The Legal 500 Country Comparative Guides

Serbia: International Arbitration

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

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

   The Law on Arbitration adopted in 2006 applies to the arbitration proceedings if the seat of arbitration is in Serbia. There are few mandatory provisions that cannot be waived by the parties, such as right to set aside the arbitral award. Otherwise, the Law on Arbitration provides for the flexibility for the parties to tailor their arbitration proceedings and if the parties did not agree expressly on some point of the arbitration proceedings, the Law on Arbitration is applied as default rule.

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

   Yes – Serbia is one of the contracting states of the New York Convention. In fact, former Yugoslavia acceded to the New York Convention in 1982, while Serbia confirmed that it remains a party to the convention in 2001. There are three reservations extended by former Yugoslavia and confirmed by Serbia:

   "1. The Convention is applied in regard to the Federal Republic of Yugoslavia only to those arbitral awards which were adopted after the coming of the Convention into effect. 2. The Federal Republic of Yugoslavia will apply the Convention on a reciprocal basis only to those arbitral awards which were adopted on the territory of the other State Party to the Convention.

   3.. Federal Republic of Yugoslavia will apply the Convention [only] with respect to the disputes arising from the legal relations, contractual and non-contractual, which, according to its national legislation are considered as economic."

   In a later declaration dated 28 June 1982, *the Government of Yugoslavia had specified that "the first reservation only constituted an affirmation of the legal principle of retroactivity and that the third reservation being essentially in accordance with article I (3) of the Convention, the word "only" was therefore to be added to the original text and note taken that the word "economic" had been used therein as a synonym for "commercial"".*

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

   Serbia is signatory of the « European Convention on International Commercial Arbitration » of 1961, the «Geneva Protocol on Arbitration Clauses » of 1923, the «Geneva Convention on the Execution of Foreign Arbitral Awards » of 1927 and the « ICSID Convention» of 1966.

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

   Serbia adopted the Law on Arbitration in 2006 and it is applicable to arbitration proceedings

with a seat in Serbia. The law is based on the UNCITRAL Model Law, as presented also on the web page of UNCITRAL. If one analyses these two acts, it can be concluded that the main principles are the same, while the Serbian act has some additions, for example: the number of arbitrators must be odd; there is a time frame to appoint arbitrators; there are some additional grounds for setting aside of the award related to the false witness or expert reports, forged documents or award being based on criminal acts by arbitrators or parties, under the condition that this is confirmed by a court decision.

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

   There are no published plans to reform the arbitration laws in Serbia.

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

   There are two major arbitral institutions in Serbia:

   The Permanent Arbitration at the Chamber of Commerce and Industry of Serbia ("PA") – was established following the reorganization of two institutions, which existed at the Chamber of Commerce and Industry of Serbia – The Foreign Trade Court of Arbitration (which had jurisdiction in international disputes) and the Permanent Court of Arbitration (which had jurisdiction in domestic disputes).

   The Foreign Trade Court of Arbitration was founded as a permanent arbitration institution by the Regulation of the Chamber of Commerce in former Yugoslavia in 1946 and during the economic rise of the former Yugoslavia in the 1980's it administered over 300 disputes per year, according to the information from its web site. The first Rules of the Permanent Court of Arbitration were enacted in 1966, providing for resolution of domestic cases by arbitration. The PA now administers both domestic and international commercial disputes. The most recent version of the Rules of the PA were adopted on 8 December 2016.

   Belgrade Arbitration Center ("BAC") – is a permanent arbitral institution that administers domestic and international disputes, assists in technical and administrative aspects of ad hoc arbitral proceedings and was established by the Serbian Arbitration Association ("AA"). The AA is a non-governmental and non-profit association of legal professionals (attorneys, university professors and lecturers, judges and commercial lawyers in Serbia with expertise in domestic and international arbitration). BAC and the Serbian Arbitration Association were founded in 2013. BAC Rules are in force from 1 January 2014 and remain unchanged since.

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

   There is no specialist arbitration court in Serbia. The regular commercial courts deal with

the recognition and enforcement of arbitral awards, as well as set aside proceedings.

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

   The Law on Arbitration states that the arbitration agreement must be in written form, which condition is satisfied if the arbitration agreement is contained in a document signed by the parties. However, if the parties exchanged communication by means of communication that provides written evidence of the agreement of the parties, the arbitration agreement is considered valid, notwithstanding whether it is signed or not. The arbitration agreement is deemed concluded if the parties referred to another document such as general terms or other contract, if the purpose of such referral was that the arbitration agreement becomes part of the contract.

