

**[Slovak] Act No. 244/2002 of 3 April 2002  
on Arbitration**

Amended by: Acts No.: 521/2005 Coll., 71/2009  
Coll., 336/2014 Coll.

The National Council of the Slovak Republic  
adopted the following Act:

**PART ONE**

**INTRODUCTION**

**CHAPTER ONE**

**MAIN PROVISIONS**

**Section 1**

**Subject Matter and Scope**

(1) This Act regulates:

- a) the resolution of disputes arising out of domestic and international commercial and civil legal relationships where the place of arbitration is the Slovak Republic,
- b) the recognition and enforcement of domestic and foreign arbitral awards in the Slovak Republic.

(2) All disputes concerning legal relationships eligible for a settlement agreement<sup>1</sup>, including disputes on the existence of a legal relationship or legal title, can be dealt with in arbitration.

(3) The following disputes cannot be resolved by arbitration:

- a) disputes regarding the creation, change or termination of ownership rights and other rights in rem in respect of real property,
- b) disputes regarding personal status,
- c) disputes regarding compulsory enforcement of decisions,
- d) disputes arising in the course of insolvency proceedings and work-out proceedings.

(4) Arbitration proceedings under this Act may not be conducted in relation to disputes between a supplier and a consumer, arising out of or in connection with a consumer contract, which can be resolved by consumer arbitration<sup>1a</sup>).

(5) Where the seat of arbitration has not yet been determined, the relevant courts of the Slovak Republic shall have the power to decide on matters under Section 8(2) and Section 10(4) if at least one party to the arbitration has its registered office, place of business, or permanent residence in the territory of the Slovak Republic.

**Section 2**

**Arbitral Proceedings and Court Proceedings**

(1) If a dispute under Section 1(1) is already being dealt with in court proceedings<sup>2</sup>, the parties to such proceedings may agree, in or out of court, to have the dispute resolved in arbitration. Such agreement must contain an arbitration agreement under Section 3. Such agreement, once delivered to the court, shall constitute both a withdrawal of the application and the consent of the respondent with the withdrawal for the purposes of special regulations.<sup>3</sup>

(2) It is not incompatible with the arbitral proceedings if, before commencement of arbitral proceedings, or after the commencement but before the appointment of an arbitrator (arbitrators), a party requests from a court<sup>2</sup> an interim measure and for a court to grant such a measure. It is further not incompatible with the arbitral proceedings if a party requests from a court an interim measure against a third party which is not a party to the arbitration agreement.

(3) The provisions of Subsection (2) and Section 27 shall be applied also in cases where the place of arbitration has not yet been determined or is outside the territory of the Slovak Republic.

**CHAPTER TWO**

**ARBITRATION AGREEMENT**

**Section 3**

## **Substance of Arbitration Agreement**

- (1) An arbitration agreement is an agreement of the parties to submit to arbitration all or some of the disputes which have arisen or which may arise between them in respect of a defined contractual or other legal relationship.
- (2) The arbitration agreement shall also be applicable to the legal successors of the parties, unless the parties have agreed otherwise in the arbitration agreement. This is also applicable in the case of an assignment of rights or obligations or any other substitution of a creditor or a debtor in a relationship falling under the arbitration agreement.
- (3) If this Act refers to a parties' agreement, the arbitration rules referred to in that agreement shall be considered part of that agreement.

## **Section 4**

### **Form of Arbitration Agreement**

- (1) An arbitration agreement can be in the form of a separate agreement or in the form of an arbitration clause in a contract.
- (2) In order to be valid an arbitration agreement shall be in writing.
- (3) The agreement is also in writing if:
  - a) the arbitration agreement is contained in an exchange of parties' written communication, or
  - b) it was concluded by electronic means that are capable of recording the substance of such legal act and the identity of the party making it.
- (4) A reference in a contract or the parties' written communication to any document containing an arbitration clause constitutes an arbitration agreement in writing, provided the reference is such as to make that clause, in the intention of the parties, part of that contract.
- (5) An agreement is in writing even in the case of acceding in writing to a contract under a special law<sup>3a</sup> which includes a valid arbitration clause. This also applies to situations of acquiring a membership in an association or in another legal person, the internal governance documents of which contain an arbitration clause.
- (6) An arbitration agreement in writing can be substituted by a statement of the parties accepting the jurisdiction of the arbitral tribunal, recorded in minutes drawn up by the arbitrator. The minutes shall include an arbitration agreement under Section 3.
- (7) An arbitration agreement is also considered to be concluded in writing within the scope of a filed claim if its existence is asserted in the statement of claim and not denied by the respondent in the statement of defence delivered to the arbitral tribunal.

## **Section 5**

### **Validity of Arbitration Agreement**

- (1) An explicit agreement by the parties in an arbitration agreement to have it governed by the laws of another country shall not invalidate that arbitration agreement. The law chosen shall also determine whether the arbitration agreement is valid. This shall be without prejudice to Sections 4(2) and (3). However, the arbitrability shall always be governed by the provisions of this Act.
- (2) If an arbitration clause is part of an otherwise invalid contract, the arbitration clause shall be invalid only if the grounds for invalidity affect the arbitration clause as well.
- (3) If the parties rescind an agreement, the rescission shall not apply to the arbitration clause included in the agreement, unless otherwise agreed by the parties.

## **CHAPTER THREE**

### **ARBITRATOR**

## **Section 6**

### **Capacity to be Arbitrator**

- (1) Unless special regulations or this Act provide otherwise, any natural person agreed on by the parties can become an arbitrator, if he or she is of legal age, has full legal capacity, and does not have prior criminal convictions.
- (2) For the purposes of this Act, a person previously convicted of a wilful criminal act shall not be deemed to be without a criminal record. The absence of criminal records shall be demonstrated by an extract from the criminal register not older than three months.
- (3) If an arbitrator is appointed by a natural or a legal person selected by the parties (the "Selected Person") or the court (Section 8(2)), the Selected Person shall take into consideration the qualifications required of the

arbitrator as agreed by the parties and the circumstances ensuring appointment of an independent and impartial arbitrator. At the same time, the Selected Person or a person acting on behalf of the Selected Person shall satisfy the conditions set out in Subsection (1). If at the moment of the arbitrator's appointment the Selected Person does not exist, or it is not empowered to appoint an arbitrator, or it fails to appoint an arbitrator in the agreed time period, the arbitrator shall be appointed by a court in accordance with Section 8.

(4) A notary public may also act as an arbitrator, unless special regulation<sup>6</sup> provides otherwise.

#### **Section 6a**

A person who accepts to serve as an arbitrator undertakes to act impartially and with professional care so that the just protection of rights and legitimate interests of the parties can be ensured, no infringements of their rights and statutorily protected interests take place, and that the rights would not be abused to their detriment. An arbitrator shall act and decide the case without undue delay.

#### **Section 7**

##### **Composition of Arbitral Tribunal**

(1) For the purposes of this Act, the arbitral tribunal shall mean either a sole arbitrator or several arbitrators.

