year 2019 pursuant to Section 12 para. 6 of Act No. 244/2002 Coll. on Arbitration.

#### **1. Conduct of Arbitrations**

The main activity of the SBA Arbitration Court is to conduct arbitrations in the Slovak Republic and to render arbitral awards under the Arbitration Act, Statute and Rules of Procedure of the SBA Arbitration Court. The SBA Arbitration Court decides on disputes through a one- or a three-member arbitration panel in arbitration conducted pursuant to the Arbitration Act, the Statute, the Rules of Procedure, and the parties' agreement.

The SBA Arbitration Court decides on disputes that are capable of settlement by arbitration pursuant to Section 1 of the Arbitration Act. The SBA Arbitration Court does not decide on disputes that can only be resolved in consumer arbitration.

Activities of the SBA Arbitration Court (the Board of the Arbitration Court) are not limited to conducting arbitrations. It also acts in support of using arbitration as a suitable alternative to general courts and developing arbitration awareness in the Slovak Republic. This report provides a summary of the activities in both aspects of the SBA Arbitration Court's activities.

#### **2. Arbitration Proceedings in 2019**

Under Section 12 (6) of Act No. 244/2002 Coll. on Arbitration, the permanent court of arbitration is obliged to publish, not later than 30 April of the following calendar year, a report on its activity for the preceding calendar year, in which it must state the number of commenced, completed, and pending proceedings.

|                                           |    |
|-------------------------------------------|----|
| Number of commenced arbitrations in 2019: | 24 |
| Number of ended arbitrations in 2019:     | 21 |

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- of which 19 was ended by rendering an arbitration award
- of which three cases were ended by adopted settlement in a form of an arbitral award
- proceedings regarding two statements of claim were terminated because of the full withdrawal of the statement of claim; and
- as of 31 December 2019, nine arbitration proceedings were pending.

In 2019, two proceedings with an international element were pending. In one case, the foreign entity was the respondent party, and in the second case the applicant was a foreign subject.

Since the re-establishment of the SBA Arbitration Court and its first cases in 2017 up until the date of the submission of the present report, more than 50 arbitration proceedings were initiated. The average length of a proceeding in the cases concluded in 2019 was three and a half months from the delivery of the request to rendering an award or order on termination of arbitration.

### **3. Modern rules**

The arbitration proceedings are governed by the Statute and Rules of Procedure of the SBA Arbitration Court and faithfully reflect the basic principles of private commercial arbitration enshrined in the UNCITRAL Model Law and Slovak legislation, and are inspired by the best practices of renowned foreign arbitration institutions.

Original Statute and Rules of Procedure of 1 July 2016 were amended and extended in 2019, and the new wording was published on 2 September 2019. Adopted changes reflected nearly three years of practical application of original documents.

These rules proved to be working well in the conduct of the dozens of proceedings that confirmed that SBA Arbitration Court presents an effective and credible alternative to commercial dispute resolution. As regards the scope of the amendment, the most significant changes concerned in particular interim measures and new explicit regulation of provisions governing the evidence, such as expert statement and expert opinions.

Slovak Bar Association Board approved of the extended Rules of Procedure along with the new Annex D that introduce for the first time in Slovakia specific rules for corporate disputes resolution. New wording of the Statutes and Rules of Procedure took effect when published in the Commercial Gazette No. 1/2020 on 2 January 2020.

### **4. People at the SBA Arbitration Court**

Apart from modern rules, the SBA Arbitration Court's activity is based on retaining high-quality personnel with an emphasis on high professional and moral criteria for arbitrators. Arbitrator requirements exceed the minimum statutory requirements for arbitrators under the Arbitration Act. The Board of the SBA Arbitration Court decides on entering a prospective arbitrator into the List of Arbitrators after having consulted the board of the SBA (approval of all SBA Arbitration Court Board members is required) which ensures control over the selection process at multiple levels for the purposes of including arbitrators having general respect in the legal profession with high professional and moral credit and relevant experience in the field of commercial arbitration.

