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ARBITRATION IN THE SLOVAK REPUBLIC: MODERN TRENDS AND LEGAL CHALLENGES

Summary

Arbitration in the Slovak Republic has grown steadily as the preferred commercial dispute resolution method, driven by a robust legal framework under the Arbitration Act aligned with the UNCITRAL Model Law. Despite its increasing popularity, the adoption of arbitration remains relatively slow, hindered by the issues such as judicial interference, limited public awareness, and perceived complexities. Efforts to popularize arbitration include enhancing arbitrator expertise, educating judges, and fostering institutional support. The integration of technology, such as online dispute resolution platforms and virtual hearings, has modernized the arbitration process, improving its efficiency and accessibility. However, the challenges persist. Addressing these challenges requires continued public awareness campaigns, legislative reforms, and stricter oversight to ensure transparency and fairness. By embracing these measures, Slovakia could strengthen its arbitration framework, making it a more attractive venue for domestic and international commercial disputes and fostering a more favorable environment for effective alternative dispute resolution. In this paper, the authors will attempt to summarize the modern trends and legal challenges of arbitration in Slovakia.

Keywords: arbitration, modern trends, legal challenges, judicial interference, online dispute resolution.

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ARBITRAŽA U REPUBLICI SLOVAČKOJ: SAVREMENI TRENDOVI I PRAVNI IZAZOVI

Sažetak

Popularnost arbitraže u Republici Slovačkoj, kao poželjnog načina za rešavanje privrednih sporova, u konstantnom je usponu, koji je posledica pravnog okvira sadržanog u Zakonu o arbitraži, a koji je ustrojen po uzoru na UNCITRAL Model zakon. Napori da se popularizuje arbitraža uključuju unapređenje stručnosti arbitra, obrazovanje sudija, i podsticanje institucionalne podrške. Razvoj tehnologije, koja je omogućila platforme za rešavanje sporova na mreži i virtuelna saslušanja, modernizovala je arbitražni proces i povećala njegovu efikasnost i dostupnost. Međutim, izazovi još uvek postoje. Rešavanje tih izazova zahteva kontinuirane kampanje podizanja svesti javnosti, kao i zakonodavne reforme, te stroži nadzor u cilju omogućavanja transparentnosti i pravičnosti. Usvajanjem ove mere, Slovačka može da ojača svoj arbitražni okvir, što može da ga učini atraktivnijim mestom za domaće i međunarodne trgovinske sporove i stvori povoljnije okruženje za efikasno alternativno rešavanje sporova. U ovom članku, autori su pokušali da sumiraju savremene trendove i pravne izazove arbitraže u Slovačkoj.

Ključne reči: arbitraža, savremeni trendovi, pravni izazovi, sudsko mešanje, onlajn rešavanje sporova.

1. Introduction

As an alternative dispute resolution mechanism, arbitration has gained significant traction globally, and in the Slovak Republic as well. This paper aims to provide a comprehensive overview of the current state of arbitration in Slovakia, exploring its modern trends, legal frameworks, and the primary challenges encountered by practitioners and the disputing parties.

This paper explores the current state of arbitration in the Slovak Republic, highlighting the key trends, challenges, and the ongoing efforts to enhance its effectiveness as a dispute resolution method. The first section provides an overview of the legal framework governing arbitration in Slovakia, focusing particularly on the alignment of Slovak legislation with international standards such as the UNCITRAL Model Law. This sets the stage for understanding the way arbitration is structured in the country and its growing appeal.

The following sections delve into modern trends shaping Slovak arbitration, including the rising popularity of institutional arbitration, the increased focus on arbitrator expertise and training, and the integration of technological advancements such as online dispute resolution platforms. These developments illustrate the progressive steps taken to modernize and streamline the arbitration practice.

Subsequent sections address the primary challenges facing arbitration in Slovakia. These include judicial interference, enforcement issues, legislative ambiguities, and the misuse of the "appointing authority" mechanism, affecting trust in the process. The paper argues that while arbitration is advancing, these obstacles hinder its broader adoption.