(2) The parties may agree on the number of arbitrators, provided they agree on an odd number.

(3) If the parties do not agree on the number of arbitrators, there shall be three arbitrators deciding in the arbitral proceedings.

#### **Section 8**

##### **Appointment of Arbitrator**

(1) The parties are free to agree on the arbitrator or arbitrators or on the additional appointment procedure of the arbitrator (arbitrators).

(2) If the parties do not agree on the arbitrator (arbitrators) or the procedure of appointing the arbitrator (arbitrators):

a) in an arbitration with three arbitrators, each party shall appoint one arbitrator and the two arbitrators thus appointed shall appoint the third arbitrator; if a party fails to appoint the arbitrator within 15 days of receipt of a request to do so from the other party, or if the two arbitrators fail to agree on the third arbitrator within 30 days of their appointment, the appointment shall be made, upon request of a party, by the court or the Selected Person,

b) in an arbitration with more than three arbitrators, the procedure under paragraph

(a) shall apply accordingly,

c) in an arbitration with a sole arbitrator, the arbitrator shall be appointed, upon request of a party, by the Selected Person or the court.

(3) No one is obliged to accept the role of an arbitrator. The appointed arbitrator must confirm his acceptance of the appointment in writing.

(4) 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. 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.

#### **Section 9**

##### **Challenge of an Arbitrator**

(1) The person appointed as an arbitrator shall without undue delay inform the parties about all facts that could disqualify him from hearing and deciding the matter if, having regard to his relationship to the merits or the parties, there may be doubts about his impartiality. From the moment of his appointment, an arbitrator shall have the same obligation during the arbitral proceedings, unless he has already informed the parties about such facts.

(2) A Party may challenge its appointed arbitrator, or an arbitrator on whose appointment they have participated, only for reasons of which they become aware after the appointment has been made.

(3) The parties are free to agree on a procedure for challenging arbitrators either in the agreement or later, but no later than the date of commencement of the arbitration. The parties may not agree to exclude the right under Subsection 5. Challenges in arbitration held at the permanent court of arbitration may be dealt with in

accordance with its rules, however, these may not exclude the right of a party to ask a court to decide on the unsuccessful challenge.

(4) If the parties do not agree on a procedure applicable to challenges against arbitrators, the party intending to challenge an arbitrator shall send a written notice of the grounds for the challenge to the arbitral tribunal within the 15 days following the day on which the party became aware of the circumstances under Subsection (1) or of the nonsatisfaction of conditions under Section 6(1). If the challenged arbitrator does not resign or if the other party does not agree with the challenge, it shall be decided, upon request of a party and within the 60 days following its delivery, by the arbitral tribunal.

(5) If a challenge of an arbitrator is unsuccessful or it is not decided within the time limit set by subsection 4, the challenging party may, within the 30 days following the delivery of the decision dismissing the challenge or after the lapse of the time period for deciding on the challenge under Subsection 4, request a court to decide on the challenge. A decision of the court dismissing the challenge of the arbitrator shall not be subject to appeal. While such a request is pending, the arbitral tribunal may continue the arbitral proceedings and render an award.

## **Section 10**

### **Termination of Office of Arbitrator**

(1) The mandate of an arbitrator terminates:

- a) upon his withdrawal from the office,
- b) upon his removal from the office,
- c) upon decision on a challenge under section 9 subsection 4,
- d) upon loss or restriction of his legal capacity,
- e) upon his death.

(2) If an arbitrator withdraws from his office, he shall perform all acts that cannot be delayed. An arbitrator shall withdraw from his office if a special Act does not allow him to act as arbitrator.<sup>5</sup>

(3) The parties may agree to revoke an arbitrator's mandate if he becomes unable to act (except where his mandate terminates under Subsection (1)(d)) or if he fails to act without undue delay for other reasons after having been notified about such a delay by the parties. Acceptance of the other party's challenge under Section 9(4) shall be considered an agreement on the arbitrator's dismissal. Parties to arbitration may agree that upon a request by one of the parties, a Selected Person may, based on the grounds in this Subsection, decide on the challenge of an arbitrator.

(4) If an arbitrator becomes unable to act (except where his mandate terminates under Subsection (1)(d)) or fails to act without undue delay for other reasons and does not withdraw from his office under Subsection (2) or he is not dismissed under Subsection (3), a party may request the court to terminate his mandate. This decision shall not be subject to appeal.

## **Section 11**

### **Appointment of Substitute Arbitrator**

(1) Where the mandate of an arbitrator terminates, a substitute arbitrator shall be appointed. The parties are free to agree on a procedure of appointing a substitute arbitrator.

(2) Failing such agreement, Section 8(2) shall apply accordingly.

## **CHAPTER FOUR**

### **PERMANENT COURT OF ARBITRATION**

#### **Section 12**

##### **Establishment of a Permanent Court of Arbitration**

(1) Only an economic interest organisation of legal persons, a civic association, a national sport association, the Slovak Olympic Committee or a chamber established by law may be the establishing entity of a permanent court of arbitration with the seat in the Slovak Republic.<sup>7b</sup> A legal person shall be obliged to establish and maintain at its own cost a permanent court of arbitration, if so required by special regulation.<sup>7c</sup>

(2) The establishing entity of a permanent court of arbitration shall issue the statute and the rules of procedure of that permanent court of arbitration. The establishing entity of a permanent court of arbitration shall publish the following in the Commercial Bulletins:

- a) that the permanent court of arbitration was established,
- b) that the permanent court of arbitration was terminated,
- c) the statute and the rules of procedure of that permanent court of arbitration, and any amendments.

(3) The establishing entity of the permanent court of arbitration shall publish the information under Subsection (2) within 30 days from the establishment or termination of the permanent court of arbitration or from any amendments under Subsection (2)(c).

(4) A permanent court of arbitration whose establishing entity fails to satisfy the obligation under Subsection 2(a) within the prescribed time may not conduct arbitral proceedings and issue awards until the day of publication of the information in the Commercial Bulletin. Unless the parties have agreed otherwise, an amendment to the statute or rules of arbitration is not effective before its publication in the Commercial Bulletin.

(5) The parties may agree to submit their dispute to a permanent court of arbitration. In such a case, unless the parties have agreed otherwise, the parties are deemed to have agreed on the rules of the permanent court of arbitration under Sections 13 and 14 as valid at the time of commencement of the arbitration.

(6) The establishing entity of the permanent court of arbitration shall always by 30 April of the following calendar year publish on its website a report on its activity for the previous calendar year. The report shall contain in particular the number of commenced, concluded and pending arbitrations, the overall number of parties to the proceedings, information as to how many of the parties participate or participated in more than one arbitration at the permanent court of arbitration, and a list of names of the appointed arbitrators in arbitrations in the relevant calendar year, together with information as to the total number of arbitrations in which the respective arbitrators have been appointed and the amount of fees paid by the parties to the permanent court of arbitration.

## **Section 12a**

### **Register of the Permanent Courts of Arbitration**

(1) The Ministry of Justice of the Slovak Republic (the "Ministry") shall maintain a register of permanent courts of arbitration on the basis of the information published in the Commercial Bulletin.

