

Kluwer Arbitration Blog

New Arbitration Center in Bulgaria

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In November 2014, a new arbitration center was established in Bulgaria – the [KRIB Court of Arbitration](#) (KRIB – Confederation of Employers and Industrialists in Bulgaria). The establishment of this institution was awaited by the Bulgarian business.

The establishment of a new arbitral institution in Bulgaria is an important step, since arbitration is a widely used method of dispute resolution in Bulgaria, especially for commercial disputes. In 2014, more than 40,000 new arbitration proceedings were commenced, including both institutional and *ad hoc* arbitrations. Even if most of those new cases concern utilities contracts (electricity supply, heat supply, mobile phones contracts etc.), still this number is considerable for a small country like Bulgaria. The importance of arbitration as a way of dispute resolution in Bulgaria is evident from the presence of more than 15 arbitration centers in the country as well. Currently, the main arbitration institutions in Bulgaria are those of the [Bulgarian Chamber of Commerce and Industry \(BCCI\)](#), which was established more than 50 years ago, and of the [Bulgarian Industrial Association \(BIA\)](#). Despite the presence of more than 15 arbitration centers, during the last years businesses started to require arbitration institutions which reflected the tendencies in arbitration and, the most important, which restored trust in arbitration as a way of dispute resolution mechanism. At these volatile times for the Bulgarian arbitration, the KRIB Court of Arbitration was established. The institution was established in order to address the requirements of the local and foreign businessmen operating in Bulgaria. This attempt is mirrored in the structure of the institution and, most of all, in its rules.

The KRIB Court of Arbitration is based in Sofia. Its structure includes an Arbitration Council, a Supervisory Board, an Arbitration Panel and a Secretariat. There are several guarantees for internal democracy and independence of the authorities of the institution. However, the time will tell whether these guarantees are operative in practice.

The KRIB Rules of Arbitration are very similar to the ICC Rules 2012. This is a safe approach since first, the ICC Rules of Arbitration has proven their effectiveness; second, there is well-established practice in ICC how certain procedural problems that may occur shall to resolved and, of course, there is well established ICC case-law. The close relation between the ICC Rules and the KRIB Rules of Arbitration, considerably facilitate the use of ICC cases and publications.

One of the main advantages of the KRIB Court of Arbitration is the implementation of the regime for scrutiny of the arbitral award, which is a relatively new concept for Bulgarian arbitration institutions. This type of control over arbitral awards inside the institution is borrowed from the

ICC Rules of Arbitration 2012. Actually, this is one of the main achievements of the ICC Rules and made them preferred rules applicable to the arbitration proceedings worldwide. This regime mitigates the risk of rendering arbitral award that might be set aside by the courts at the place of arbitration or that might be subject to refusal of recognition and enforcement under Art. V of the New York Convention for Recognition and Enforcement of Foreign Arbitral Awards by the courts where the award is to be recognized and enforced (usually where the respective party has its assets).

To the point, Art. 38 of the KRIB Rules of Arbitrations provides that, before signing the arbitral award, the arbitral tribunal shall submit it in draft to the Secretariat. The Secretariat shall send the draft of the arbitral award to the Arbitration Council. The Arbitration Council request modifications as to the form of the award, and, without affecting the arbitral tribunal's liberty of decision, may also draw its attention to points of material or procedural character. The Arbitration Council issues a decision and gives the tribunal a reasonable period of time to correct the award, if necessary. No award can be rendered by the tribunal before successfully completing the procedure provided in Article 38 of the KRIB Rules of Arbitration.

As evident, such a regime decreases the possibility of erroneous awards to be rendered by the arbitral tribunals since after the drafting of the award by the tribunal the award will be "reviewed" in order to ensure the completeness and validity of the arbitral award, of course without affecting the tribunal's liberty of decision.

A question that may arise in this regard is whether such a regime is valid under the Bulgarian law. The answer is more likely to be positive, since there are several arbitral awards rendered under the ICC Rules which have already been recognized and enforced by Bulgarian courts. These awards have been subject to scrutiny under Art. 33 of the ICC Arbitration Rules. Therefore, such a "control" inside the arbitral institution should be in compliance with Bulgarian law and should not be considered as breaching any mandatory norms and/or Bulgarian public order.

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