



**LJUBLJANA
ARBITRATION CENTRE**
AT THE CHAMBER OF COMMERCE
AND INDUSTRY OF SLOVENIA

Joint UNCITRAL-LAC Conference on Dispute Settlement

Arbitration in Croatia

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PRESENTATION AT THE JOINT UNCITRAL – LAC CONFERENCE ON DISPUTE SETTLEMENT

Ljubljana, 4 April 2017

I HISTORY AND STATUS OF ARBITRATION IN CROATIA

In the Croatian territories, arbitration first became regulated:

- In the Middle Ages, in a number of Croatian cities by their municipal statutes
- In Dalmatia and Istria as of 1815/16
- In the rest of Croatia as of 1852

The majority of the permanent arbitration courts was founded after the First World War:

- The Arbitration Court of the Zagreb Stock and Goods Exchange
- The Arbitration Court of „the Trade House“
- The Arbitration Court of Yugoslav society for Protection of Creditors
- The Arbitration Court of the Chamber of Commerce and Trade
- Social security arbitration courts or labour disputes arbitration courts

The Arbitration Court of the Chamber of Commerce and Trade in Zagreb:

- founded in 1853;
- between 1925 and 1930 the court handled **32.656** cases or at average **5.443** new cases per year)

After the Second World War:

- a period of temporary discontinuation of arbitration until the economic reforms in the sixties;
- in the period between 1965 and 1991 the Arbitration Court of the Chamber of Economy in Zagreb handled only *domestic* cases.

Following independence of Croatia, the PAC CCE handles both domestic and international arbitration disputes:

- In the initial period between 1992 - 2008 PAC CCE had 343 domestic and 192 international cases, or **535** cases in total (at average **31** case per year);
- In the period between 2011 and 2016 the total number of new cases was **240** (at average **40** per year), with the total value of just above **350 million EUR**; around **30 %** of the new cases are cross-border disputes;

Structure:

- **49 % investment and construction cases,**
- **18 % sale of goods and services,**
- **11 % lease and purchase of real estate;**
- **10 % disputes related to shares in commercial companies;**
- **12 % various other disputes;**

The parties involved include nationals of more than 25 countries.

II CROATIAN LAW ON ARBITRATION

The Law on Arbitration was adopted in 2001.

It closely follows UNCITRAL Model Law on International Commercial Arbitration (1985 version), with some deviations where inherited solutions prevailed, such as:

- Definition of national and international disputes;
- Exclusion of state courts' judges as party-appointed arbitrators.

LA sets out the following definitions:

6. "*dispute without an international element*" means a dispute in which the parties are natural persons with domicile or habitual residence in Croatia, or legal persons established under the law of the Republic of Croatia, unless the dispute meets the requirements of point 7 of this paragraph,

7. "*dispute with an international element*" means a dispute in which at least one party is a natural person with domicile or habitual residence abroad, or a legal person established under foreign law

As to the arbitrability and place of arbitration (Article 3 of LA):

1. Parties may agree on *domestic arbitration* for the settlement of disputes regarding rights of which they may freely dispose.
2. In disputes with *an international element*, parties may also agree on the place of arbitration outside the territory of the Republic of Croatia, unless it is provided by law that such a dispute may be subject only to the jurisdiction of a court in the Republic of Croatia.
3. Parties may agree to submit the disputes referred to in paragraph 1 of this article to arbitration, regardless of whether or not the arbitration is administered by an arbitral institution.

No limitations on selection of

- foreign arbitrators
- foreign attorneys, or
- the use of foreign language(s).

III SETTING ASIDE OF A CROATIAN (DOMESTIC) ARBITRAL AWARD

Reasons for setting aside (Art. 36) follow the text of Art. 34 of the Model Law.

Application to set aside the award must be made within three months following the receipt of the award.

Exclusive competence to hear the setting aside case in the first instance rests with

- The Commercial Court in Zagreb – as regards the commercial disputes;
- The County Court in Zagreb – as regards the non-commercial disputes.

There is a right of appeal to the higher court, as well as the right to file an appeal on the point of law (“revizija”) to the Supreme Court.

The award itself, as well as the final decision of the state courts in the setting aside proceedings, may be challenged by application to the Constitutional Court on the grounds of violations of constitutional (human) rights of the parties.

Successful challenges are rare.

**In case of a dispute please stay
calm – and arbitrate!**

Thank you!

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