(2) The Ministry shall enter into the register of permanent courts of arbitration a permanent court of arbitration established by the establishing entity which published information in the Commercial Bulletin under Section 12(2).

(3) The Ministry shall publish the register of permanent courts of arbitration on its website and, at least once every three months, in the Commercial Bulletin.

## **Section 13**

### **Statute**

The statute of a permanent court of arbitration shall in particular stipulate the following:

a) the organisational structure of the permanent court of arbitration, including the method of election of its chairman and his competence,

b) the subject-matter competence of the permanent court of arbitration, which may not breach Section 1(a).

## **Section 14**

### **Rules of Procedure**

(1) The rules of arbitration of a permanent court of arbitration shall, in particular, stipulate the following:

a) the procedure to be followed by the permanent court of arbitration, including the procedure for appointment and dismissal of arbitrators,

b) the rules applicable to the costs of arbitration,

c) the rules of the settlement proceedings.

(2) In matters not regulated by the rules of procedure or matters not agreed in the arbitration agreement, the permanent court of arbitration shall follow the provisions of this Act.

## **Section 15**

### **List of Arbitrators**

(1) The permanent court of arbitration shall maintain a list of arbitrators acting in the permanent court of arbitration. Anyone can inspect the list.

(2) The permanent court of arbitration shall admit a person to the list of arbitrators if he satisfies the conditions of Section 6(1).

(3) The name and surname of the arbitrator shall be entered into the list of arbitrators of the permanent court of arbitration.

(4) The parties may also appoint as arbitrator a person who is not registered in the list of arbitrators.

**PART TWO**  
**ARBITRATION**  
**CHAPTER ONE**  
**CONDUCT OF ARBITRAL PROCEEDINGS**

**Section 16**

**Commencement of Arbitral Proceedings**

(1) Unless otherwise agreed by the parties, the arbitral proceedings in respect of a particular dispute commence:

- a) before the appointment of arbitrators, on the date upon which a request for arbitration is received by the respondent,
- b) if there is a panel of arbitrators, on the date of the delivery of the request for arbitration to the chairing arbitrator, and before his appointment, to any of the appointed arbitrators,
- c) if there is a sole arbitrator, on the date of delivery of the request for arbitration to that arbitrator,
- d) if the dispute is dealt with by a permanent court of arbitration, on the date of delivery of the request for arbitration to that permanent court of arbitration.

(2) Upon the commencement of arbitration, the parties shall become parties to the arbitral proceedings. The party submitting the request for arbitration (the "Request") shall be the claimant. The defending party shall be the respondent.

**Section 17**

**Equal Treatment of Parties in Arbitration**

The parties to arbitration shall be equal within the arbitral proceedings. Each party to arbitration shall be afforded the same opportunity to enforce and protect its respective rights.

**Section 17a**

**Challenge of procedural breach**

A breach of any provision of this Act which may be derogated from by agreement, or a breach of any arbitration agreement of the parties shall be taken into consideration only where the affected party raised an objection in the statutorily given or agreed time period: in the absence of any such time period, such breach shall only be considered without undue delay from the time when the affected party became aware of such breach.

**Section 18**

**Statement of Claim and Defence**

(1) The claimant shall submit a statement of claim specifying the following:

- a) identification data of the parties to arbitration, and their representatives (if applicable),
- b) a true account of material facts,
- c) evidence proposed by the claimant to be taken,
- d) identification of laws relied on by the claimant,
- e) the main request,
- f) a claimant's signature or claimant representative's signature.

(2) A copy of the arbitration agreement, the response by the arbitrator under Section 8(3) if already appointed, and evidence relied on by the claimant in its request for arbitration shall be attached to the statement of claim.

(3) If the statement of claim does not satisfy the requirements under Subsection (1) or is not accompanied by evidence under Subsection (2), the claimant may supplement the statement of claim within the time agreed by the parties to arbitration or, in the absence of such an agreement, within the time determined by the arbitral tribunal, if already constituted.

(4) Within the time agreed by the parties to arbitration or determined by the arbitral tribunal, the respondent shall submit its defence to the arbitral tribunal. If the arbitration does not take place at a permanent court of arbitration and before the constitution of the arbitral tribunal, the respondent shall submit its defence to the claimant. In its defence, the respondent shall comment on all facts and proposals set out in the statement of claim.

(5) Unless the parties to the arbitral proceedings agree otherwise, each of them may change or supplement its statement of claim or defence during the arbitral proceedings, unless the arbitral tribunal considers this change or supplementation to be inadmissible because it was made too late without giving sufficient reasons therefor.

(6) If the parties to arbitration have not agreed to pay an advance on the costs of the arbitral proceedings on a pro rata basis, the arbitral tribunal may request the claimant to pay the advance for the anticipated costs and determine an adequate time therefor. If the parties to arbitration jointly do not, or the claimant on the basis of

the decision of the arbitral tribunal does not, pay the advance within the specified time, the arbitral tribunal shall terminate the arbitral proceedings and notify the parties to arbitration to that effect.

#### **Section 19**

##### **Effects of Submission of Statement of Claim**

(1) Submission of the statement of claim to the arbitral tribunal (or its receipt by the other party to arbitration if the arbitral tribunal has not been yet constituted) shall have the same legal effects as if the statement of claim were filed with a court.

(2) Once the arbitral proceedings have commenced, a court or other arbitral tribunal cannot deal with, and decide on, the matter, except for situations stipulated by the statute on court proceedings.<sup>18</sup>

#### **Section 20**

##### **Counter-claim**

(1) The respondent may assert its rights against the claimant by a counter-claim filed on or before the commencement of the oral hearings in the matter. If no oral hearings are held, the respondent may assert its rights on or before the end of the written proceedings. The counter-claim may be used only in disputes covered by the arbitration agreement.

(2) Within the time agreed by the parties to arbitration or determined by the arbitral tribunal, the claimant shall file a response to the counter-claim. The content of the response must be clear about the claimant's position on the material factual and legal circumstances of the matter.

(3) The provisions applicable to the statement of claim (Section 18) shall apply accordingly to the requirements for a counter-claim, any schedules to it and the advance for the anticipated costs of the proceedings dealing with the counter-claim.

#### **Section 21**

##### **Ruling on Jurisdiction**

(1) The arbitral tribunal may rule on its own jurisdiction, including any objections with respect to the existence or validity of the arbitration agreement. If the arbitral tribunal concludes to have no jurisdiction to decide on the matter, it shall terminate the arbitral proceedings by resolution.

(2) A party to the arbitral proceedings that wants to challenge the jurisdiction of the arbitral tribunal for non-existence or invalidity of the arbitration agreement may do so within the arbitral proceedings upon or before the first act in the proceedings. This time limit shall not apply to any objections to the arbitration agreement for invalidity based on lack of arbitrability, or that the matter is subject to arbitration under a special law<sup>1a</sup>; this objection can be raised until the end of the oral hearings, and in written proceedings, until the making of the arbitral award. An objection that the issue in question falls outside of jurisdiction of the arbitral tribunal must be made by a party to arbitration immediately upon its becoming aware of the issue during the arbitral proceedings.

