Hungary

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Laws and institutions

1 Multilateral conventions relating to arbitration

Is your jurisdiction a contracting state to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards? Since when has the Convention been in force? Were any declarations or notifications made under articles I, X and XI of the Convention? What other multilateral conventions relating to international commercial and investment arbitration is your country a party to?

Hungary is a contracting state to the New York Convention, which has been in force in Hungary since 3 June 1962. Hungary applies the Convention only to recognition and enforcement of awards made in the territory of another contracting state and only to disputes that qualify as commercial relationships, whether contractual or not, under the national law.

Hungary is also a party to the following multilateral conventions:
- the European Convention on International Commercial Arbitration of 1961;
- the International Convention on the Settlement of Investment Disputes between States and Nationals of other States of 1965;
- the Convention on Conciliation and Arbitration within the Organization for Security and Co-operation in Europe of 1992; and
- the Energy Charter Treaty of 1994.

2 Bilateral investment treaties

Do bilateral investment treaties exist with other countries?

Hungary has signed close to 60 bilateral investment treaties.

3 Domestic arbitration law

What are the primary domestic sources of law relating to domestic and foreign arbitral proceedings, and recognition and enforcement of awards?

The primary source of law relating to arbitral proceedings is Act LX of 2017 on Arbitration (the Arbitration Act). The Hungarian text of the Arbitration Act can be found at www.kozlonyok.hu/nkonline/MKPDF/hiteles/MK17085.pdf.

The Arbitration Act should be applied for all domestic and international arbitration proceedings before an ad hoc arbitration or arbitral tribunal seated in Hungary. Recognition and enforcement of foreign judgments and arbitral awards are also regulated by Act XXVIII of 2017 on International Private Law (the Conflicts Code), and the rules of the New York Convention. The law on enforcement of arbitration awards is the same as enforcement for final and binding court judgments.

4 Domestic arbitration and UNCITRAL

Is your domestic arbitration law based on the UNCITRAL Model Law? What are the major differences between your domestic arbitration law and the UNCITRAL Model Law?

The Arbitration Act is based on the UNCITRAL Model Law, with some minor differences.

For example:
- a case may only be subject to arbitration if the parties may dispose freely over the subject matter of the proceedings;
- the number of the chosen arbitrators can only be odd;
- the presiding arbitrator has a privileged role as he or she is entitled to decide on the merit of the case in lack of majority opinion; and
- arbitral proceedings are confidential unless the parties agree otherwise.

5 Mandatory provisions

What are the mandatory domestic arbitration law provisions on procedure from which parties may not deviate?

There are very few mandatory provisions under the law. They are mostly related to the minimum standards of due process and equal treatment of the parties, the right to request interim measures and procedural assistance from regular courts, and rules on denial of recognition and enforcement of the awards.

6 Substantive law

Is there any rule in your domestic arbitration law that provides the arbitral tribunal with guidance as to which substantive law to apply to the merits of the dispute?

Pursuant to section 41 of the Arbitration Act, in the case of international arbitration proceedings the arbitral tribunal should decide the dispute in accordance with the substantive law that has been chosen by the parties for the dispute. If no such substantive law has been chosen by the parties, the applicable law shall be determined by the arbitral tribunal. According to the Hungarian Chamber of Commerce and Industry (HCCI) Rules, failing stipulation by the parties, the arbitral tribunal shall apply the law that it considers to be applicable according to international treaties, or in the lack of such a treaty, according to the rules of Hungarian private international law (the conflicts rules). The Conflicts Code renders the application of Regulation (EC) 593/2008 of the European Parliament and of the Council on the law applicable to contractual obligations. When such a regulation does not apply, the conflicts rules of section 51 of the Conflicts Code are applicable to contracts. These rules calls for the law that has the closest connection with the case, taking into consideration its most characteristic elements.

Generally, an arbitral tribunal shall adopt its decision in accordance with the terms of the contract as well as by taking into account the trade practices applicable to the transaction. An arbitration panel may render its decision on the basis of equity (*ex aequo at bono*) or as an amiable compositeur only, if it has been expressly authorised to do so by the parties.

7 Arbitral institutions

What are the most prominent arbitral institutions situated in your jurisdiction?

The Arbitration Court attached to the Hungarian Chamber of Commerce and Industry
Szabadság tér 7
1054 Budapest
Hungary

Tel: +36 1 474 5100
Fax: +36 1 474 5105
mkik@mkik.hu
www.mkik.hu

This standing arbitral tribunal may be selected for any domestic or foreign arbitration proceedings. The list of arbitrators is only indicative, the parties may elect persons not on the list as arbitrators.

The Arbitration Court of the Hungarian Chamber of Agriculture
Fehérvári út 89-95
1119 Budapest
Hungary
Tel: +36 80 900 3651
www.info.nak.hu

Title issues and land use rights related to agricultural land, if arbitrated, can be arbitrated only at the Arbitration Court of the Hungarian Chamber of Agriculture.

The Sport Permanent Arbitration Court
Csörsz u. 49-51 IV
1124 Budapest
Hungary
http://olimpia.hu/sport-allando-valasztottbirosag

Arbitration agreement

8 Arbitrability

Are there any types of disputes that are not arbitrable?

