Czech Republic

Vladimir Uhde, Robert Klenka and Miloslav Strnad
BBH, advokatni kancelar, v.o.s.

www.practicallaw.com/5-502-1542

GENERAL

1. Please give a brief overview of the use of commercial arbitration in your jurisdiction, including any recent trends. What are the general advantages and disadvantages of arbitration compared to court litigation in your jurisdiction?

Arbitration has become a commonly used instrument for the settlement of commercial disputes. Although it was initially used mostly to settle international disputes, arbitration is now also used more to resolve domestic disputes. An arbitration clause is the norm in commercial agreements.

Advantages of settling commercial disputes through arbitration, as opposed to court proceedings, include:

- A considerably quicker resolution of cases. In addition, arbitral proceedings are one instance only and, therefore, the award has its legal force after it is delivered to the parties, unless otherwise agreed by the parties.
- Fewer formalities and more flexibility.
- The parties' ability to choose the applicable procedural rules.
- The privacy of arbitration proceedings and their inaccessibility to the public.
- Enforceability and recognition of arbitral awards in more jurisdictions than court judgments, due to the New York Convention.

2. Which arbitration organisations are commonly used to resolve large commercial disputes in your jurisdiction? Please give details of both arbitral institutions and professional/industry bodies, including the website address of each organisation.

Parties commonly refer large commercial disputes to the Arbitration Court attached to the Economic Chamber of the Czech Republic and Agricultural Chamber of the Czech Republic (Arbitration Court) (*www.arbcourt.cz*), which is a statutory institutional arbitral body with a long tradition and solid reputation. Other arbitration courts established by law are the:

- Exchange Court of Arbitration at the Prague Stock Exchange (*www.pse.cz*).
- Arbitration Court attached to the Czech-Moravian Commodity Exchange Kladno (*www.rozhodcisoud.cz/kontakt_e.html*).

Many private companies also provide arbitral services. However, these private arbitral courts are often not equipped to resolve the submitted cases to a certain quality standard. In addition, the parties can refer their dispute to a specific arbitrator, not only to a specific arbitration institution (ad hoc arbitration).

3. What legislation applies to arbitration in your jurisdiction? To what extent has your jurisdiction adopted the UNCITRAL Model Law on International Commercial Arbitration 1985 (UNCITRAL Model Law)?

The general rules relating to arbitration proceedings and enforcement of arbitration awards are provided by Act No. 216/1994 Coll. (Arbitration Act). The Arbitration Act regulates:

- Arbitration agreements (clauses).
- Appointment and exclusion of arbitrators, and their default selection criteria.
- Permanent arbitration courts.
- Arbitral proceedings including the decision-making, questioning and setting aside of an arbitral award by the court, and special provisions related to international elements in arbitration proceedings.

In addition, the Czech Civil Procedure Code (*Act No. 99/1963 Coll.*) (CPC) applies in relation to certain procedural rules in relation to arbitration. These rules apply to arbitration in the same manner as to court proceedings but it must be first determined whether a particular rule is appropriate for arbitration proceedings. For example, an arbitration award must be delivered to the parties according to the CPC rules relating to the delivery of documents.

The Arbitration Act was based on the UNCITRAL Model Law and, therefore, the majority of its provisions reflect the Model Law.

4. Are there any mandatory legislative provisions (for example, relating to removal of arbitrators, challenge of awards and arbitrability)? If yes, please summarise their effect.

The key principle of arbitration proceedings is the parties' ability to agree most procedural rules. However, there are certain mandatory provisions in the Arbitration Act relating to, in particular:

- The form of an arbitration agreement (*see Question 7*).
- The arbitrators' duties (*see Questions 5, 10 and 14*).

- The parties' duties (*see Questions 17 and 24*).
- Requirements of the award.

The CPC may also apply (*see Question 3*), for example, in relation to:

- The delivery of certain tribunal's correspondence.
- Notifying the parties that they have not fulfilled the burden of assertion and/or proof in relation to their claim/defence.