(3) An arbitral tribunal may allow a challenge as to the tribunal's lack of jurisdiction if the delay by a party to arbitration when raising the objection is justified by a cause considered sufficient by the arbitral tribunal.

(4) If an arbitral tribunal rules that it does have jurisdiction, it shall rule on the objection under Subsection (2) by an arbitral order or, unless the parties agree otherwise, in the arbitral award. If the arbitral tribunal rules by an arbitral order that it has jurisdiction, the party who raised the objection may, within 30 days of having received notice of that ruling, request the court to decide the objection. No remedy shall be admissible against the dismissal decision of the court on the objection. Pending the objection, the arbitral tribunal may continue the arbitral proceedings and make an award.

(5) If an arbitral tribunal determines that the matter shall be decided under special statute<sup>1a</sup>, it shall terminate the proceedings.

#### **Section 22**

##### **Interim Measures**

(1) Unless otherwise agreed by the parties to arbitration, the arbitral tribunal may upon a motion of a party grant an interim measure if: it is necessary to temporarily regulate relationships between the parties, there is a risk that the enforcement of an arbitral award might be prejudiced, or there is a risk that evidence might in the future be no longer available or only available under complicated circumstances. If the parties to the arbitration have not agreed otherwise, the permanent court of arbitration may order an interim measure even before the appointment of an arbitrator (arbitrators).

(2) Unless this Act states otherwise, the arbitral tribunal may order an interim measure only if the request for such measure was served upon the other party to arbitration and such party was provided with a sufficient time period for reply.

(3) By an interim measure the arbitral tribunal may, in particular, order a party to arbitration to:

- a) pay a deposit or place an asset into the court's custody,
- b) refrain from taking an action in relation to certain assets or rights,
- c) take action, refrain from taking an action or endure some measure,
- d) secure evidence.

(4) The arbitral tribunal may order the claimant to provide means to secure any loss that may occur as a result of the interim measure. If the claimant fails to provide means or advance on payment ordered by the arbitral tribunal within the stipulated time period, the arbitral tribunal shall dismiss the request for interim measure.

#### **Section 22a**

(1) If the parties to arbitration agree to that end, the arbitral tribunal may, upon the request from a party, order an interim measure without granting the other party the opportunity to submit its reply to such request. The request for the interim measure shall only be served upon the other party with the delivery of the decision on such a request.

(2) The interim measure issued under Subsection 1 is not an enforcement order as defined in a special law<sup>8b</sup>.

(3) The party against whom the interim measure is directed may, within 15 days of delivery of the decision on the interim measure issued under Subsection 1, submit objections. The submission of objections does not suspend the enforceability, unless the arbitral tribunal rules otherwise.

(4) The arbitral tribunal shall within 30 days from the submission of the objections decide to set aside, modify or affirm the interim measure issued under Subsection 1. If the interim measure was granted by a permanent court of arbitration before the appointment of an arbitrator (arbitrators), the arbitrator (arbitrators) shall, within 30 days from the appointment, decide on the objections. The decision affirming or modifying the interim measure issued under Subsection 1 is considered a decision granting an interim measure under Section 22.

#### **Section 22b**

(1) The interim measure shall cease to exist if

- a) the claim was dismissed on the merits,
- b) the claim was upheld on the merits and 30 days have passed from the time the award became enforceable
- c) the time limit for which it was issued has lapsed.

(2) The arbitral tribunal shall set aside the interim measure upon the request of a party, if the circumstances on which the measure was granted no longer exist.

(3) If the interim measure ceased to exist or it was set aside, due to a reason other than upholding the case on the merits, due to the claimant's claim having been satisfied or due to the basis on which the interim measure was granted ceasing to exist, then the claimant shall be obliged to compensate the other party for any loss resulting from the granted interim measure. The arbitral tribunal has jurisdiction to decide on the compensation, unless the parties have agreed otherwise.

#### **Section 22c**

(1) The interim measure issued by the arbitral tribunal shall, with the exception of an interim measure issued under Section 22a, constitute an enforcement order, execution of which shall be effected by separate legislation<sup>8b</sup>.

(2) An objection to enforcement, where the enforceable decision is an interim measure granted by an arbitral tribunal, shall also be upheld by the court if the obliged party satisfies the court that:

- a) the conditions for an interim measure by an arbitral tribunal under this Act or in accordance with the parties' agreement were not satisfied;
- b) the party that requested the grant of an interim measure failed to comply with the arbitral tribunal's order to provide security,
- c) the interim measure was set aside or modified.

(3) The relevant court for enforcement or execution of the award shall, even without motion, refuse to enforce an arbitral tribunal's interim measure if it finds that it is against the public order of the Slovak Republic.

#### **Section 22d**

(1) A party to arbitration may request the relevant court to set aside an interim measure if conditions for issuance of such measure under this Act or under the parties' agreement were not satisfied. The setting aside of an interim measure granted under Section 22a can be requested by a party if its objections under Section



22a(3) were unsuccessful. Sections 40(2) and 41 and 42 shall apply mutatis mutandis. The decision of a court dismissing an interim measure may be appealed. A binding and enforceable decision of a court dismissing an interim measure is binding on the arbitral tribunal.

(2) The court shall decide on a challenge to an interim measure without undue delay, but in any case within 30 days.

#### **Section 22e**

Sections 22a, 22b and 22d shall only be applicable to interim measures issued in arbitration proceedings where the place of arbitration is the Slovak Republic.

#### **Section 23**

##### **Place of Arbitration**

(1) The parties are free to agree on the place of arbitration. Failing such agreement, the place of arbitration shall be determined by the arbitral tribunal having regard to the circumstances of the case, including the interests of the parties. Any arbitral proceedings conducted at a permanent court of arbitration shall be subject to the provisions of the rules of procedure of that permanent court of arbitration regulating the place of arbitration.

(2) Notwithstanding the provisions of paragraph (1) of this article, the arbitral tribunal may, unless otherwise agreed by the parties, meet at any place it considers appropriate for consultation among its members, for hearing witnesses, experts or the parties, or for inspection of goods, other property or documents.

#### **Section 24**

##### **Language**

(1) If the parties fail to agree on the language (languages) to be used in the arbitral proceedings, it shall be determined by the arbitral tribunal. This agreement or determination shall apply to any written statement by a party, any hearing and any award, decision or other communication by the arbitral tribunal, unless this agreement or a decision of the arbitral tribunal states otherwise.

(2) The arbitral tribunal may order that any documentary evidence shall be accompanied by a translation into the language or languages under Subsection (1).

#### **Section 25**

##### **Service of Process**

(1) Unless otherwise agreed by the parties, any communication shall be deemed to be delivered if delivered to the addressee by hand or to its registered office, its place of business or the place of its permanent residence. If a communication cannot be delivered to the addressee to any of the above addresses despite reasonable efforts to establish the address, the communication shall be deemed to be delivered if sent to the last known registered office, place of business or place of permanent residence of the addressee by registered mail or other means that make it possible to verify the effort to deliver the communication.