The list of arbitrators was not modified in 2019 and the following persons continued to act as arbitrators:

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doc. JUDr. Kristián Csach, PhD., LL.M.  
JUDr. Miriam Galandová, LL.M.  
JUDr. Branislav Jablonka, PhD.  
Mgr. Tomáš Kamenec  
Mgr. Vladimír Kordoš  
JUDr. Peter Kubina  
JUDr. Andrej Leontiev  
JUDr. Ľudovít Mičinský  
JUDr. Miroslav Németh  
Mgr. ICLic. Pavol Poláček, LL.M., M.A.  
Mgr. Peter Serina  
JUDr. Ján Šinkovic  
JUDr. Peter Štrpka, PhD.  
JUDr. Imrich Torma LL.M.

Each of the arbitrators above was appointed arbitrator in at least one proceeding in 2019.

The condition for appointing an arbitrator in a particular proceeding is a statement of arbitrator's independence and impartiality in which the arbitrator is required to state all circumstances that could give rise to doubts as to the arbitrator's independence or impartiality in the parties' eyes. Such statement is subject to review by the Board of the SBA Arbitration Court and the parties to a particular proceeding who, in case of doubts, are entitled to raise an objection. In contrast with the established practice in the Slovak Republic, the obligation of submitting such declaration and the subsequent process of constituting an arbitral panel are one of the distinguishing features of the SBA Arbitration Court thanks to which the necessary degree of independence and impartiality is guaranteed from the very beginning of an arbitration, i.e. even before the nominated arbitrator is appointed into the office.

A high degree of independence and impartiality is also reflected in relation to the members of the Board of the SBA Arbitration Court. According to the Statute, the office of a Board member is incompatible with the mandate of acting as an arbitrator in proceedings before the SBA Arbitration Court.

**Board of the Arbitration Court:**

JUDr. Karol Šiška (President)  
Mgr. Roman Prekop  
Mgr. Martin Magál

According to Article III para. 8 of the Statute, in the absence of the President the powers of the President may be exercised by the Vice-President. The SBA Arbitration Court Board Member Roman Prekop was appointed Vice-President in December 2019.

## **5. Educational Activities and Cooperation**

In light of Article III paras. 12, 13 and 14 of the Statute, in 2019, the SBA Arbitration Court actively supported education of legal trainees and attorneys-at-law in the field of arbitration, prepared standardized documentation and in support of arbitration in general.

In 2019, the representatives of the SBA Arbitration Court (members of the Board and arbitrators) participated in several lectures, seminars and conferences in order to promote activities of the Arbitration Court.

The SBA Arbitration Court further acted in support of wider application of its arbitration clause which is becoming increasingly established in domestic business and legal practice. Arbitration clauses are included in contracts to which important companies in the field of industry, construction, energy, or media are parties.

SBA Arbitration Court launched its new website at the beginning of 2019 (<https://sud.sak.sk>) and it regularly posts information on its activities on social network LinkedIn. In its efforts to raise public awareness of the arbitration, the SBA Arbitration Court cooperated with several external organisations, including active communication with the Ministry of Justice of the Slovak Republic and judiciary, discussing the improvement of legal and pro-arbitration environment.

Many law offices offer their clients the possibility to include the SBA Arbitration Court clause in their contracts as an effective and discreet alternative solution for resolution of commercial disputes. This practice is considered to be an important tool for the dissemination of the SBA Arbitration Court arbitration clause. It is viewed very positively that increasing number of commercial companies with foreign ownership express their interest in the SBA Arbitration Court activities.

#### **Main events of the SBA Arbitration Court in 2019:**

14 February 2019

##### **AmCham/SAK Business Breakfast;**

“Arbitration in Slovakia – efficient and reliable alternative for business”; business breakfast for members of the legal profession, business sector and state administration. Event organized by the American Chamber of Commerce in Slovakia and the Slovak Bar Association in cooperation with Business Alliance of Slovakia (as part of the AmCham Rule of Law Initiative project).

16 May 2019

**Arbitration Conference 2019;** the most significant conference focused on arbitration in Slovakia is organized by the Faculty of Law at the Comenius University and American Chamber of Commerce in Slovakia (AmCham Slovakia). The SBA Arbitration Court acted as the event professional partner.

29 May 2019

**SBA Arbitration Court seminar** lectured by Markus Schifferl on the topic “How state court case law shapes the arbitration process”

11 December 2019

**SBA Arbitration Court seminar** lectured by Filip Boras on the topic “Shareholder Disputes in Arbitration”

The Board of the Arbitration Court of the Slovak Bar Association approved the report on activity by a resolution dated on 30 March 2020 and, pursuant to Article III para. 11 of the Statute, it submits the report to the board of the Slovak Bar Association.