

Belgrade Arbitration Center adopts BAC Rules

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2013 saw the establishment of Serbia's first arbitration institution which is not affiliated to the State – Belgrade Arbitration Center (BAC), created under the auspices of the Serbian Arbitration Association, a non-governmental and non-profit association of legal professionals and other individuals interested in arbitration law and promotion of arbitration.

BAC is the third arbitral institution in Serbia. The two other institutions reside within the Serbian Chamber of Commerce – the Foreign Trade Court of Arbitration (FTCA), which administers disputes containing a foreign element, and the Permanent Court of Arbitration, which resolves domestic commercial disputes. The BAC is the only Serbian arbitral institution outside the chamber system.

Among other things, the BAC administers both domestic and foreign disputes, assists in technical and administrative aspects of ad hoc arbitral proceedings, organizes and conducts mediation sessions and provides for other services related to alternative dispute settlement. The BAC aims to establish itself as a regional arbitration center by offering speedy, efficient and reliable proceedings that are compliant with local legislation, the possibility for the parties to choose their arbitrators and the rules governing the proceedings, affordable services in dispute resolution for disputes with a regional character and in languages spoken in the region, and more.

Earlier this year, the BAC adopted a set of Rules (Belgrade Rules) which provide for a modern and efficient procedural framework for arbitral proceedings. The Belgrade Rules draw upon some of the leading international arbitration rules (including the 2010 UNCITRAL Rules), while taking into account the needs of the region and including specific, tailor-made provisions, that should promote arbitration as a preferred method of dispute resolution and help the BAC grow both regionally and internationally. Some of the most interesting features of the Belgrade Rules are further explained below.

Commencement of arbitration

The Belgrade Rules, in Article 11, provide that the proceedings may be commenced only by the statement of claim, as opposed to the rules of the FTCA (and many other institutions), which allow for the commencement of the proceedings both by a request for arbitration and a statement of claim. This is said to promote the efficiency of the proceedings, since the claimant's claims must be presented in the first written submission. Pursuant to Article 11(6) of the Belgrade Rules, if the statement of claim does not contain all the required elements, the BAC Secretariat may invite the claimant to supplement it within a specified period of time. If the claimant fails to do so, the Secretariat may determine that the proceedings will be terminated.

Electronic communication

The concern to promote efficiency of the proceedings is further reaffirmed in the provisions on means of communication in the course of the arbitration. Article 7 establishes electronic communication as a preferred means, by providing that submissions, notifications and other communications in the course of proceedings shall not be delivered electronically only if there is an agreement between the parties in that respect.

Language of the proceedings

The provisions on the language of the proceedings before the BAC indicate the ambition of this institution to grow into a regional arbitration center. Article 5 of the Belgrade Rules provides that, if the parties have not reached an agreement with respect to the language of the proceedings, the proceedings shall be conducted in either Serbian or English, which makes the BAC more accessible to non-Serbian speaking parties.

At the same time, the Belgrade Rules contain the solution for a linguistic problem that is very specific for the countries of former Yugoslavia. Although Serbian, Croatian, Bosnian and Montenegrin are considered to be different languages (whereas in former Yugoslavia it was only one language, Serbo-Croatian, that was spoken in these four territories), they share the same root, have a common lexical, morphologic core, and follow the similar syntactic patterns. In order to allow for more expeditious proceedings between the parties coming from the countries of the region, Article 5(4) provides that, if the language of the proceedings is Serbian, written submissions and evidence made in Croatian, Bosnian or Montenegrin need not be translated into Serbian (as they would have to be before national courts in the region). This provision, which is unique in the region, is likely to render the proceedings more efficient without producing any negative effects in the sphere of legal certainty, bearing in mind the similarity of the languages concerned.

Appointment of arbitrators in multi-party arbitrations

As far as the appointment of arbitrators in multi-party arbitrations is concerned, the Belgrade Rules introduce a novelty (as compared to the Rules of the FTCA). While the FTCA Rules provide that, whenever parties appearing on one side (e.g., co-respondents) cannot agree on an arbitrator, the arbitrator will be appointed by the Chairman of the FTCA, the Belgrade Rules accept the solution of the Article 9(3) of the 2010 UNCITRAL Rules and provide that where multiple claimants or respondents fail to appoint one of the members of the three-member panel, the entire panel will be appointed by the President of the BAC. In doing so, the President of the BAC may revoke the appointment of the arbitrator who has already been appointed or reappoint the arbitrator who has already been appointed, and designate one of them as the presiding arbitrator.

Costs of arbitration

Article 44 of the Belgrade Rules provides that, as a default rule, the parties will be ordered to advance one half of the costs each, upon calculation of all claims, counterclaims and set-off claims lodged. This rule is meant to be less burdensome for claimants than the rule pursuant to which claimant needs to advance the full amount of costs in order for the proceedings to begin (this solution is prevalent among the institutional arbitrations in the region). In special circumstances, in order to prevent abusive counterclaims, the parties may be ordered to each cover costs of their claims.

Publication of the awards

Research of arbitration practice in the countries of former Yugoslavia often appears to be difficult since arbitral institutions generally do not publish their awards. The Belgrade Rules tend to provide a solution for this problem by introducing detailed rules on the publication of awards. Pursuant to Article 9(2) of the Belgrade Rules, the BAC is authorized to publish anonymized awards or their summaries unless the parties request within 60 days from the day of delivery of the award that it is not published.

[More information on the BAC and its Rules can be found here.](#)

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