Finally, the paper discusses potential solutions, such as public awareness campaigns, judicial education, legislative reforms, and enhanced institutional support, arguing that these measures are crucial for building a more robust and reliable arbitration framework in Slovakia.

2. Current Legal Framework

The principal legislation governing arbitration in Slovakia includes (i) Act No. 244/2002 Coll. on Arbitration (hereinafter: Arbitration Act), subsequently amended by the Act No. 336/2014 Coll. effective from 1 January 2015 and aligning the Arbitration Act with the UNCITRAL Model Law on International Commercial Arbitration, and (ii) Act No. 335/2014 Coll. on Consumer Arbitration (hereinafter: Consumer Arbitration Act) relating specifically to consumer arbitration. This alignment of the Arbitration Act with the UNCITRAL Model Law on International Commercial Arbitration signifies Slovakia's commitment to international standards, ensuring it is a competitive arbitration venue. In the explanatory report accompanying the draft of the Arbitration Act, the Slovak government explicitly stated that adopting the UNCITRAL Model Law principles would promote legal certainty, predictability, and consistency, thus fostering a more favorable business and investment climate. This broader approach was framed as a commitment to modernizing Slovakia's legal system, positioning it in line with other reputable arbitration jurisdictions. The Arbitration Act emphasizes party autonomy, allowing freedom in choosing arbitrators, procedural rules, and the place of arbitration.[1] It provides procedural flexibility, with

[1] In this regard, the following provisions of the Arbitration Act are especially relevant: (i) Article 8 (Agreement on the Appointment of Arbitrators) - this Article grants the parties the autonomy to choose their arbitrators, allowing them to select individuals based on their expertise, neutrality, and suitability for the specific dispute; it outlines the procedure for appointing arbitrators and allows the parties to agree on their preferred method, and (ii) Article 23 (Place of Arbitration) - this provision gives the parties the right to agree on the place of arbitration, which can be either within Slovakia or any other jurisdiction; if the parties cannot agree, the tribunal

clear commencement provisions, adaptable conduct rules, and the power for tribunals to grant interim measures (see: Arts. 22 *et seq*., Arbitration Act). The enforceability of arbitral awards is a cornerstone, ensuring finality with limited grounds for challenge[2] and adherence to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, adopted by a United Nations diplomatic conference on 10 June 1958 (New York Convention, 1958), which Slovakia (respectively former Czechoslovakia) has ratified. This alignment with the UNCITRAL Model Law harmonizes Slovakia's framework with international standards, enhancing legal certainty and competitiveness. By maintaining high standards, the Arbitration Act provides a reliable and efficient dispute resolution mechanism, reinforcing Slovakia's reputation in the global arbitration landscape.

3. Modern Trends in Slovak Arbitration

3.1. Slow Rise in Popularity

Slovakia has been making efforts to popularize the use of arbitration in commercial disputes, but the progress has been relatively slow. Despite the robust legal framework provided by the Arbitration Act, which is aligned with international standards such as the UNCITRAL Model Law, arbitration has yet to reach its full potential. Various initiatives, including awareness campaigns, training programs for legal professionals, and the establishment of arbitration institutions, aim to promote arbitration as an efficient and flexible alternative to traditional litigation.[3]

has the authority to determine the place, considering the circumstances of the case.

[2] The relevant provisions emphasizing the finality and enforceability of arbitral awards include: (i) Article 35 (Effect of Arbitral Award) - this Article states that an arbitral award has the same effect as a final court judgment, making it binding and enforceable on the parties; this provision underscores the finality of arbitral awards, equating them with judicial decisions; (ii) Article 40 (Grounds for Setting Aside an Arbitral Award) - this Article details the limited grounds on which an arbitral award can be set aside by a court. The grounds include procedural irregularities, excess of jurisdiction, incapacity of a party, invalid arbitration agreement, and public policy considerations. This narrow scope ensures that challenges to awards are restricted, supporting the finality of arbitral decisions, and (iii) Article 44 (Enforcement of Arbitral Awards) - this provision outlines the procedure for the enforcement of arbitral awards, specifying that awards rendered under the Act are enforceable in the same manner as court judgments.