The law does not fully explain the CPC's applicability. Therefore, it is subject to the courts' practice and discretion. For example, the Supreme Court's approach seems to be conservative and favours the CPC application. This approach, however, is often criticised by jurisprudential authorities.

5. Are there any requirements relating to independence or impartiality?

An arbitrator must be independent and impartial. Arbitration is based on the equal opportunity of the parties to present their claim or defence. Persons conducting arbitral proceedings must under the Arbitration Act:

- Be independent and impartial.
- Have no relationship with either of the parties, even if appointed by the party.
- Have no interest in the outcome of the dispute.

If a person is to be, or was, appointed as an arbitrator, he must disclose any circumstances that could give rise to justifiable doubts as to his prejudice and for which he could be excluded as an arbitrator. If these circumstances appear during arbitration, the appointed arbitrator must withdraw from the office. The parties can agree on a removal procedure in circumstances where an arbitrator refuses to withdraw. In the absence of agreement, a party can request a court to decide on the termination of the arbitrator's mandate due to the lack of impartiality.

6. Does the law of limitation apply to arbitration proceedings? If yes, briefly state the usual length of limitation period(s) and what triggers or interrupts it in the context of commercial arbitration.

The law of limitation applies to arbitration proceedings. The limitation period in commercial contracts is generally regulated by the Czech Commercial Code and its length is usually four years. This limitation period can be extended by the parties, to a maximum of ten years (maximum limitation period).

The limitation period commences, in most cases, on the first day of the possibility to claim a right before a court. The limitation period is suspended as soon as a creditor performs an act which is considered the start of judicial or arbitration proceedings. The limitation period is also interrupted on the acknowledgment of debt or a court's decision confirming the right in question.

Limitation periods are respected if a court action is filed with a court on the last day of the limitation period, irrespective of the jurisdiction of civil or arbitration courts. Under the CPC, limitation periods remain effective if the action is delivered to a civil court on time in breach of an arbitration agreement (and vice versa). This, however, is subject to the requirement that the claimant submits its claim to a proper body after the jurisdiction of the original body is refused (*see Question 17*).

ARBITRATION AGREEMENTS

7. For an arbitration agreement to be enforceable:

- **What substantive and/or formal requirements must be satisfied?**
- **Is a separate arbitration agreement required or is a clause in the main contract sufficient?**

The legal requirements are contained in the Arbitration Act. An arbitration agreement must (*Arbitration Act*):

- Be concluded in writing.
- Relate to proprietary disputes that can be solved by settlement.

Arbitration agreements can be executed in the form of a separate agreement or in the form of a clause in the main contract. Generally, an arbitration clause or agreement must include:

- A manifestation of will to transfer jurisdiction from a civil court to arbitrators.
- The appointment method or identities of one or more arbitrators, or a permanent arbitration court.

8. Do statutory rules apply to the arbitration agreement? For example, are there restrictions on the number, qualifications/characteristics or selection of arbitrators?

An arbitrator must be a physical person (*Arbitration Act*). In addition:

- Czech citizens must be at least 18 and have the full legal capacity to enter legal acts.
- Foreign persons must be at least 18 and fully capable of entering into all legal acts under their domestic law or Czech law.

The law is silent on the professional requirements for arbitrators, including the legal education. However, the parties can specify additional requirements in the arbitration agreement.

Nobody is obliged to accept their appointment but, if they do so, the acceptance must be in writing.

For the requirement of impartiality, see *Question 5*.

9. In what circumstances can a third party be joined to an arbitration, or otherwise be bound by an arbitration award? Please give brief details.

The contractual nature of arbitration agreements (clauses) means that no third party can be joined to an arbitration unwillingly.

However, an arbitration agreement is binding on a party's successors.