(2) Unless otherwise agreed by the parties, the communication is deemed to have been received on the day it is delivered.

(3) A communication is deemed to be delivered under conditions set out in a special regulation<sup>8c</sup> even if delivered to an electronic mailbox.

(4) The provisions of Subsections (1) and (2) do not apply to communications in court proceedings.

#### **Section 26**

##### **Hearings and Written Proceedings**

(1) Unless the parties have agreed on the procedure of arbitration proceedings, the arbitral tribunal shall decide whether to hold oral hearings or conduct the proceedings in writing only. The arbitral tribunal shall hold such hearings at an appropriate stage of the proceedings, if so requested by a party, unless otherwise agreed by the parties.

(2) The parties are free to agree on the rules to be followed by the arbitral tribunal in conducting the proceedings unless this Act states otherwise. Failing such agreement, the arbitrator shall prepare and conduct the arbitration in such manner as he considers appropriate, always in a manner that preserves equality of the parties and the right of each party to act before the arbitral tribunal. Unless otherwise agreed by the parties, arbitral proceedings shall be closed to the public.

(3) A permanent court of arbitration shall prepare and conduct arbitration proceedings in accordance with the rules of arbitration (Section 14) applicable at the time of commencement of the arbitration. Unless this Act states otherwise, the permanent court of arbitration may provide in its rules of arbitration a different procedure

than provided in this Act. In doing so it must take into account the principle of equality of the parties and the right of a party to appear before the arbitral tribunal.

(4) When resolving their dispute, the parties shall cooperate with the arbitral tribunal. A party to arbitration shall attend the oral hearings either in person or via its representative. If the parties to arbitration have not been able to perform any required act properly and on time, the arbitral tribunal may allow them to do so later.

(5) A notice of each oral hearing and each meeting of the arbitral tribunal shall be delivered to the parties to arbitration with sufficient advance; when delivered to a party abroad, notice shall be delivered at least 30 days before the commencement of the oral hearing or meeting. All documents or other information submitted to the arbitral tribunal by one party shall be without undue delay communicated to all other parties. The content of the expert's report or a document that the arbitral tribunal may rely on in its decision-making shall also be communicated to all parties to the arbitral proceedings.

## **Section 27**

### **Evidence**

(1) The arbitral tribunal shall examine only the evidence proposed by the parties. The arbitral tribunal shall consider the selection and method of the taking of evidence based its potential possible benefit to the clarification of the dispute.

(2) The evidence shall be examined in a way that preserves any applicable duty of confidentiality relating to classified information under a special law and to other statutory or legally accepted confidentiality duties. In these circumstances a witness may only be examined if the relevant public authority or a person in whose interest the confidentiality exists waived this witness's duty of confidentiality. This applies accordingly in situations where evidence is examined otherwise than through witness examination.

(3) If the arbitral tribunal cannot secure the taking of evidence on its own, it may request a court to do so<sup>11</sup>. The arbitral tribunal shall order the party who proposed that specific piece of evidence to pay an advance towards the costs of the request to the requested court. The costs of the request, in the amount determined by the requested court, shall be part of the costs of arbitration.

(4) The results of the taking of evidence shall be evaluated by the arbitral tribunal impartially, at its discretion.

## **Section 28**

### **Appointed Expert**

(1) The arbitral tribunal may appoint an expert<sup>12</sup> (experts) if its determination depends on the assessment of facts that require professional knowledge. The expert shall submit an expert's report answering the questions asked by the arbitral tribunal.

(2) The arbitral tribunal may order a party to provide the expert with all material information, or to provide or make available all material documents or items, to provide the expert with necessary explanations, or to do something or tolerate something if the submission of the expert's report requires it.

(3) Unless otherwise agreed by the parties, if a party so requests or if the arbitral tribunal considers it necessary, the arbitral tribunal may request the expert to participate in a hearing where the parties have the opportunity to put questions to and request explanations from him.

## **Section 29**

### **Costs of Arbitral Proceedings**

Unless otherwise determined by the arbitral tribunal, the costs of the arbitral proceedings shall include (without limitation) disbursements of the parties and their legal representatives, costs of the taking of evidence, fees paid for the arbitral proceedings, remuneration paid to the arbitral tribunal and its disbursements, remuneration paid to the expert, remuneration paid to the interpreter and remuneration paid to the representative.

## **Section 30**

### **Default of a Party**

(1) If the statement of claim does not satisfy the requirements of Section 18(1) or has not been supplemented within the time in accordance with Section 18(3), the arbitral tribunal shall terminate the proceedings.

(2) If the respondent fails to communicate his statement of defence in accordance with Section 18(4), the arbitral tribunal shall continue the proceedings without treating such failure as an admission of the claimant's allegations.

(3) If a party who has been duly informed about the time and place of the arbitral proceedings fails to appear at a hearing or to produce documentary evidence, the arbitral tribunal may continue the proceedings and make the award on the basis of evidence before it.

## **CHAPTER TWO**

## **ARBITRAL AWARD**

### **Section 31**

#### **Governing Law and its Assessment**

(1) In disputes arising out of a legal relationship with an international element (commercial or civil), the arbitral tribunal shall decide in accordance with the rules of law agreed by the parties. Unless otherwise agreed by the parties, each agreement on the governing law shall be deemed to be an agreement on the substantive law of a country to the exclusion of its conflict of laws rules. If the parties fail to agree on the governing law in legal relationships with an international element (commercial or civil), the arbitral tribunal shall decide the dispute in accordance with the rules of law determined by the conflict of laws rules that it considers appropriate.

(2) The arbitral tribunal shall decide disputes arising out of a domestic legal relationship always in accordance with the rules of law agreed by the parties, to the extent acceptable by the conflict of laws rules applicable in the Slovak Republic<sup>13</sup>. Unless otherwise agreed by the parties, each agreement on the governing law shall be deemed to be an agreement on the substantive law of a country to the exclusion of its conflict of laws rules. If the parties fail to agree on the governing law, the tribunal shall decide the dispute in accordance with the legal system chosen by the conflict of laws rules applicable in the Slovak Republic.

(3) The arbitral tribunal shall decide in accordance with the terms of the parties' contract and shall take into account the business practices applicable to the dispute, the principles of fair business conduct and good manners.

(4) The arbitral tribunal may decide a commercial legal dispute *ex aequo et bono* or as *amiable compositeur* only if the parties have expressly authorised it to do so.

### **Section 32**

#### **Decision making by a panel of arbitrators**

(1) In arbitral proceedings with more than one arbitrator, any decision of the arbitral tribunal shall be made by a majority of its members.

(2) If an arbitrator does not attend the voting on the arbitral award, the other arbitrators may decide without him. In the case of a tied vote, the presiding arbitrator shall have the casting vote.

(3) An arbitral award shall be signed by all arbitrators. If an arbitrator refuses to sign the arbitral award or does not sign it for another reason, the arbitral award shall say so, together with the reason why the arbitrator did not sign the arbitral award.