[3] Efforts to promote arbitration in Slovakia are supported by various initiatives, such as awareness campaigns and training programs led by institutions like the Arbitration Court of the Slovak Bar Association (SBA). The SBA Arbitration Court actively promotes arbitration as an alternative to the traditional court litigation through educational activities, seminars, and public

However, several challenges have hindered its widespread adoption. Public awareness and understanding of arbitration remain limited, resulting in a preference for court litigation. Additionally, arbitration cost concerns and its perceived complexity deter some businesses from opting for it. Judicial interference and inconsistent enforcement of arbitral awards further slow down the uptake. To accelerate the adoption of arbitration, continued efforts to educate businesses and legal practitioners about its benefits, streamline procedural aspects, and ensure robust enforcement of arbitral awards are crucial. By addressing these challenges, Slovakia can enhance the attractiveness and effectiveness of arbitration as the preferred commercial dispute resolution method.

3.2. Emphasis on Arbitrator Expertise and Training

Slovakia puts a significant emphasis on arbitrator expertise and training to enhance arbitration quality and effectiveness. Slovak professionals participate also in various activities of the renowned arbitration institutions, including ICC and VIAC (VIAC, 2024). Much of this effort is driven individually by the professionals who seek to enhance their knowledge and skills through specialized training programs, workshops, and international certifications. This individual commitment ensures that arbitrators are well equipped to handle complex commercial disputes with competence and professionalism.

In addition to these individual efforts, there are broader initiatives aimed at educating relevant judges about arbitration, and particularly about the arbitration principles, procedures, and the importance of minimal judicial intervention.[4] This judicial education is crucial for ensuring that courts support rather than hinder the arbitration process, particularly in the enforcement of arbitral awards.

outreach efforts designed to build confidence in arbitration among businesses and legal professionals. They provide resources and host events to raise awareness about the benefits of arbitration, aiming to increase its adoption as an efficient dispute resolution method in commercial settings. Additionally, events such as the annual Richard Dewitt Arbitration Conference, organized by AmCham Slovakia in cooperation with the Law Faculty of Comenius University, bring together legal professionals, academics, and business leaders to discuss the current trends and challenges in arbitration. These conferences are crucial for promoting arbitration, sharing best practices, and educating stakeholders about the importance of impartiality and expertise in arbitral proceedings. For more details on these initiatives, you can explore the official website.

[4] One prominent example is the training program offered by the Slovak Bar Association's Arbitration Court, which actively promotes the use of arbitration as an alternative to traditional litigation. The Court organizes workshops and seminars specifically targeted at judges and legal professionals to enhance their understanding of arbitration and foster a supportive judicial environment. This includes training on procedural rules and the limited role of courts in arbitration, which is crucial for maintaining the autonomy of the arbitration process.

Moreover, efforts to popularize arbitration include awareness raising among businesses and the general public about its benefits (VIAC, 2024). Arbitration is promoted through conferences, publications, and outreach activities. By enhancing arbitrator expertise, educating judges, and increasing public awareness, Slovakia aims to foster a more robust and effective arbitration environment.

In 2024, already the 10th Richard DeWitt Arbitration Conference took place in Bratislava (Comenius University in Bratislava, Faculty of Law, 2024). The conference is organized annually and brings together legal professionals, scholars, and industry experts from around the world to discuss the latest trends and developments in arbitration. The event facilitates the exchange of information and ideas, contributing to the development of arbitration practice in Slovakia. Thus, it serves as the main forum for the Slovak arbitration community to meet, form particular ideas, and propose legislative changes. The keynote speeches, panel discussions, and interactive workshops cover a wide range of topics, from international arbitration practices to technological advancements in dispute resolution. The participants have the opportunity to engage with the leading figures in the field, gain insights into the emerging issues, and network with their peers, thereby strengthening the arbitration framework in Slovakia.

4. Legal Challenges in Slovak Arbitration

Despite the positive developments, the arbitration landscape in Slovakia faces several legal challenges that need to be addressed to ensure its continued growth and effectiveness.