Unlike some other jurisdictions, Czech arbitral practice does not recognise the binding nature of an arbitration agreement (clause), concluded by a parent company, on the entities in the same corporate group and in the related legal relationships. For example, if a parent undertakes to fulfill its subsidiary's obligations under the contract, containing no arbitration clause, concluded between the subsidiary and a third party, and does not properly fulfill these obligations, the third party cannot rely on an arbitration clause in its own agreement with the parent.

PROCEDURE

10. Does the applicable legislation provide default rules governing the appointment and removal of arbitrators, and the start of arbitral proceedings?

Appointment of arbitrators

Generally, an arbitration agreement must determine the number of arbitrators and their identities, or the appointment method. The number of appointed arbitrators must always be an odd number. In the absence of the parties' agreement on the number of arbitrators and appointment methods, each party appoints one arbitrator and the two arbitrators appointed select the third arbitrator as chairman (*Arbitration Act*). If a party fails to appoint an arbitrator within 30 days of receiving a request to do so from the other party, or if the two arbitrators appointed fail to agree on the chairman within 30 days of their appointment, the appointment must be made, on the request of a party or an appointed arbitrator, by the court.

The parties can agree to both:

- Submit their disputes to a permanent arbitral court established exclusively by law (for example, the Arbitration Court).
- Choose arbitrators from the arbitral court's lists.

In addition, it is not expressly forbidden by law to submit a dispute to a legal person (the so-called arbitration centre), that manages a list of its arbitrators and provides administrative services to the arbitrators on an ad hoc basis. However, the High Court in Prague, and later the Supreme Court, ruled that an arbitration clause cannot validly provide for an appointing authority to choose ad hoc arbitrators from a list of arbitrators maintained by a non-permanent arbitration court.

Removal of arbitrators

An arbitrator can withdraw from his office only for serious reasons or if the parties agree on the termination of his office. The arbitrator can also be removed on the grounds of independence and impartiality (*see Question 5*).

Commencement of proceedings

Arbitral proceedings commence on the date on which a party brings an action in relation to the dispute and the action is received by the permanent arbitration tribunal or by the presiding arbitrator. If the presiding arbitrator is not yet specified or appointed, the action can be received by any other specified or appointed arbitrator. The permanent arbitration tribunal or arbitrator must note the date of the delivery on the action.

11. What procedural rules are arbitrators likely to follow? Can the parties determine the procedural rules that apply? Does the legislation provide any default rules governing procedure?

Arbitrators are subject to the mandatory provisions of the Arbitration Act and CPC, as the case might be (*see Question 4*). The parties can determine all other procedural issues, including by referring to a permanent arbitration tribunal's rules. The parties can also refer to model arbitration rules, for example, the UNCITRAL Model Law. In the absence of agreement, the procedural matters are regulated by the non-mandatory provisions of the Arbitration Act and the CPC (this is rare).

Subject to the above, the arbitrators conduct proceedings in the manner as they consider appropriate for the resolution of the case. During the proceedings, arbitrators attempt to:

- Discover the facts necessary for decision-making.
- Avoid unnecessary formalities.
- Respect each party's right to fully exercise its privileges.

Procedural matters are often subject to further agreement between the parties and the arbitral tribunal, or they can be determined by the Chairman (if he is empowered by the parties and remaining arbitrators).

Permanent arbitration courts and arbitration centres can issue their own procedural set of rules or systems. The rules and orders of procedure of the permanent arbitration tribunals must be published in the *Commercial Bulletin*. If the parties submit their disputes to a permanent arbitration court, they agree on submitting to the rules of that court valid on the date of the commencement of the arbitration, unless otherwise stated in the arbitration agreement.

The parties are free to agree on the seat of arbitration. Failing agreement, the seat of arbitration must be determined by the arbitrators having regard to the parties' legitimate interests.

The proceedings before arbitrators must be oral, unless otherwise agreed by the parties.

12. What procedural powers does the arbitrator have? If there is no express agreement, can the arbitrator order disclosure of documents and attendance of witnesses (factual or expert)?