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

   According to the wording of the Law on Arbitration, arbitration clauses are considered as separate contracts, which can be included in the text of the main contract. Therefore, the principle of separability is expressly emphasized in the law itself and is confirmed by case law in Serbia.

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

    There is no such court practice. However, it is not impossible that the courts support this principle, as the governing law of the arbitration agreement is not necessarily the same as the law governing the main agreement.

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

    Only the rules of arbitral institutions provide some guidelines in this respect. For example, BAC rules state: “Where the parties have submitted to the BAC separate statements of claim arising out of the same or different legal relationships, and they are to be resolved pursuant to the Rules, the Secretariat shall seek to have the proceedings consolidated and the claims resolved by a single arbitral tribunal if such consolidation is expedient given the subject matter of the claims”. The PA Rules state: “When the parties have submitted to the Arbitration multiple statements of claim against each other which arise out of the same or different legal relationships, the Secretariat of the Arbitration shall seek to join the proceedings concerning these claims and to have them decided by the same arbitral tribunal, for the purpose of efficiency of proceedings.”

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

    The arbitration agreement remains valid in case of assignment (cessation) of the contract or claim, or other cases of transfer of claim, unless otherwise agreed. In addition, the arbitration agreement remains valid in case of subrogation. Besides stated instances, there is no application of the principles of the group of companies doctrine or piercing of corporate veil in respect of an arbitration agreement.

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

    Yes, there are types of dispute that are non-arbitrable, those being ones that are designated by material laws as such, i.e. for which exclusive jurisdiction of the courts is provided for. For example, the Conflict of Laws Act provides that the courts have exclusive jurisdictions over disputes related to ownership or other in rem rights over real estate, lease of real estate or apartments or business premises, if the real estate is located in Serbia. Family matters, inheritance and status matters are generally in the exclusive jurisdiction of the courts. In some instances, labour disputes and consumer protection disputes can be resolved through arbitration, usually only when the dispute arises.

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

    The Conflict of Laws Act provides that the parties are free to determine the law applicable to their contractual relation. When the court or arbitration applies a foreign law, it shall apply the substantive law of a foreign country and not the conflict of laws provisions, unless otherwise provided by the parties. If the parties did not stipulate the substantive law, the arbitral tribunal shall determine substantive law based on the Conflict of Laws Act, which has set of rules that are conceived depending on the type of contractual relationship. In other cases, i.e. non-contractual relations, the Conflict of Laws Act provides for a set of rules which law shall govern different legal situations and relations that are based on prescribed criteria in the law itself.

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

    No, UNIDROIT or any other transnational principles as the substantive law have not been applied by the courts in Serbia.

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

    There are no extensive restrictions – the arbitrator can be any person that has legal capacity.

This means that there are no restriction based on citizenship, profession, age, etc., with one exception, the arbitrator cannot be a person sentenced to an unconditional prison sentence, while the consequences of the sentence are in force. The parties may determine the criteria for the appointment of arbitrators in their arbitration agreement or during the process of selection of the arbitrators. In case of more arbitrators, their number cannot be even.

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

Yes – the Law on Arbitration contains default rules that apply in case the parties did not agree on the selection of a tribunal. For example, if the dispute is to be settled by a single arbitrator, the same shall be appointed by agreement of the parties within 30 days of the date on which one party invites the other party to jointly appoint an arbitrator. If there is no such agreement, the appointment is made by the appointing authority, and if that authority does not exist or does not do so, the appointment is made by the competent court. If the dispute is to be settled by three arbitrators, each party shall appoint one arbitrator within 30 days of the date on which the other party invites it to do so. If the invited party fails to do so, the appointing authority designated by the parties appoints the arbitrator, and if that authority does not exist or fails to do so, the appointment shall be made by the competent court. The appointed arbitrators shall elect the third arbitrator, who presides over the arbitral tribunal, within 30 days from the date of their appointment. If (s) he is not elected, the appointing authority makes the appointment, and if that authority does not exist or does not do so, the appointment is made by the competent court. Similar rules are provided in the Rules of the PA and BAC, which shall apply in all cases when the parties opted for their application and did not provide a method for selection of the arbitrators different from the one provided in the rules.

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

Yes, as stated in question no. 17, where the parties did not agree on the application of the rules of the permanent arbitral institution and there is no agreed appointing authority, the local court can appoint arbitrators and the president of the arbitral tribunal.

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

The arbitrators can be challenged only if there are facts, which may justifiably cast doubt on their impartiality or independence, or if they do not meet the criteria established by agreement between the parties. A challenge must be made within 15 days after the party became aware of the reasons for the challenge or from the date of receipt of the notice of the arbitrator’s appointment and will be decided by the arbitral institution, or if there is no arbitral institution administering the arbitration, by the local court.