4.1. Judicial Interference and Support

One of the primary challenges is the degree of judicial interference in arbitration proceedings. While the Arbitration Act provides for limited court intervention,[5] there have been instances where courts have overstepped, leading to delays and uncertainties (Slovak Constitutional Court, Decision No. III. ÚS 162/2011 and

[5] Some of the key provisions illustrating this limited judicial involvement include: (i) Article 8 (Agreement on the Appointment of Arbitrators) - Courts may only intervene in the appointment of arbitrators if the parties fail to appoint them according to their agreement, or if the chosen method fails, and (ii) Article 40 (Grounds for Setting Aside an Arbitral Award) - the grounds on which a court can set aside an arbitral award are strictly limited to issues such as the invalidity of the arbitration agreement, lack of proper notice, excess of jurisdiction, or violations of public policy; this Article is crucial in ensuring that court intervention is minimal and exercised only in cases where the fundamental legal principles are at stake.

III. ÚS 547/2013).[6] Ensuring that the judiciary respects the autonomy of arbitration and adheres to the principles of minimal intervention is crucial for maintaining confidence in the arbitration process.

Two crucial steps in the not-so-far history have helped to limit the engagement of state courts in arbitration proceedings.

On 1 January 2015, Act No. 336/2014 Coll. came into effect, significantly amending the Arbitration Act. This amendment introduced, *inter alia*, two major changes impacting the prevention of misuse of arbitration proceedings and the need for the constitutional court to intervene in the decision-making activities of arbitration tribunals.

The first change expanded the grounds for filing a lawsuit to annul an arbitration award to include conflicts with public order. This allowed general courts to correct significant breaches of fundamental principles of justice in arbitration proceedings.

The second change was the exclusion of consumer disputes from the scope of Arbitration Act and the adoption of a separate regulation governing consumer arbitration proceedings (Consumer Arbitration Act), significantly strengthening consumer protection and ensuring their sufficient awareness of the various aspects of arbitration proceedings.

This amendment aimed to prevent the misuse of arbitration proceedings and ensure that the constitutional court is not forced to correct the situation by intervening in the decision-making activities of arbitration courts.

In 2015, the Constitutional Court also issued Opinion PLz. ÚS 5/2015, which dealt with its previous contradictory jurisprudence, defined the nature of arbitration proceedings, and specified a clear approach to the issue of the Constitutional Court's jurisdiction to decide on complaints against the actions or decisions of arbitration tribunals.

According to this opinion, the Constitutional Court stated that "[a]rbitration is an institute of private law, in which arbitrators, as private law persons, decide disputes based on a private legal enactment of the participants. Arbitrators and arbitration courts are not formally or materially entrusted with the exercise of public power, and for this reason cannot be passively legitimized in proceedings on complaints under Article 127[7] of the Constitution." (Opinion of the Constitutional Court, PLz. ÚS 5/2015, para. 26). This is a clear departure from the jurisdictional theory of arbitration, and an approach towards the contractual or mixed theory.

[6] In these decisions, the court has held that a constitutional claim is available against the decision of the arbitral tribunal.

[7] Article 127 of the Slovak Constitution grants the Constitutional Court the authority to protect constitutional rights by reviewing and deciding on complaints filed by individuals who claim that their rights have been violated by a public authority.

The Constitutional Court also stated that "the arbitration court remains a private contractual entity of fundamentally autonomous (not heteronomous) law (Opinion of the Constitutional Court, PLz. ÚS 5/2015, para. 33).

