

REPORT ON ACTIVITY

2018

The Arbitration Court of the Slovak Bar Association (the “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 2018 under Section 12 (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 2018

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 arbitration proceedings in 2018: 14

Number of completed arbitration proceedings in 2018: 6

- of which **five** were completed by rendering an arbitration award;
- one proceeding regarding the statement of claim was terminated because of the full withdrawal of the statement of claim;
- as at 31 December 2018, **six** arbitration proceeding were pending.

In 2018, three **proceedings with an international element** were initiated. In two cases, the foreign entity was the respondent party, and in one case the applicant was a foreign subject.

Since the recommencement of the activities of the SBA Arbitration Court and the first arbitration disputes brought before it in 2017 up to the present day (the date of the approval of the Activity Report), 30 arbitration proceedings have been initiated before the SBA Arbitration Court.

The **average length of a proceeding** in the cases concluded in 2018 was **four months** from the delivery of the request to rendering an arbitration 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 adopted by the Resolution of the Board of the Slovak Bar Association in 2016 and published in Commercial Gazette No. 127/2016 of 1 July 2016 when the SBA Arbitration Court resumed its activities. The Statute and Rules of Procedure 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.

After two years of active application of the new rules, it is evident that these rules have proved to be working well and offer the possibility to resolve commercial disputes at a high level of expertise, cost-effectively, and quickly.

In 2018, the Board of the Slovak Bar Association prepared an amended wording of the Rules of Procedure and the Statute, based on the suggestions from the arbitrators, taking into account the lessons learned and broadening the activities to other areas. The draft version of the Rules of Procedure was finalized in collaboration with arbitrators at the beginning of 2019 and was submitted to the Board of the Slovak Bar Association along with the proposal for approval of the present report. The amendments to the Rules of Procedure and the Statute concern inter alia the following areas:

- the **regulatory provisions on evidence**, in particular the appointment of professionals or experts in arbitration proceedings;
- the regulatory provisions on applications for interim measures preceding the appointment of the arbitration panel and the introduction of the possibility to issue the interim measure on the ex parte basis (Section 22a of the Act on the Arbitration);
- introduction of the **unanimous decision-making** of the Board of the SBA Arbitration Court on the matter of the new entry on the list of arbitrators (the new provision replaced the requirement to pass an exam);
- Specific annex containing the rules on the **arbitration of corporate disputes**.

Due to the specific provisions on arbitration of corporate disputes, the SBA Arbitration Court has become the first domestic arbitration court which offers a tailor made tool for the solution of corporate disputes. It is the result of the tendency of the SBA Arbitration Court to specialize in particular areas, such as the specific model clause for construction disputes that was already drawn up in 2017 in cooperation with the Slovak Chamber of Civil Engineers.

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 (for example, at least five years of practice as an

attorney-at-law or ten years of other legal practice). 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, 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 2018 and the following persons continued to act as arbitrators:

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.

In 2018, the arbitration proceeding were assigned to the following arbitrators:

doc. JUDr. Kristián Csach, PhD., LL.M.; JUDr. Miriam Galandová, JUDr. Branislav Jablonka, PhD.; Mgr. Tomáš Kamenec; Mgr. Vladimír Kordoš; JUDr. Peter Kubina; JUDr. Andrej Leontiev; Mgr. ICLic. Pavol Poláček, LL.M., M.A.; Mgr. Peter Serina; JUDr. Ján Šinkovic a JUDr. Peter Štrpka, PhD.

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. This is a more stringent requirement for incompatibility of offices going beyond the obligations stemming from domestic legislation and the Model Law.

The Board of the Slovak Bar Association appointed the acting members of the Board of the SBA Arbitration Court for another three-year term of office taking effect from May 2018:

JUDr. Karol Šiška (President)

Mgr. Martin Magál (Member of the Board of the SBA Arbitration Court)

Mgr. Roman Prekop (Member of the Board of the SBA Arbitration Court)

5. Educational Activities and Cooperation

In light of Article III paras 12, 13, and 14 of the Statute, in 2018, the SBA Arbitration Court actively supported the education of legal trainees and attorneys-at-law in the field of arbitration, prepared standardized documentation, and acted in support of arbitration in general. In 2018, the representatives of the SBA Arbitration Court participated in several lectures, seminars, and conferences in order to promote the activities of the SBA Arbitration Court. Presentations of the SBA Arbitration Court activities formed part of the annual regional meetings of members of the Slovak Bar Association in Košice, Nitra, Trnava, and Žilina.

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. Some arbitration clauses and contracts are accessible via public resources (mandatory publication of contracts, general trading conditions, etc.). 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.

Selected activities undertaken in 2018 (two events held in 2019 are equally mentioned as the preparation of the events took place during the period covered):

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 will act as the event professional partner.

14 February 2019

AmCham/Slovak Bar Association 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).

11 December 2018

Dr. Johannes Hock (president of the Austrian Arbitration Association); “Comparing the Austrian court procedure and arbitration procedure rules - an inspiration for Slovakia” (event forms part of the set of lectures with esteemed foreign guest speakers).

30 May 2018

Arbitration Moot; The SBA Arbitration Court acted as professional partner of the student competition organized by law student association **ELSA Slovakia**; participants applied the Rules of Procedure of the SBA Arbitration Court.

17 May 2018

Dr. Josef Černošlák (Ürge & Černošlák, Prague), “Selected issues of construction law in the Czech Republic” (event forms part of the set of lectures with esteemed foreign guest speakers).

26 April 2018

Arbitration Conference 2018; 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 was professional partner and its members acted as speakers at the conference.

The Board of the Arbitration Court of the Slovak Bar Association approved the Report on activity by a resolution dated on 28 March 2018 and, pursuant to Article III (11) of the Statute, it submits the report to the board of the SBA.