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

There were no recent developments concerning the duty of independence and impartiality of the arbitrators.

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

The Law on Arbitration provides some solution in relation to cases of "truncated tribunal". For example, the parties may agree on the recall of the arbitrator if he is no longer able to perform his duty for practical or legal reasons, including reasons related to challenge, or if he fails to perform his duty within a reasonable time. If the parties do not agree to revoke the arbitrator, the party who considers that the arbitrator is no longer able to perform his duty or fails to perform his duty within a reasonable time, may request from the permanent arbitral institution or, in the case of ad hoc arbitration, from the competent court to make a decision on termination of duties of an arbitrator. In such case, the new arbitrator shall be appointed based on the initial rules on appointment. However, in case of challenge, according to the Law on Arbitration, the arbitral tribunal may continue the arbitral proceedings and render an arbitral award even though the challenge proceedings are pending. This rule is not contained in the Rules of the PA or BAC.

22. **Are arbitrators immune from liability?**

There are no specific rules on civil liability of arbitrators nor case law. Therefore, their liability can be based on general principles of civil liability, as is the case for any person performing any kind of service. However, arbitrators are considered as "civil servants" per Criminal Code and for some criminal offenses can be punished more severe than others can, i.e. regular persons can.

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

The principle of competence-competence is recognized in Serbia. According to the Law on Arbitration and Rules of PA and BAC, the arbitral tribunal may decide on its jurisdiction, including deciding on an objection to the existence or validity of an arbitration agreement. This principle is also recognized in case law.

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

The case law of the local courts is clear on this matter and upon the opposing party's objection, which must be submitted before entering into the merits of the case, the court will declare itself incompetent, i.e. not having jurisdiction over the dispute, due to the concluded arbitration agreement. The court in such cases will reject the lawsuit, unless it finds that the arbitration agreement is obviously null and void, ineffective or unenforceable.

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

This question relates more to the substantive laws regarding the statute of limitation, which is regulated in Serbia by the Law on Contracts and Torts. Namely, the parties must observe statute of limitations prescribed in the stated law, in order to preserve the protection of their rights. In commercial matters, such as sale of goods or rendering of services, this period is three years from the maturity of the claim. Therefore, the claimant should formally commence the arbitration proceedings by filling of a written Request for Arbitration or Statement of Claim to the competent arbitral institution or other party, in case of ad hoc arbitration. Such request or claim should be filed prior to expiry of the statute of limitation period, but even if filed after that, it will not be denied on procedural grounds, but will be rejected if the opposing party objection is based on statute of limitation arguments.

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

The state and state entities, or entities in which the state has shares, are entitled to agree on an arbitration as a dispute resolution mechanism, i.e. forum. In such cases, the state immunity defence cannot be invoked. Furthermore, as a member of the European Convention on State Immunity, Serbia committed not to invoke the state immunity defence, when it is a party to an arbitration agreement.

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

According to the Rules of BAC and PA, if the respondent fails to submit the statement of defence, the arbitration shall proceed. This means that the arbitration institution shall appoint the arbitrator for the respondent, if the dispute is to be settled by three arbitrators and such appointed tribunal shall decide the case based on evidences provided by the claimant. However, BAC Rules are explicit that the failure to submit a statement of defence shall not, however, be construed as an admission of the allegations and requests contained in the statement of claim. In practice, if the claim is prima facie founded and there is no defence, the tribunal shall accept the claim.

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

According to the BAC Rules: “a person having a legal interest to participate in the arbitral proceedings may join one of the parties only with consent of both parties”, while the PA Rules, which contain the same provision, in addition stipulate that this will be “under the conditions and in the manner determined by the arbitral tribunal or the sole arbitrator”.

29. **Can local courts order third parties to participate in arbitration proceedings in your country?**

The local courts cannot formally order third parties to participate in arbitration proceedings, but, according to the Rules of PA and BAC, the arbitral tribunal or the sole arbitrator may request courts of law to take individual items of evidence, which they themselves are unable to take, which in certain instances may be done even against the will of some third parties, such as taking the statements or providing evidences, but this is rarely happening in practice.

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

There are numerous interim measures available to the parties and can be issued by the arbitral tribunals or courts, either as preliminary or interim measures, depending on the case to case basis. The measures can be also status quo measures or measures needed for securing some of the evidences. The local courts will grant interim measures if the basis for such decision are satisfied under the Law on Civil Procedure and the fact that the arbitral tribunal is not formed is irrelevant. At the same time, the court may grant measures before the commencement of the arbitral proceedings or during the arbitral proceedings.