The private law nature of arbitration does not mean that arbitration is not subject to any form of control by general courts. "This does not mean that the designation of a private law enactment (arbitration award) as an enforcement title is exempt from any public law control or intervention. This control has been entrusted by the legislator to general courts in the proceedings on annulment of arbitration awards under s. 40 of the Arbitration Act, or in enforcement proceedings under s. 57(1)(l) of the Enforcement Code. These mechanisms ensure protection against violations of specific fundamental norms applicable to arbitration. However, this does not imply that the arbitration court itself is (or becomes at the time of issuing an arbitration award) a public authority. The fact that the Arbitration Act allows for a mild review of arbitration awards is only a balance by the legislator between private autonomy and the 'radiated' fundamental right to a fair trial, and does not make them regular courts of some zeroth instance. As stated, this 'review' is not an instance review but an assessment of whether a private subject - the arbitration court – has violated legal provisions in private relationships between three private subjects, similar to an assessment of the validity of a contract in substantive law." (Opinion of the Constitutional Court, PLz. ÚS 5/2015, paras. 33 and 35).

The Constitutional Court in their opinion also referred to decisions of foreign constitutional courts (Czech Constitutional Court, Decision No. IV.ÚS 174/02 and IV. ÚS 435/02; German Constitutional Court, Decision No. BVerfG, 1 BvR 744/94 and BVerfG, 1 BvR 698/99), reaching the same conclusions that arbitration courts do not constitute public authorities, and therefore constitutional complaints against their decisions are not admissible.

The Constitutional Court also addressed the issue of effective protection of the participants in the proceedings and the right to a fair trial under Article 46 of the Slovak Constitution, and Article 6(1) of the Convention on the Protection of Human Rights and Fundamental Freedoms. The Constitutional Court stated that "in the context of the grounds for annulment of arbitration awards defined in s. 40 of the Arbitration Act, some types of procedural defects that constitute a violation of the fundamental right to a fair trial under Article 46(1) of the Constitution and the right under Article 6(1) of the Convention in proceedings before general courts could be grounds for annulment of an arbitration award. After the recent amendment by Act No. 336/2014 Coll. effective from 1 January 2015, another ground for annulment of an arbitration award or filing a lawsuit against it was included in s. 40, specifically a conflict with public order (s. 40(1)(b) of the Arbitration Act). It can be assumed that the general court could consider extreme procedural defects as part of this ground."

(Opinion of the Constitutional Court, PLz. ÚS 5/2015, para. 50). Effective protection of participants should thus be ensured through general courts, including the possibility of annulment of an arbitration award in case of its conflict with public order.

Opinion PLz. ÚS 5/2015 thus brought a long-awaited and necessary clarification to the relationship between arbitration proceedings and the right to a fair trial. This decision also clarified the nature of arbitration and resolved the issue of the admissibility of complaints against arbitral awards. This opinion has coincided with the adoption of the amendment to the Arbitration Act, which should also contribute to stability and legal certainty in arbitration proceedings.

4.2. Legislative Gaps and Ambiguities

The Arbitration Act, while comprehensive, includes also certain gaps and ambiguities that can lead to interpretational challenges. For instance, the provisions relating to the appointment and challenge of arbitrators, the conduct of proceedings, and the grounds for setting aside awards require clearer guidelines. Legislative reforms aimed at addressing these ambiguities and aligning with international best practices could enhance the effectiveness of the arbitration framework.

The appointment and challenge of arbitrators is critical to ensuring impartiality and fairness in arbitration. The current Slovak Arbitration Act provides a basic framework for these processes, but it falls short of offering specific criteria and procedures necessary to maintain the integrity of arbitration. The Arbitration Act only mentions in s. 6(1) and 6(3) that "any natural person agreed upon by the parties may become an arbitrator if he or she is of legal age, has full legal capacity and a clean criminal record. Where a legal or natural person to be appointed arbitrator is selected by the parties or by a court, they shall have regard to the qualifications required of the arbitrator under the agreement of the parties and to the circumstances for the appointment of an independent and impartial arbitrator."

The arbitrator must be impartial and independent from the time he or she is appointed to the position in a given dispute, and must remain impartial and independent throughout the arbitration proceedings. However, there is no further guidance as to what this actually means.

Detailed guidelines on the qualifications of arbitrators would be essential. These could include educational background, professional experience, and specific expertise relevant to the dispute. For instance, arbitrators handling commercial disputes should have a strong background in commercial law and relevant industry experience. By setting high standards for arbitrator qualifications, the Arbitration Act could ensure that only competent and knowledgeable individuals are appointed, thereby enhancing the credibility of the arbitration process.