Except the arbitration award, every decision approved and adopted by the arbitrators, including procedural orders, can only bind the parties to the arbitration agreement.

Arbitrators can hear the testimony of witnesses, experts and parties that willingly present themselves. Other evidence can be examined, if submitted voluntarily (typically, evidence is provided by the parties to uphold their burden of proof).

The arbitral tribunal has no official power to order third persons to:

- Disclose documents.
- Attend as witnesses.
- Provide expert opinion.

Procedural acts that cannot be executed by arbitrators can be executed by a court, on the arbitrators' request, using the court's procedural powers. The court must satisfy this request unless either:

- The request is unlawful under the CPC.
- The arbitration agreement is clearly invalid.

This is particularly useful for the production of evidence. The court must notify the arbitrators and parties of the execution method in which they can take part. In addition, the court can order third parties to, among others:

- Appear as witnesses to provide important information.
- Disclose documents.
- Deliver items for examination.
- Provide expert opinions.

The permanent arbitral body covers these costs pending the arbitration award. However, these requests are rare in practice and arbitrators tend to rely on evidence submitted willingly by the parties.

EVIDENCE

13. What documents must the parties disclose to the other parties and/or the arbitrator(s)? Can the parties determine the rules on disclosure? How, in practice, does the scope of disclosure compare with disclosure in litigation?

The civil procedure is generally based on the principle that the parties bear their burden of assertions and proof, and the arbitral body or court does not investigate the facts on its own initiative. Mandatory disclosure is undesirable and arbitration proceedings are not subject to the discovery principle. Therefore, the disclosure of documents is very rare and unusual in a Czech arbitration.

In practice, the parties should provide all relevant documents voluntarily. Theoretically, an arbitral tribunal can order disclosure under the CPC, on the other party's request.

CONFIDENTIALITY

14. Is arbitration confidential?

Confidentiality is considered one of the fundamental principles and advantages of arbitration. Arbitrators are subject to the duty of confidentiality in relation to facts that became known to them in connection with their appointment (*Arbitration Act*). They can be released from the duty of confidentiality only:

- By the parties' agreement.
- For a serious reason by the presiding judge of the competent district court (based on the arbitrator's permanent residence).

Conversely, it is not possible to prevent the parties or third parties that participated in the arbitration proceedings from publishing any information about the proceedings or the outcome, subject to the parties' contrary agreement (*Arbitration Act*). Therefore, it is preferable and common between the parties to conclude a separate confidentiality agreement and to bind any third party appearing in the proceedings by this agreement.

COURTS AND ARBITRATION

15. Will the local courts intervene to assist arbitration proceedings? For example, by granting an injunction or compelling witnesses to attend?

Czech courts can intervene to assist arbitration proceedings, typically to resolve situations which the parties are unable to resolve independently. In particular, the court can intervene to assist with the following (*Arbitration Act*):

- **Injunctions.** Only the courts can order an injunction even if the dispute is heard by arbitrators or a permanent arbitration tribunal. The court can order an injunction, on a party's application, if circumstances (either of the arbitral proceedings or those existing before the arbitration started) show that the:
  - execution of an arbitral award may be endangered; or
  - relationship between the parties needs to be settled before a full award.
- **Appointment of arbitrators.** Unless otherwise agreed by the parties, an arbitrator must be appointed by the court, if:
  - a party fails to appoint an arbitrator within 30 days after receiving the request from other party;
  - the appointed arbitrators cannot reach an agreement on the appointment of a chairman within 30 days of their appointment; or
  - the already appointed arbitrator resigns or is otherwise unable to perform his duties (*see Question 10*).
- **Removal of arbitrators.** The parties can file an application requesting the court to decide on an arbitrator's removal. The parties can also agree on the procedure for removing an arbitrator in the arbitration agreement or by referring to the specific procedural rules (*see Question 10*).
- **Setting aside an award.** Under certain circumstances the court can set aside an arbitral award (*see Question 22*).
- **Duty of confidentiality.** The chairman of a district court can relieve an arbitrator of the duty of confidentiality (*see Question 14*).