(4) The arbitrator who was outvoted by other arbitrators may attach his dissenting opinion to the arbitral award and provide reasons for the dissent.

(5) Questions of procedure may be decided by the chairman, if so authorised in writing by all members of the arbitral tribunal.

### **Section 33**

#### **Award**

(1) The arbitral tribunal shall issue the award:

- a) if deciding on the merits,
- b) on the basis of a settlement reached by the parties.

(2) The arbitral tribunal must decide in the arbitration on every request specified in the statement of claim or counter-claim or made later during the proceedings but may not act in excess of the claims made. The arbitral tribunal may issue a partial award on jurisdiction or on the substance of the claim, but when doing so it must state in the operative part of the award that it is a partial award.

### **Section 34**

#### **Form and Contents of Award**

(1) Awards shall be made in writing.

(2) Arbitral awards shall state:

- a) the identification of the arbitral tribunal,
- b) names and surnames of arbitrators,
- c) identification of the parties and their representatives by their names and surnames or business names (as appropriate), or by their designations,
- d) the place of arbitration (Section 23),
- e) its date,
- f) the verdict,

g) the reasons upon which it is based, unless the parties have agreed that no reasons are to be given or the award is an award on agreed terms (Section 39),

h) advice that a petition to set aside the award can be filed with a court.

(3) If the place of arbitration is the Slovak Republic and unless the parties otherwise agreed, every award made within the arbitral proceedings shall be deemed to be made at that place in the Slovak Republic regardless of the place of its signing, dispatch or delivery to the parties.

(4) In addition to the ruling on the matter, an award shall also state the information about the amount of costs of the arbitral proceedings and select the party obliged to pay them, or the ratio of their distribution among the parties. After the main award is issued an arbitral tribunal may decide on costs of arbitration in a separate award. If an award stipulates an obligation to perform something, the arbitral tribunal shall also specify the applicable time to do so.

### **Section 35**

#### **Effects of Arbitral Award**

An arbitral award that has been delivered and is no longer reviewable under Section 37 shall have the same effects for the parties as a final court judgment. An effective final award imposing an obligation to make a statement of will shall substitute such declaration of will.

### **Section 36**

#### **Correction and Interpretation of Awards**

(1) Any writing and calculation errors as well as other manifest irregularities in written counterparts of awards shall be corrected by the arbitral tribunal on its own motion or upon request of a party within 60 days of its effectiveness. The corrected arbitral award shall be delivered to all parties.

(2) Every party may request the arbitral tribunal to interpret a part of the award within 30 days of its delivery.

### **Section 37**

#### **Review of Arbitral Awards**

(1) The parties may agree in the arbitration agreement that, at the request of a party, the award may be reviewed by another arbitrator (arbitrators). The provisions of Sections 6 to 11 apply to the appointment of this arbitrator (arbitrators) accordingly. If the parties do not agree in the arbitration agreement that the award is subject to review, its review by another arbitrator (arbitrators) shall be ruled out, unless this Act provides otherwise.

(2) A party may submit a request for review of the award within 15 days of its delivery to that party.

(3) When reviewing the award, the procedure under Sections 16 to 36 and Section 39 shall apply accordingly.

### **Section 38**

#### **Arbitral Orders**

(1) Unless this Act provides otherwise, the arbitral tribunal shall decide by arbitral orders. Decisions to be made by an arbitral order shall include, without limitation, those on: the terms of the arbitral proceedings, changes or supplementations of the statement of claim or defence, the power to decide on the merits, the issuance of an interim measure, the termination of the arbitral proceedings and the matters affecting the conduct of the arbitral proceedings.

(2) The provisions of Sections 32 to 37 shall apply to arbitral orders accordingly.

### **Section 39**

#### **Settlement**

(1) If, during arbitral proceedings, the parties settle a dispute, the arbitral tribunal shall terminate the proceedings and, if requested by the parties and not objected to by the arbitral tribunal, record the settlement in the form of an arbitral award on agreed terms.

(2) An award on agreed terms shall be made in accordance with the provisions of Sections 33, 34 and 36 and shall state that it is an award. Such an award has the same effect as any other award on the merits of the case.

## **CHAPTER THREE**

### **SETTING ASIDE OF AN AWARD**

#### **Section 40**

##### **Grounds for setting aside**

(1) A domestic arbitral award may be set aside by a relevant court only upon a request by a party against another party if:

a) the party to the arbitration proves that:

1. it did not have the capacity to enter into the arbitration agreement, the said arbitration agreement was not entered into in accordance with the law to which the parties have by agreement subjected it, or failing such agreement, under the law of the Slovak Republic,
  2. it was not given proper notice of the appointment of arbitrator, of the arbitration proceedings or it was unable to participate in the arbitration proceedings,
  3. the arbitral award deals with a matter for which there was no arbitration agreement concluded or which does not fall within the terms of the arbitration agreement, or the arbitral award oversteps the scope of the agreement on arbitrator or the scope of the arbitration agreement; if sections of the arbitral award on matters submitted to arbitration can be separated from those not so submitted, the court shall only set aside the affected sections of the arbitral award,
  4. the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties or, in the absence of such agreement, was not in accordance with provisions of this Act, in case this could have had an impact on the decision on the merits, or
- b) the court finds that there exist grounds for which recognition and enforcement of a foreign award would be rejected even without motion of a party under Section 50(2) of this Act.
- (2) The court shall upon a claim to set aside an award always examine whether there are reasons for setting aside the award under Subsection 1(b).
- (3) When a party files a claim with the court having jurisdiction, the challenged award shall remain final. The court deciding on the action may, at the request of a party to the proceedings, suspend the enforceability of the arbitral award.
- (4) The court shall not take into account reasons to set aside an arbitral award under Subsection 1(a), if the affected party has not raised them in the arbitration within the prescribed time period or otherwise without undue delay.

#### **Section 41**

##### **Time to Make Application for Setting Aside**

An application for setting aside may be made within 60 days from the date on which the party making that application has received the award. If a party has requested that an award be corrected under Section 36, the time shall commence upon delivery of the decision to correct the award.

#### **Section 42**

##### **No Application for Setting Aside**

The parties may not exclude by agreement the provisions of this Act providing for the setting aside of an arbitral award.

#### **Section 43**

##### **Procedure After Setting Aside**

(1) If the court sets aside an arbitral award for reasons of invalidity of the arbitration agreement or due to the dispute not being capable of being resolved in arbitration, it shall continue with the proceedings on the merits to the extent specified in the statement of claim or the counter-claim.

(2) If the court sets aside an arbitral award for reasons other than those set out in Subsection (1), the arbitral agreement shall remain valid. The arbitrators involved in the making of the award that was set aside shall be disqualified from the rehearing and decision on the matter. Unless otherwise agreed by the parties, new arbitrators shall be appointed pursuant to Section 8.