The selection process for arbitrators also needs more clarity. Guidelines outlining a transparent procedure for selecting arbitrators, including the method of nomination, appointment by the parties, and involvement of arbitration institutions would be essential. This could help avoid delays and disputes over the selection process, ensuring that the arbitration can proceed efficiently. Pursuant to s. 8(2) of the Arbitration Act: "If the parties have not agreed either on the person(s) to be appointed arbitrator(s) or on the procedure for their additional appointment, (a) in a three-arbitrator arbitration, each party shall appoint one arbitrator and the arbitrators so appointed shall subsequently appoint the third presiding arbitrator; if a party fails to appoint an arbitrator within 15 days of the other party's request, or if the two arbitrators so appointed fail to appoint the third presiding arbitrator within 30 days of their appointment, the arbitrator shall be appointed by the person or tribunal of their choice at the request of the party, (b) in the case of an arbitration with more than three arbitrators, the procedure under subparagraph (a) shall be followed *mutatis mutandis*, (c) in the case of an arbitration with a single arbitrator, that arbitrator shall be appointed by the selected person or court at the request of the contracting party." In practice, it is very problematic if the court has to decide on the appointment of a tribunal member since courts have very little experience in how to choose such person and the process is very slow.

Moreover, the grounds for challenging arbitrators must be specified explicitly to prevent any conflicts of interest and biases. A clear procedure for raising and duly and timely resolving challenges is also necessary to address any concerns promptly and fairly. According to s. 9(4) and 9(5) of the Arbitration Act: "If the parties do not agree on a procedure for objecting to the arbitrator, the party wishing to object to the arbitrator shall, within 15 days of becoming aware of the circumstances for objection, send a written statement of the grounds for objection to the arbitral tribunal within 15 days of the date when they became aware of these circumstances. If the arbitrator against whom the objection has been raised does not resign or if the other party does not agree with the objection, the arbitration tribunal shall rule, at the request of the party, on the objection within 60 days of the receipt of the objection. If the objection to the arbitrator is not upheld or decided within the specified time limit [...], the objecting party may, within 30 days of the receipt of the decision rejecting the objection or after the expiration of the time limit for deciding on the objection [...] request that the court decide on the objection." The problematic points include cases when there is a sole arbitrator who decides on the challenge against himself or herself and cases when the court decided on the challenge since the statutory reasons are very vague, and the court decision on challenge against the arbitrator could take considerable time.

Implementing these detailed guidelines would both prevent conflicts of interest and enhance the perception of fairness in the arbitration process. Where the

parties have confidence that arbitrators are selected and assessed based on transparent and objective criteria, they are more likely to trust the arbitration process and its outcomes. This trust is crucial for the acceptance and success of arbitration as an alternative dispute resolution mechanism.

4.3. Public Perception and Awareness

Despite its advantages, arbitration in Slovakia is not as widely understood or accepted as it should be. There is a need for greater public awareness and education about the benefits of arbitration as a dispute resolution mechanism. Legal practitioners, business communities, and educational institutions could play a vital role in promoting arbitration and dispelling misconceptions.

4.4. Lack of Experienced and Renowned Arbitration Experts

One of the reasons to select a particular place as the place for arbitration is also the sufficient number of experienced and renowned arbitration lawyers, as well as the availability of arbitrators who have experience and knowledge of the specific place of arbitration (Queen Mary University of London & School of International Arbitration, 2018).

If we compare Slovakia with other popular arbitration jurisdictions, based on the perception of the authors and their experience and difficulties in finding suitable arbitrators in the proceedings in which they have represented clients, Slovakia lacks arbitration practitioners. A good sign in that regard is the younger generation of arbitration lawyers, who have been acquiring experience and arbitration knowledge in Slovakia and abroad. However, it will take some time for them to build a reputation and experience.