In practice, court intervention is rare.

16. What is the risk of a local court intervening to frustrate the arbitration? Can a party delay proceedings by frequent court applications?

The courts cannot intervene in arbitration proceedings in a manner that may frustrate or interrupt arbitration. The courts can intervene only to the extent permitted by the Arbitration Act (*see Question 15*). Therefore, a party cannot delay arbitration proceedings by frequent court applications.

17. What remedies are available where a party starts court proceedings in breach of an arbitration agreement, or initiates arbitration in breach of a valid jurisdiction clause?

Breach of arbitration agreement

If a party starts court proceedings in breach of an arbitration agreement, the other party can raise a jurisdiction objection, but only during its first act on the merits. Once the court receives this objection, it can no longer consider the case and must issue a decision to cancel the proceedings.

The court does not automatically delegate the matter to arbitration. If the parties declare, after the jurisdiction objection was raised, that they do not insist on arbitration, the court must consider the case. If the court proceedings were cancelled and a petition was filed to start arbitration, the legal effects of the initial court action remain in force if the petition to arbitrate is filed within 30 days of the delivery of the court's cancellation decision. (This is relevant for the limitation period calculation (*see Question 6*).)

Breach of jurisdiction clause

If the parties file an action before arbitrators, they must review their jurisdiction throughout the arbitration proceedings. The parties may also raise an objection of lack of jurisdiction based on the non-existence of an arbitration clause as a party's first act on the merits. If the arbitrators decide that they lack jurisdiction, the party can file their claim with a court within 30 days of the delivery of the tribunal's decision on jurisdiction. The legal effect of the original statement of claim filed in the arbitral proceedings remains in existence for the purposes of the limitation period (*see Question 6*). If arbitrators do not review their jurisdiction and proceed to arbitration, the award can be set aside by the court for the lack of jurisdiction (*see Question 22*).

18. Will the local courts grant an injunction to restrain proceedings started overseas in breach of an arbitration agreement?

Under Czech procedural law, a court cannot intervene in foreign court proceedings, for example, by issuing an anti-suit injunction.

19. What remedies are available where one party denies that the tribunal has jurisdiction to determine the dispute(s)? Does your jurisdiction recognise the concepts of separability and/or kompetenz-kompetenz? Does the tribunal or the local court determine issues of jurisdiction?

The concept of kompetenz-kompetenz is recognised. Arbitrators are empowered to decide on matters of their competency at anytime during arbitral proceedings.

Each of the parties to an arbitration can make an objection that the arbitration agreement is invalid, extinguished or does not exist and that, therefore, the tribunal has no jurisdiction. Arbitrators decide on this objection exclusively, that is, without court intervention. However, this objection must be made together with or during the first party's act on the merits at the latest. If the objection is not raised, the party is assumed to have accepted the arbitration agreement.

If arbitrators conclude that they are not competent to hear a certain dispute, they must refuse to hear the dispute. (The tribunal's competency and jurisdiction are pre-requisites to a valid arbitration.) Each of the parties can then file an action with the court. If a party does so within 30 days of receiving the tribunal's decision, the legal effects of the action are observed for the purposes of the limitation period.

If a court in a consequent proceeding decides that there is no valid arbitration agreement (clause), it must decide on the merits of the case under the principles of the CPC. If a court decides to repeal the arbitrators' decision on the lack of jurisdiction and concludes that the arbitration agreement is still valid, and the parties agree, the original arbitrators are removed and new arbitrators must be appointed. The appointment is regulated either by the arbitration agreement or default provisions of the Arbitration Act.

If a court, on a party's objection (made together with or during the first party's act on the merits at the latest) finds that the matter must be decided in arbitration under the parties' agreement, the matter cannot be discussed by the court, unless either:

- The parties declare that they do not insist on the arbitration agreement.
- The arbitration agreement is invalid, extinguished or does not exist.

