

VIAC CAN Newsletter for the CEE region

NEWS IN THE FIELD OF ADR

Slovenia

Authors: VIAC Ambassador for Slovenia: *Ms. Jasna Zwitter-Tehovnik, DLA Piper Slovenia, VIAC Ambassador for Slovenia Dr. Minu Anamaria Gvardjančič, LL.M and Gregor Lipovec, both – Kranovic & Partners, Slovenia.*

1 New 2023 Ljubljana Arbitration Rules were implemented.

The Ljubljana Arbitration Centre (LAC), as an autonomous and independent institutional arbitration centre providing dispute resolution services since 1928, has updated its arbitration rules which came in force on 1 June 2023.

The new LAC rules have replaced the 2014 LAC rules. The new rules ensure users of the LAC arbitration greater efficiency and flexibility of proceedings and conduction of an arbitration procedure that is in line with the UNCITRAL Arbitration Rules 2021.

Some of the novelties introduced by the new LAC Rules include the mandatory holding of a case management conference, the option to appoint an administrative secretary to the Arbitral Tribunal, disclosure obligations related to third-party funding, and the possibility of remotely held oral hearings. Since third-party funding of disputes is not yet specifically regulated in Slovenia but is permissible, one crucial provision in the new LAC Rules explicitly permits the option of third-party funding of arbitration.

The rules can be found at the following [link](#).

2 The Council for Alternative Dispute Resolution

At the end of the year 2022, The Council for Alternative Dispute Resolution met again after four years. A key task of The Council for Alternative Dispute Resolution is to further strengthen court-annexed mediation and ensure the continued development of alternative dispute resolution.

Albania

Author: VIAC Ambassador for Albania *Enisa Halili – Freshfields Albania.*

The New Albanian Arbitration Law

On 6 July 2023, after several years of discussions and drafts, the Albanian Parliament adopted the arbitration law (**Law No 52/2023 on Arbitration in the Republic of Albania**; the “Law”). The Law is based on the **UNCITRAL Model Law on International Commercial Arbitration** (the “Model Law”) and adds certain modern and pro-arbitration elements.

The Law requires the arbitration agreement to be in writing. An agreement expressed through electronic means of communication fulfils this requirement. Going beyond the Model Law, the Law provides that

an arbitration agreement may also be validly concluded concerning disputes that were already brought before a court, unless the court has exclusive jurisdiction.

An explicit rule on the interpretation of arbitration agreements is provided, which requires that such agreements be interpreted in accordance with the parties' ultimate objective of having their dispute resolved through arbitration.

The Law provides a list of grounds upon which an arbitrator can be challenged in addition to the general Model Law clause concerning justifiable doubts as to an arbitrator's impartiality or independence. Also like the Model Law, the Law provides relatively short timeframes for the tribunals or courts to decide on an arbitrator challenge.

The Law follows recent developments and reform proposals in other countries and provides that a tribunal can hold a physical hearing, a virtual hearing, or even a hybrid between the two.

The grounds for setting aside an award issued by tribunals seated in Albania mirror those of the Model Law. However, unlike the Model Law, the Law does not differentiate between the grounds which must be raised by the party and grounds which the court considers *ex officio* (i.e., arbitrability and public policy). The provisions governing enforcement of awards issued by tribunals seated in Albania refer to the grounds for setting aside an award. The Law prevents a party from mounting the same attack against an award twice, as it provides that when a setting aside application was unsuccessful, the court deciding on the *exequatur* is precluded from reviewing any potential grounds for refusal of enforcement anew.

With regard to awards issued by tribunals seated outside of Albania, Article 47 of the Law lays down the grounds to refuse recognition of an award, which mirror those provided under Article V of the **New York Convention** (including the differentiation between grounds that may be considered *ex officio* and grounds that must be raised by a party). The Law again departs from the New York Convention and the Model Law by providing a non-exhaustive list of grounds (by using the term "include").

In conclusion, the Law provides a significant improvement for legal certainty concerning arbitration in Albania. Besides the requirement of a written arbitration agreement, the Law's provisions on the validity and interpretation of the arbitration agreement are also fairly liberal.

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