4.5. Transparent Activities of Arbitration Courts and Disclosure of Information

Arbitration courts build their reputation in various ways, but mainly through the arbitral institution website, effective arbitration rules, detailed statistics, list of arbitrators and their expertise (Šimalová, 2019, pp. 25-26). The websites of all renowned arbitration institutions such as ICC, LCIA, SIAC, and HKIAC are very high quality in terms of both their content and visual side. In addition to arbitration rules, model arbitration clauses and information on the fees, they provide also information on various news, conferences, planned events, manuals for the disputing parties and arbitrators, extensive Q&A, detailed annual reports, anonymized review of decisions on objections, etc.

Most Slovak arbitration courts still lack transparency. At the end of September 2024, there was 108 active permanent arbitration courts listed by the Slovak Ministry of Justice. Most of them do not even have a website. They usually disclose only the statutory minimum information on the arbitration proceedings. The Arbitration Court of the Slovak Bar Association is a bright exception.[8]

The founders of the permanent arbitration courts in Slovakia are obliged under Section 12 (6) of the Arbitration Act to publish on their website a report on the activities of the permanent arbitration court for the previous calendar year by April 30 every year. However, this report must contain only the minimum information – specifically, the numbers on initiated, pending and completed proceedings. The Arbitration Act does not establish any sanction for violation of the above provision, and many permanent arbitration courts in Slovakia still fail to fulfill this information obligation.

The Slovak permanent arbitration courts still have a lot work to do on information disclosure and transparency. There is also a need for the Slovak legislator to revise the relevant statutory provisions to order permanent arbitration courts in Slovakia to disclose more information on the proceedings and activities, and the mechanism to effectively enforce such obligation.

4.6. Overall Trust in the Arbitration Courts and Arbitration

Arbitration in Slovakia had suffered a significant reputational damage in the past, primarily due to its abuse in consumer disputes and the lack of independence and impartiality due to a large number of arbitration courts having connections with one (usually stronger) disputing party. For example, before the adoption of a separate Consumer Arbitration Act, there were some arbitrators who had decided several thousands of disputes within a year. One of the reasons for adopting a separate Consumer Arbitration Act was the following: "The need for a separate legal regulation of consumer arbitration arose from the current unflattering state of affairs and the fact that the incidence of negative experiences with the activity of arbitral tribunals in consumer disputes has expanded over the last period of time." (Explanatory Memorandum to the Commercial Arbitration Act, p. 1).

Trust cannot be forced and it can be very difficult to build (on the other hand, it can be lost quickly) (Gyárfáš & Števček, 2019, p. 13).

General lack of trust in the arbitration courts and low level of trust in arbitration by the business people in Slovakia are among the biggest obstacles to arbitration proceedings in Slovakia. The above issues reduce the attractiveness of Slovakia as a place for arbitration.

[8] The Arbitration Court of the Slovak Bar Association annually publishes the report on their activities (Annual Reports of the Arbitration Court of the Slovak Bar Association, 2024).

Because of the already mentioned legislative changes, the restart of arbitration in Slovakia was successful. Arbitration proceedings in Slovakia are slowly beginning to regain the lost trust. However, arbitrators and arbitration tribunals will have to be careful so that their actions and decisions do not cause a renewed loss of trust by the parties to arbitration, state courts and the public.

5. Enhancing the Arbitration Framework

To address these challenges and further strengthen the arbitration framework in Slovakia, several measures could be considered.

5.1. Institutional Support and Development

Institutional support and development play a crucial role in the advancement of arbitration in Slovakia. The key institutions, such as the Slovak Bar Association, have been instrumental in promoting arbitration as a viable alternative to traditional litigation. These institutions provide structured environments for arbitration, offering comprehensive procedural rules, administrative support, and access to a roster of qualified arbitrators.

Efforts are being made to enhance the capabilities of these institutions to better serve the needs of the business community. This includes updating arbitration rules to reflect international best practices, improving administrative efficiency, and incorporating technological advancements.[9] These updates aim to make arbitration more accessible, efficient, and user-friendly.

Moreover, the development of new arbitration centers across Slovakia is encouraged to increase accessibility and provide more options for the parties. These centers focus on various sectors, including construction, energy, and international trade, catering to the specific needs of different industries.