### **CHAPTER FOUR**

#### **ENFORCEMENT OF A DOMESTIC AWARD**

##### **Domestic Awards**

#### **Section 44**

(1) Arbitral awards made in the territory of the Slovak Republic are domestic arbitral awards.

(2) Upon the expiry of the time period for its performance in the Slovak Republic, a final domestic arbitral award shall be enforceable pursuant to special regulations.<sup>15</sup>

### **CHAPTER FIVE**

#### **RECOGNITION AND ENFORCEMENT OF A**

#### **FOREIGN AWARD**

##### **Foreign Arbitral Award**

#### **Section 46**

(1) For the purposes of this Act, an arbitral award made in the territory of a country other than the Slovak Republic that contains a ruling on the merits shall constitute a foreign arbitral award.

(2) Foreign arbitral awards may be recognised and enforced in the Slovak Republic under the terms stipulated by this Act.

#### **Section 47**

(1) The party applying for recognition and enforcement of a foreign arbitral award shall attach to the written application the original foreign arbitral award or its certified copy and the original arbitration agreement or its certified copy.

(2) If the foreign arbitral award or the arbitration agreement is not made in the official language of the Slovak Republic, the party shall provide for its official translation into such language.

#### **Section 48**

If an application for setting aside a foreign arbitral award has been made abroad, the court in the Slovak Republic may, at the request of the party who made the application, suspend the enforceability of that award.

#### **Section 49**

(1) Foreign arbitral awards need not be recognized by special decisions. A foreign arbitral award is considered recognised once the court having jurisdiction to enforce or to perform execution takes notice of the award as if it were a domestic arbitral award.

(2) Foreign arbitral awards shall be enforced in the territory of the Slovak Republic as domestic arbitral awards.

(3) Recognition of a foreign arbitral award which does not need to be enforced shall be effected by a court order and delivered to the claimant only. Recognised foreign arbitral awards shall have the same effect as domestic arbitral awards.

#### **Section 50**

(1) The court may refuse recognition and enforcement of a foreign arbitral award at the request of the party against whom it is invoked only if that party proves to the competent court where recognition or enforcement or execution is sought that:

a) it did not have the capacity to enter into the arbitration agreement, the arbitration agreement was not concluded in accordance with the law to which the parties have subjected it or, failing such agreement, under the law of the country where the award was made,

b) it was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was unable to present its case,

c) the award deals with a dispute not contemplated by or not falling within the terms of the arbitration agreement, or the award oversteps the scope of the agreement on arbitrator or the scope of the arbitration agreement. If the parts of the foreign arbitral award on matters submitted to arbitration can be separated from those not so submitted, the court may only recognise and enforce the part of the award that contains the decision on matters submitted to arbitration,

d) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties or, in the absence of such agreement, was not in accordance with the law of the country where the arbitration took place, provided that it could have had an impact on the decision on the merits of the case, or

e) the award has not yet become binding on the parties or has been set aside or suspended by a court of the country in which, or under the law of which, that award was made.

(2) The court having jurisdiction to recognise, enforce or perform execution shall refuse to recognise and enforce a foreign arbitral award even if not requested to do so by the party against whom the foreign arbitral award is sought to be enforced if it discovers that, under the laws of the Slovak Republic, the substance of the dispute cannot be arbitrated or that its recognition and enforcement would be against public policy.

(3) A court having jurisdiction to recognise, enforce or perform execution shall always give reasons when deciding to refuse recognition or enforcement of a foreign arbitral award.

(4) Appeal shall be allowed against court decisions refusing recognition and enforcement of foreign arbitral awards.

### **PART THREE**

## **JOINT, TRANSITORY AND FINAL PROVISIONS**

### **Joint Provisions**

#### **Section 51**

- (1) The subject matter and local jurisdictions of courts and the proceedings held before them shall be subject to the provisions of the general regulation on the conduct of court proceedings<sup>18</sup>.
- (2) Courts shall decide by resolutions, unless the general regulation on the conduct of court proceedings<sup>18</sup> provides that decisions shall be made by judgments.
- (3) If an issue relating to proceedings cannot be resolved under this Act, the provisions of the general court proceedings regulation<sup>18</sup> shall apply if appropriate under the circumstances.

#### **Section 52**

- (1) The founding entity of a permanent court of arbitration established under the hitherto valid regulations shall amend its statute and rules of procedure under this Act on or before 31 October 2002. The provisions of Section 12(3) shall apply accordingly.
- (2) A permanent court of arbitration which fails to satisfy the obligation under Subsection (1) may not from 1 November 2002 conduct arbitral proceedings and make arbitral awards until the day of publication in the Commercial Bulletin of its statute and the rules of arbitration amended in accordance with this Act.

#### **Section 52a**

- (1) On or before 1 February 2006, the Ministry shall enter into the register of permanent courts of arbitration those permanent courts of arbitration that were composed by the authorities who published information in the Commercial Bulletin in accordance with this Act on or before 31 December 2005.
- (2) For the first time, the Ministry shall publish the register of permanent courts of arbitration in the Commercial Bulletin on or before 1 March 2006.

#### **Section 53**

The provisions of this Act shall apply unless an international treaty binding on the Slovak Republic and incorporated into the laws of the Slovak Republic provides otherwise<sup>19</sup>.

#### **Section 54**

##### **Transitory Provisions**

- (1) Any disputes regarding the validity of an arbitration agreement and setting aside of an arbitral award that are pending at the court and have not been finally concluded before the date this Act takes effect shall be heard and concluded by the courts having jurisdiction under the hitherto valid regulations.
- (2) Where an arbitration agreement was entered into before the effectiveness of this Act and where the arbitral proceedings in disputes covered by it have not been validly concluded before the date this Act takes effect shall be subject to the hitherto valid regulations.
- (3) The requirements for arbitration agreements and the appointment of arbitrators in litigation commenced before the date this Act takes effect shall be subject to the hitherto valid regulations.

#### **Section 54a**

##### **Transitory Provisions for Regulations Effective from 1 July 2009**

The provisions of this Act shall apply also to any proceedings commenced before 1 July 2009.

#### **Section 54b**

##### **Transitory Provisions for Regulations Effective from 1 January 2015**

- (1) The provisions of this Act shall also apply to any arbitration commenced before 1 January 2015.
- (2) A permanent court of arbitration established before 1 January 2015 shall, within the three months following the day on which this Act becomes effective, meet the conditions stipulated by this Act for a permanent court of arbitration established after 31 December 2014.
- (3) If the arbitration agreement refers to a permanent court of arbitration established under the previous regulations, whose original founding entity from 1 January 2015 does not meet the conditions stipulated by this Act for the founding entity of a new permanent court of arbitration and if the original founding entity becomes a member of another founding entity of a new permanent court of arbitration, in order to meet these conditions, the arbitration agreement is deemed to refer to the new permanent court of arbitration established under this Act by the other founding entity. This does not apply if the parties to the arbitration agreement agree after 31 December 2014 otherwise, or if any of the parties submits a claim with a court prior to submitting a claim with the new permanent court of arbitration.