If a party files an action with an arbitration court or arbitrator within 30 days from receiving a decision of the termination of court proceedings, the legal effects of the original court action must be respected in relation to the limitation period.

If an arbitration is commenced before the court proceedings, the court proceedings on the matter of an invalid, extinguished or non-existent arbitration agreement will not commence until the arbitral proceedings are terminated with a decision on lack of jurisdiction or by a decision on the merits.

REMEDIES

20. What interim remedies are available from the tribunal? Can the tribunal award:

- **Security for costs?**
- **Security or other interim measures?**

The issue of security is not regulated by the Arbitration Act and it is, therefore, a matter of agreement between the parties and arbitrators. The Arbitration Court stipulates the duty of providing security in its Principles Governing the Costs of Arbitral Proceedings in Domestic Disputes.

To finance specific costs, particularly in relation to evidence, that may arise during a certain hearing, parties must pay reasonable security for specific costs if the arbitration court orders so.

Issuing a security obligation or other interim measures is not within the jurisdiction of arbitration tribunals. Only the courts can order interim measures, and a party applying for an interim measure must provide security of CZK50 000 (about US$2,620) (in commercial cases) to cover any potential damage caused by the interim injunction.

21. What final remedies are available from the tribunal? For example, can the tribunal award damages, injunctions, declarations, costs and interest?

In relation to subsidiary use of the CPC, the final remedies are derived from the character of civil actions. An arbitration tribunal can be requested to award:

- A type of performance, including reimbursement of damages.
- Non-performance.
- Determination of a legal relationship or right (for example, that someone is the owner of a certain object, or that the sale and purchase contract allegedly concluded between the parties is invalid). There must be an urgent legal interest in clarifying these issues.

The above remedies must be based on substantive law.

In addition, a party can sue for:

- Fulfilment of a contract, including the relevant sanctions.
- Fulfilment resulting from a law such as, for example, surrendering unjust enrichment.
- Damages, interest and default charges.

APPEALS AND CHALLENGES

22. Can arbitration proceedings and awards be appealed or challenged in the local courts? If yes, please briefly outline the grounds and procedure. Can the parties effectively exclude any rights of appeal or challenge?

An arbitral award can be reviewed by other arbitrators if the parties so agree.

Arbitration proceedings cannot be appealed in the local courts. However, arbitration awards issued in Czech territory can be set aside by the local courts on an application of any party filed within three months of the delivery of the final award for the following reasons:

- The arbitration award was issued in relation to a non-arbitrable dispute.
- The arbitration clause is invalid for other reasons, was terminated or does not cover the matter.
- An arbitrator was not entitled to decide based on the arbitration clause or otherwise did not have the capacity to act as arbitrator.
- The arbitral award was not approved by the majority of the arbitrators.
- The party was not provided with the possibility to be heard by the arbitrators.
- The arbitral award requires the party to satisfy an impossible obligation or an obligation not requested by the claimant.
- The award is inadmissible under Czech law.
- It is established that reasons exist on the basis of which it is possible to request the re-opening of court proceedings under the CPC. (This does not affect the enforcement of foreign awards.)

A pending application to set aside an award does not suspend the enforceability of the arbitral award.

If the award is set aside on the second or third ground, the court must decide on the case, on a party's application. If the court sets aside an arbitral award for any other reason, the arbitration clause remains unaffected, but the arbitrators who participated in the issuance of the award are excluded from re-considering the matter and new arbitrators must be appointed.

Even if the party against whom the enforcement is sought did not file an application to set aside, the party can file an application to vacate the court's enforcement order for reasons stipulated in the CPC and the Arbitration Act. If an application is filed, the court that ordered the execution of the arbitral award must suspend the proceedings on execution of the arbitral award and must order the obligated party to file an application for setting aside the arbitral award with a competent court within 30 days. If no application is filed within this time period, the court must restart the proceedings on the execution of the arbitral award.