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

Anti-suit or anti-arbitration injunctions are not specifically named as such, but any interim measure or injunction is possible, if it complies with the general criteria for injunctions provided in the Law on Civil Procedure. Therefore, it is possible that the court, in fact, i.e. indirectly orders a party to arbitrate, when the court declares itself incompetent due to the concluded arbitration agreement and rejects the lawsuit.

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

The Law on Arbitration and the Rules of BAC and PA provide that the parties may rely on evidences they consider probative for their case and in practice, the parties rely on written evidences, witness statements, expert reports, but also the arbitrators may decide that the parties should present certain evidences on their own motion or based on the request of the other party. As stated under the question 29, the arbitral tribunal or the sole arbitrator may request courts of law to take individual items of evidence which they themselves are unable to take, which in certain instances may be done even against the will of some third parties, such as taking the statements or providing evidences, but this is rarely happening in practice.

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

Counsel are usually members of the Bar Association, and as such are bound by the Ethical Code of the Bar Association. Besides that, there is no special code applicable only to arbitration.

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

According to BAC Rules the BAC, the parties to the proceedings, arbitrators, witnesses and experts are required to keep the proceedings and the arbitral awards confidential to the extent this is not inconsistent with the applicable mandatory rules or the need to protect one's personal rights. If within 60 days from the day of delivery of the award a party does not request in writing that the award is not published, the BAC shall be authorized to publish awards or their summaries, excising any data that might enable the identification of the parties to the proceedings. There is no such rule in the PA Rules nor the Law on Arbitration.

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

Each arbitral award shall contain decision on costs, which includes costs of arbitration (fees or arbitrators and administrative costs of arbitral institution, if applicable), the costs of legal representation and other costs. Even though it is not clearly stated in the Law on Arbitration and the Rules of BAC and PA, the losing party is usually obliged to reimburse the wining party for its costs, which are calculated on a case-to-case basis.

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

Depending on the substantive law that is applicable, this is possible. In case of application of the Serbian substantive law, the interest can be awarded, but as a mandatory value based on the Law on Statutory Interest Rate, and then it is usually calculated from a certain date until the final payment.

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

Serbia follows the New York Convention model concerning recognition and enforcement of foreign awards. In that sense, the Law on Arbitration provides for reasons when it is possible not to recognize and enforce the foreign arbitral award, those being:

1) the arbitration agreement is not valid under the law determined by the parties to the agreement or under the law of the state in which the decision was made;

2) the party against whom the arbitral award has been rendered has not been duly notified of the appointment of the arbitrator or of the arbitral proceedings or for any other reason has not been able to present his case;

3) the decision refers to a dispute that was not covered by the arbitration agreement or the boundaries of that agreement were exceeded by the decision. If it is determined that the part of the decision exceeding the limits of the arbitration agreement may be separated from the rest of the decision, it is possible to partially refuse the recognition and execution of that decision;

4) the arbitral tribunal or the arbitral proceedings were not in accordance with the arbitration agreement or, in the absence of such an agreement, in accordance with the law of the state in which the place of arbitration is situated;

5) the decision has not yet become binding on the parties or the decision has been annulled or suspended from execution by the court of the state in which or on the basis of whose laws the decision was adopted.

Lastly, the competent court shall refuse to recognize and enforce the arbitral award if it finds that: 1) under the law of the Republic of Serbia the subject matter of the dispute is not eligible for arbitration, or 2) the effects of the arbitral award are contrary to the public order of the Republic of Serbia.

On the other hand, the domestic arbitral award is deemed as equivalent, i.e. has the same validity as a final court decision and can be enforced directly under the Law on Enforcement and Securitization, which provides for limited grounds for non-enforcement.

An award need not contain a statement of reasons if the parties have so agreed, or if the award was made ex aequo et bono, or by consent.

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

The timeframe for the recognition of the award depends on case-to-case basis and the procedure is not ex parte. This means that the award debtor has the opportunity to present arguments why the award should not be recognized, based on legal grounds stated in question no. 37. Depending on the valuation of arguments of both parties, the state court decides on the recognition and enforcement.

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

Yes – the domestic arbitral award as deemed equivalent, i.e. has the same validity as the final local court decision and can be enforced easily, while the foreign award must be first recognized, where the other party can object to the recognition, as stated under question no. 38.

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

There are no limits in this respect, as monetary and non-monetary remedies are available, as well as declaratory reliefs. Local courts may reject to enforce some remedies only based on general grounds for non-recognition of foreign arbitral awards.