#### **Section 55**

##### **Annuling Provisions**

Act of the National Council of the Slovak Republic No. 218/1996 Coll. on Arbitration, as amended by Act No. 448/2001 Coll., shall be annulled.

## **Section 56**

### **Effectiveness**

This Act shall become effective on 1 July 2002.

Act No. 521/2005 Coll. became effective on 1 January 2006.

Act No. 71/2009 Coll. became effective on 1 July 2009.

Act No. 336/2014 Coll. became effective on 1 January 2015

### **Endnotes**

1 Section 585 of the Civil Code as amended by Act No. 509/1991 Coll.

1a Act No. 335/2014 Coll. on Consumer ADR and on amendment of

2 Section 9 and 201 of the Code of Civil Procedure

3 Section 96(1) and (2) and Section 208 of the Code of Civil Procedure

3a E.g. Section 115 of the Commercial Code

5 E.g. Constitutional Act No. 357/2004 Coll. on Protection of Public Policy in the Course of Public Officials' Duties, Act No. 385/2000 Coll. on Judges and Lay Judges, Amending and Supplementing Certain Acts, as amended, Section 14(1) of the Code of Civil Procedure.

6 Section 3(2) of the Act No. 323/1992 Coll. on Notaries (Notarial Code).

7 E.g. Section 124 of the Code of Civil Procedure, Section 129(2) of the Code of Criminal Procedure.

7b E.g. Act No. 9/1992 Coll. on chambers of commerce and industry, as amended.

7c E.g. Section 90 of the Act No. 492/2009 Coll. on payment services

8 Decree of the Government of the Slovak Republic No. 42/2004 Coll. on Commercial Gazette as amended by the Decree No. 76/2005 Coll.

8b) Act No. 233/1995 Coll. on court bailiffs and enforcement of judgments (the Code of Civil Enforcement of Judgments) as amended.

8c Act No. 305/2013 Coll. on e-Government as amended by Act No. 214/2014 Coll.

9 Section 41(2) of the Act No. 233/1995 Coll. on court bailiffs and enforcement of judgments (the Code of Civil Enforcement of Judgments) as amended.

11 Sections 39 and 40 of the Code of Civil Procedure

12 Act No. 382/2004 Coll. on Experts, Interpreters and Translators, Amending and Supplementing Certain Acts.

13 Act No. 97/1963 on Private International Law as amended.

Regulation (EC) No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations (Rome II) (OJ L 199, 31.7.2007)



Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) (OJ L 177, 4.7.2008)

13b Section 53(4) of the Civil Code

13c Sections 7 and 9 of the Act No. 250/2007

14 Sections 228 to 235 of the Code of Civil Procedure

15 Section 41(2) of the Act No. 233/1995 Coll. on court bailiffs and enforcement of judgments (the Code of Civil Enforcement of Judgments) as amended.

18 Code of Civil Procedure.

19 E.g. Decree of the Minister of Foreign Affairs No. 74/1959 Coll. on the [New York] Convention

on the Recognition and Enforcement of Arbitral Awards, Decree of the Minister of Foreign Affairs

No. 176/1964 Coll. on the European Convention on International Commercial Arbitration.

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### **Code of Civil Procedure Applicable until 30 June 2016**

#### **Section 106**

(1) As soon as the court ascertains that the matter involving the objection of the defendant raised not later than when the first act of the defendant in the same matter is to be tried in the arbitration proceedings, in accordance with the contract by and between the participants, it shall not be authorised to try the matter any further and shall halt the proceedings; however, the court shall try the matter if the participants declare that they waive the contract, if approval of the foreign arbitration decision has been denied in the Slovak Republic, if it is a consumer arbitration contract and consumer arbitration proceedings have not yet been initiated in the matter<sup>10b</sup>, or if the court finds out that under the law of the Slovak Republic the matter cannot be subject to an arbitration contract or that the arbitration court has refused to discuss the matter.

(2) If the proceedings before the court pursuant to Subsection 1 are halted and a proposal for initiating arbitration proceedings has been filed in the same matter, the legal effects of the original proposal shall remain if the proposal for initiating the arbitration proceedings is filed within 30 days after the court's resolution on the termination of proceedings took effect. If the proceedings before the arbitration court have been stopped due to its lack of competence or if a decision on the lack of competence of the arbitration court has been rendered in proceedings under a special Act<sup>10c</sup>, the legal effects of the action filed with the arbitration court shall continue to apply if a proposal for initiating the proceedings before the court is filed within 30 days after the decision of the arbitration court on the termination of arbitration proceedings took effect or after the court's decision that the arbitration court is not competent took effect.<sup>10c</sup>

(3) The court shall stop the proceedings on a petition for determination of non-existence, invalidity or discharge of an arbitration contract if the defendant proves that he/she has filed a proposal for initiating the arbitration proceedings and such proceedings are underway; this shall not apply to matters concerning a consumer arbitration contract.

#### **Endnotes**

10b Act No. 335/2014 Coll. on consumer arbitration proceedings and on alteration and amendment of certain Acts.

10c Section 21 Subsection 4 of Act No. 244/2002 Coll. on arbitration as amended.

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### **Code of Civil Litigation Applicable from 1 July 2016 Jurisdiction of the Arbitral Tribunal**

#### **Section 5**

(1) Based on an objection of the defendant filed no later than with the first procedural act, to which it is entitled, the court shall examine, if the dispute is to be heard and decided in arbitration proceedings.

(2) An objection raised later shall not be considered by the court.

#### **Section 6**

(1) If the court, based on an objection of the defendant filed no later than with the first procedural act, ascertains that the dispute is to be heard and decided in arbitration, the court shall stay the proceedings.

(2) If pursuant to Subsection 1 the proceedings have been stayed and if the same statement of claim has been filed with the arbitral tribunal within 30 days after the court's resolution on the termination of proceedings took effect, the legal effects of the original statement of claim shall continue to apply.

(3) If the proceedings before the arbitral tribunal have been stayed due to lack of jurisdiction or if a decision on the lack of jurisdiction of the arbitral tribunal has been rendered in proceedings under a special Act, the legal effects of the statement of claim filed with the arbitral tribunal shall continue to apply if the statement of claim is filed within 30 days after the decision of the arbitral tribunal on the termination of arbitration proceedings took effect or after the court's decision that the arbitral tribunal does not have jurisdiction took effect.

#### **Section 7**

(1) The court shall not consider the objection of the defendant and shall hear and decide the dispute, if the parties declare that they waive the contract to arbitrate, or if recognition of the foreign arbitration award has been refused in the Slovak Republic. The court shall state the reasons for not considering the objection in the final decision in the proceedings.

(2) The court shall also proceed under Subsection 1, if it finds that the dispute cannot be subject to an arbitration agreement or that the arbitration court has refused to hear the case.

#### **Section 8**

(1) If the arbitration proceedings have been initiated earlier than the court proceedings, the court shall of its own motion suspend the proceedings, until the decision in arbitration proceedings on the jurisdiction or merits is made.

(2) The court shall stay the proceedings if a final decision that the dispute shall be heard and decided in arbitration has been made.