COSTS

23. What legal fee structures can be used? For example, hourly rates and task-based billing? Are fees fixed by law?

The remuneration of lawyers and arbitrators is subject to the parties' agreement.

In relation to legal fees, hourly rates, task-based billing, and success fees and contingency agreements are allowed, subject to the principle of good morals. If a lawyer's fee is not contractually

agreed, the Decree No. 177/1997 Coll. on attorney's tariff applies. The rates provided in the Decree are considerably lower than the fees in the large commercial disputes.

24. Does the unsuccessful party have to pay the successful party's costs? How does the tribunal usually calculate any costs award and what factors does it consider?

The costs of arbitration proceedings usually comprise:

- Arbitration fees.
- Arbitrators' administrative costs.
- Specific costs incurred during the arbitration.
- Costs incurred by the parties in relation to the arbitration, including legal representation.

The Arbitration Act does not regulate costs and their reimbursement. Therefore, parties should be free to reach an agreement on this issue. However, this only applies in ad hoc arbitral proceedings. If arbitration is conducted by the Arbitration Court, its principles on costs apply and each party bears its own costs. An arbitral tribunal may order that costs or part of them be paid by the unsuccessful party if the tribunal considers it reasonable in the circumstances of the case.

ENFORCEMENT

25. To what extent is an arbitration award made in your jurisdiction enforceable in the local courts? Please briefly outline the enforcement procedure.

To be enforceable, an arbitral award must be:

- Delivered in writing to the parties.
- Final.
- Provided with a certificate of its enforceability on delivery.

Arbitral awards are final from the day of their delivery, provided they cannot be reviewed by appeal.

If a liable party fails to perform an enforceable award voluntarily, the entitled party can file an application with the court or executor. Irrespective of the enforcement method, only the courts can order execution. If a petition is filed with an executor, the executor must ask the court to order execution. The enforcement application must be delivered to the court of the place of registered seat or residence of the party against whom the enforcement is sought.

The application must be accompanied by an original or certified copy of the:

- Award.
- Certificate of enforceability of the award.
- Arbitration agreement.

MAIN ARBITRATION ORGANISATIONS

Arbitration Court attached to the Economic Chamber of the Czech Republic and Agricultural Chamber of the Czech Republic (Arbitration Court)

Main activities. The main function of the Arbitration Court is to resolve disputes through arbitration. Initially, most disputes related to international trade. However, in the last two years, a growing number of domestic disputes have been heard by the Arbitration Court. The Arbitration Court often provides its arbitrators and premises for ad hoc arbitration.

W *www.arbcourt.cz*

Exchange Court of Arbitration at the Prague Stock Exchange

Main activities. The Exchange Court determines disputes arising from the exchange trade contracted at the Exchange. The Court does not have a permament panel of arbitrators.

W *www.pse.cz*

Arbitration Court attached to the Czech-Moravian Commodity Exchange Kladno

Main activities. This Arbitration Court can settle disputes arising from deals concluded:

- On the Czech-Moravian Commodity Exchange Kladno.
- On the Commercial Exchange Hradec Kálové.
- Outside the two Exchanges, the subject matter of which is a commodity traded on one of the Exchanges.

W *www.rozhodcisoud.cz/kontakt_e.html*

Enforcement must be ordered and carried out in accordance with the CPC and the Act No. 120/2001 Coll. (Execution Act). To enforce a monetary award, the court may order the following:

- A wage deduction.
- Sale of movables, immovables or the whole enterprise.

26. To what extent is an arbitration award made in your jurisdiction enforceable in other jurisdictions? Is your jurisdiction party to international treaties relating to this issue such as the UN Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 (New York Convention)?

The Czech Republic is a party to the New York Convention. Therefore, Czech arbitration awards are enforceable in jurisdictions of other signatories to the New York Convention and vice versa.