Through these initiatives, institutional support aims to build confidence in arbitration, ensuring it is perceived as a reliable, efficient, and effective method for resolving commercial disputes. By continuously developing and strengthening arbitration institutions, Slovakia is poised to enhance its reputation as a favorable destination for arbitration.

[9] The current Rules of Procedure of the Permanent Arbitration Court of the Slovak Bar Association (which reflect the modern trends) are available online here: https://info.sak.sk/sud/rokovaci-poriadok/, 11 November 2024.

5.2. Embracing Technological Advancements

Embracing technological advancements is crucial for modernizing arbitration in Slovakia and making it more efficient and accessible. The integration of technology into arbitration processes has gained momentum, especially in light of the COVID-19 pandemic, which underscored the need for remote solutions. Online dispute resolution (ODR) platforms are now increasingly utilized, allowing the parties to manage their cases digitally, submit documents electronically, and attend virtual hearings.[10]

These technological tools offer various benefits, including reduced costs, increased flexibility, and the elimination of geographical barriers, making arbitration more attractive to both domestic and international parties. Video conferencing, digital evidence presentation, and electronic signatures are becoming standard practices, streamlining procedures and enhancing the overall efficiency of arbitration.

On the other hand, technological advancements have also brought several challenges and risks, such as abuse of data and data breaches, breach of confidentiality, ineffectiveness of certain technical solutions, and other related issues. Technological development has to go hand in hand with confidentiality, data protection and ensuring a high level of security and effectiveness of arbitration.

5.3. Misuse of the Appointing Authority Mechanism

Despite the advancements in arbitration in Slovakia, some elements continue to undermine the trust in the system. A significant issue is the misuse of the appointing authority mechanism.

In institutional arbitration, an appointing authority, often an established institution, is responsible for appointing arbitrators if the parties cannot agree. However, there have been instances where this role is exploited, with the institutions or individuals presenting themselves as independent appointing authorities while lacking the necessary impartiality and credibility. This occurs when, in order to avoid regulations applicable to permanent arbitration courts, entities present themselves as appointing authorities in *ad hoc* arbitrations, doing this repeatedly in many disputes. However, such conduct has all the characteristics of a permanent arbitral institution. This practice can lead to biased arbitrator appointments and questions about the legitimacy of the arbitral process. It can also lead to concerns about transparency and fairness.

[10] For example, the casefiles of the Permanent Arbitration Court of the Slovak Bar Association are now fully accessible online for the parties to the arbitration and the arbitrators.

Such misuse erodes confidence in arbitration as a fair and effective dispute resolution method. The parties may fear that arbitrators appointed in this manner could be biased or could lack the requisite expertise. This perception is particularly damaging in *ad hoc* arbitrations, where the absence of a robust institutional framework makes ensuring impartiality and fairness even more challenging. In Slovakia, this authority is often an entity specifically designated by the parties. The challenge in *ad hoc* arbitration is the potential misuse of the appointing authority function by one party manipulating the process to select arbitrators favorable to them. This undermines the neutrality that is vital for arbitration, especially in the absence of institutional oversight that could otherwise help ensure impartiality and fairness.

Addressing this issue requires stricter regulations and oversight to ensure that appointing authorities are genuinely impartial and qualified. Enhancing transparency in the appointment process and promoting the use of reputable institutions can help restore trust and reinforce the integrity of arbitration in Slovakia.

6. Conclusion

Arbitration in the Slovak Republic has made significant strides, with increasing popularity, institutional support, and technological integration marking its progress. However, challenges such as judicial interference, enforcement issues, legislative gaps, and public perception need to be addressed to fully realize the potential of arbitration as an effective dispute resolution mechanism.

By implementing targeted reforms, enhancing judicial and public awareness, and embracing technological advancements, Slovakia can strengthen its arbitration framework and foster a conducive environment for resolving commercial disputes. As the experts with two decades of experience, we are both optimistic about the future of arbitration in Slovakia and confident that, with concerted efforts, it can achieve greater prominence and effectiveness in the global arbitration landscape.

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