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

The domestic arbitral awards can be subject of set aside proceedings, i.e. annulment proceedings, on the same grounds as in case of non-recognition of the foreign arbitral awards. The party that wants to annul the domestic arbitral award must submit the claim for the annulment to the regular court within 30 days from the date of receipt of the award.

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

The parties cannot waive in advance their right to request the annulment of an arbitral award.

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

According to the Law on Enforcement and Securitization, the enforcement proceedings cannot be conducted on the assets of a foreign state or international organization in Serbia, without the explicit consent of the Serbian Ministry of Foreign Affairs or consent of that state or international organization. Furthermore, the subject of enforcement cannot be real estate and movable property of the Serbian state entities used for performing of activities from their competence or facilities and equipment used for the defence of the state.

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

The awards cannot bind third parties if they did not participate in the proceedings, and on the other side cannot challenge the recognition of the award or file a claim for the annulment of the award. Third party may resist the enforcement of an award if the award is enforced against it, i.e. over its assets, and in that case, the arguments are directed

toward excluding such assets from enforcement, as the same are not the award debtor's assets or the third party has established security over the same.

45. **Have courts in your jurisdiction considered third party funding in connection with arbitration proceedings recently?**

No, local Serbian courts did not deal with this matter until now.

46. **Is emergency arbitrator relief available in your country? Is this frequently used?**

An emergency arbitrator relief is not available in Serbia.

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

Rules of the PA provide for the Special Rules on Expedited Arbitration Procedure for "small value cases" i.e. below 50.000 EUR or in case parties agrees on this procedure. A sole arbitrator conducts this procedure, the parties shall exchange limited number of written submissions and no evidences are accepted after the last exchange, with one hearing as the rule. In practice, it is used for small value cases.

48. **Have measures been taken by arbitral institutions in your country to promote transparency in arbitration?**

The arbitral institutions participate on seminars and congresses in Serbia and abroad, which are related to this topic, among others. Some of them publish redacted awards on their web sites, but besides these activities, there are no specific activities related solely to the promotion of the transparency in arbitration.

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

This is not an issue in Serbia, as there is no evident problem in this respect, since there are many young arbitrators or counsels of different gender. At the same time, Serbian Arbitration Association has different Boards, among them the Board for under 40, promoting young arbitrators and counsels, and the Board for Promotion Arbitration to In-House Counsels, which deals with the promotion of arbitration in general.

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

There was no such decision recently.

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

    There were no such decisions.

52. **Have there been any recent court decisions in your country considering the definition and application of "public policy" in the context of enforcing or setting aside an arbitral award?**

    Yes, according to some recent court practice, the court stated the following: "public order should be narrowly interpreted and that must be the fundamental principles of justice on which the legal system is based. There must be caution in the use of public order because it is an institution flexible enough to simply attract the party invoking its breach to "put" all aspects and merits of the case in it, which in principle is not allowed in the annulment procedure. Every country has certain standings that it considers fundamental. Our Law on Arbitration does not provide for a different regime for domestic arbitrations and arbitrations with foreign element, so the concept of public order during the procedure should be interpreted restrictively, and without the need to possibly divide it into domestic and international components."

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

    As Serbia is still not a member of the European Union, the Slovak Republic v Achmea BV (Case C-284/16) decision does not yet effect Serbia.

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

    No – Serbia is not affected by this decision, as it is not a member of the European Union.

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

    Some of the arbitral institutions adopted to virtual hearings and are using more efficiently electronic communication in comparison to the pre COVID-19 pandemic.

56. **In your country, does the insolvency of a party affect the enforceability of an**

arbitration agreement?

In accordance with the Law on Bankruptcy the creditor whose arbitration procedure was interrupted due to commencement of bankruptcy procedure, shall continue arbitration procedure upon order of the court competent for bankruptcy. Therefore, in case of already commenced arbitration, the arbitration clause shall be enforceable. However, in case that arbitration procedure was not commenced before initiation of bankruptcy procedure, the arbitration clause shall not apply, and claims should be determined by the court and not before the arbitration. Possibility to continue with already commenced arbitration in case of bankruptcy of a party was introduced in the Serbian legal system by amendments and supplements to the Law on Bankruptcy back in 2018 and due to relatively short term of application of this clause there are no relevant case precedents and court practice regarding this issue.

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

No, Serbia is not a Contracting Party to the Energy Charter Treaty. Namely, Serbia started negotiations and agreed a road map for accession to the Energy Charter Treaty back in 2009 and the last important milestones in accession happened back in May 2015 when Serbia signed the International Energy Charter at the Ministerial Conference in the Hague.

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

There were no recent developments regarding these types of disputes.