In addition, the Czech Republic is a party to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States 1965 (Washington Convention) and the European Convention on International Commercial Arbitration 1961 (Geneva Convention).

27. To what extent is a foreign arbitration award enforceable in your jurisdiction? Please briefly outline the enforcement procedure.

Enforceability of foreign arbitral awards is based either on the New York Convention or on the principle of reciprocity. Foreign arbitration awards issued in jurisdictions party to the New York Convention must be enforced in the same manner as domestic arbitration awards. Similarly, a foreign award must be enforced if it is issued in a jurisdiction that has a reciprocity agreement with the Czech Republic.

Enforcement of foreign arbitration awards must be refused, in particular, if:

- The foreign award is inconsistent with the system of law of the foreign state in which it was rendered.
- The enforcement would be contrary to the Czech public interest.
- The award is flawed under the Arbitration Act (*see Question 22*).

The enforcement procedure is regulated by the CPC and Execution Act (*see Question 25*). The required documents must be supplied in their official Czech translation.

28. How long do enforcement proceedings in the local court take? Is there any expedited procedure?

The length of enforcement proceedings depends on the:

- Circumstances of the case.
- Selected manner of execution.
- Use of procedural rights by the party against whom the enforcement is sought (for example, submission of appeals).

There is no stated minimum or maximum length of enforcement proceedings, or a specified expedited procedure.

CONTRIBUTOR DETAILS

Vladimir Uhde, Robert Klenka and Miloslav Strnad
BBH, advokatni kancelar, v.o.s.
T +420 234 091 355
F +420 234 091 366
E *vuhde@bbh.cz*
rklenka@bbh.cz
mstrnad@bbh.cz
W *www.bbh.eu*

Our Clients' Success Speaks For Itself

BBH, advokatni kancelar, v.o.s. (formerly named Brzobohaty Broz & Honsa, v.o.s.) is a full-service independent Czech law firm based in Prague with an international cross-border focus. Established in January 2000, BBH subsequently acquired the Prague office of an international law firm previously operating in the CEE region, thereby greatly expanding BBH's presence throughout Central and Eastern Europe.

In June 2006 BBH opened an office in Moscow under the name BBH Legal LLC (the first branch office of a Czech law firm in Russia), and on 1 January 2007, BBH opened a new office in Bratislava now officially named BBH advokatska kancelaria, s.r.o. (formerly named BBH Slovensko, s.r.o.)

The opening of the Moscow office was the logical conclusion of BBH's numerous instructions and engagements by Russian clients, and significant Czech and international concerns conducting business in Russia in the years preceding 2006. The establishment of the Slovak branch office, on the other hand, resulted from the deepening of a ten year partnership with local lawyers. Both offices have been profitable from their opening and have been involved in numerous high profile transactions and instructions. The Prague office of BBH is currently the largest office of the firm and it is also the office with the longest history, with a professional team dating back to 1990. BBH Prague is consistently rated among the leading law firms operating on the Czech market.

BBH has 65 highly skilled lawyers (including 8 partners) and a number of specialised support staff so that in total BBH is comprised of nearly 100 employees working in the Czech Republic, Russia and Slovakia.

Over the past few years, BBH has participated in a number of high profile and top-rated transactions, involving both Czech and foreign jurisdictions:

- Largest Ever Czech M & A Deal which involved 17 jurisdictions ("Emerging Markets Deal of the Year", according to Thomson – Acquisitions Monthly)
- 2009 CEE Real Estate Deal of the Year
- First Rated Securitization in CEE
- Largest Foreign Investment in the Republic of Serbia
- Largest Bond Issue Placed on the PSE in 2007
- Largest Share Buy Back Transaction in Czech history
- Largest Energy Industry Arbitration in CEE

Prague / Moscow / Bratislava

www.bbh.eu

banking & finance

insurance

financial and capital markets

M & A

international arbitration and litigation

financial restructuring

IP/IT

real estate and construction

EU law

aircraft

competition

energy

corporate & commercial

media & telecommunications