There are some disputes that are not arbitrable, as listed in Chapters XXXI to XLI of the Civil Procedure Act (Act CXXX of 2016). These disputes mostly involve family law and civil status matters, such as matrimonial proceedings, other actions for the establishment of paternity and origin, termination of parental custody, or placement under guardianship or conservatorship, divorce proceedings, etc. Furthermore, administrative actions, challenging administrative decisions, actions for media remedy, liquidation proceedings, actions relating to employment and payment order procedures are not arbitrable. Furthermore, consumer disputes are not arbitrable.

In competition law matters, decisions of the antitrust authority on prohibition of unfair competition, and prohibition of abuse of dominant position, are not arbitrable. Private enforcement and related damage claims deriving from such acts are arbitrable. Theoretically, disputes between the parties relating to IP rights and infringement thereof may be conferred to arbitration if the parties have free disposal over the subject matter of the proceeding. Intracompany disputes are arbitrable.

9 Requirements

What formal and other requirements exist for an arbitration agreement?

Requirements for an enforceable arbitration agreement are as follows:

- the arbitration agreement must be in written form. Exchange of letters and telegrams through telex, telefax or any other electronic means of exchanging messages, including exchange of e-mails between the parties that is capable of producing a permanent record of the messages, are considered as written form;
- an arbitration agreement can be concluded either as part of another contract or as a separate agreement;
- if one of the parties states in his or her statement of claim that an arbitration agreement was in fact concluded between them, and the other party does not deny it in his or her defence, it should be considered that an arbitration agreement has been validly concluded between them;
- reference to a document containing an arbitration clause in a contract concluded in writing qualifies as an arbitration agreement, provided that a specific acceptance of the arbitration clause is made; and
- failure to raise an objection against the jurisdiction of the arbitral tribunal cures any problem deriving from lack of formalities.

10 Enforceability

In what circumstances is an arbitration agreement no longer enforceable?

Typically, the avoidance of a contract should not affect the enforceability of the arbitration clause. Avoidance of the agreement itself does not deprive the arbitral tribunal from deciding on its jurisdiction. Within this, the tribunal can decide about the validity of the arbitration agreement as well (see question 22). Rescission or other unilateral termination rights would not make the arbitration clause unenforceable. In the event of mutual termination by the parties, their termination agreement would be decisive to evaluate whether the termination also affects the arbitration clause of the terminated agreement.

Legal incapacity makes the arbitration agreement unenforceable if such a capacity problem existed at the time of entering into the arbitration agreement. Losing legal capacity later would not affect the validity of the arbitral agreement.

Typically, the death of a party would not make the arbitration clause unenforceable as the legal successor of the contractual position of the deceased party would be bound by the arbitration commitment as well.

Following the commencement of liquidation proceedings, any claim against the company under liquidation can be initiated exclusively at the liquidation court. However, liquidation proceedings do not affect the jurisdiction of the arbitral tribunal or other courts where a proceeding is already in progress.

11 Third parties – bound by arbitration agreement

In which instances can third parties or non-signatories be bound by an arbitration agreement?

Third parties may be bound by the arbitration agreement of others in the event of assignment of the entire contract and legal succession between companies, or succession of a contractual position because of the death of a person.

In the case of insolvency, the bankruptcy trustee is bound by the contracts previously concluded by the company in the event the arbitration proceedings have already been pending, or in the event the bankruptcy trustee initiates a claim as a claimant under a contract that has an arbitration clause.

12 Third parties – participation

Does your domestic arbitration law make any provisions with respect to third-party participation in arbitration, such as joinder or third-party notice?

The jurisdiction of the arbitration court cannot be extended to third parties, unless the third party accepts the jurisdiction of the arbitration court. Generally, third parties may participate in arbitration proceedings only if the dispute or claim in question can be decided only together with the subject matter of the arbitration contract and the third party accepts the jurisdiction of the arbitration court in writing. In addition to this, either party may initiate the joinder of a third party to the arbitration tribunal who has an interest in the outcome of the arbitration. Upon receipt of the notification from the arbitration tribunal on the possibility of a joinder, this third party may join the proceedings in order to support the position of one of the parties. The decision of the arbitration tribunal on allowing the joinder of a third party is not subject to judicial review.

13 Groups of companies

Do courts and arbitral tribunals in your jurisdiction extend an arbitration agreement to non-signatory parent or subsidiary companies of a signatory company, provided that the non-signatory was somehow involved in the conclusion, performance or termination of the contract in dispute, under the 'group of companies' doctrine?

The group of companies doctrine is not recognised in Hungary; consequently the jurisdiction of the arbitration cannot be extended to non-signatory parent and subsidiary companies.

14 Multiparty arbitration agreements

What are the requirements for a valid multiparty arbitration agreement?

Multiparty arbitration agreements are not excluded by the Arbitration Act or the relevant rules of the different standing arbitral tribunals. It is advisable that the parties settle in their arbitration clause the rules of election of the arbitrators if there are more than two parties. According to the HCCI Rules, if there are several claimants or defendants, the group of claimants and the group of defendants, respectively, may jointly designate one arbitrator each.

Constitution of arbitral tribunal

15 Eligibility of arbitrators

Are there any restrictions as to who may act as an arbitrator? Would any contractually stipulated requirement for arbitrators based on nationality, religion or gender be recognised by the courts in your jurisdiction?

The following persons may not act as arbitrators:
- persons under 24 years of age;
- persons barred from public affairs by a final court judgment;
- persons placed under guardianship or conservatorship by a final court decision;
- persons sentenced to imprisonment by a final court verdict, until exonerated from the detrimental consequences of having a criminal record;
- persons barred from acting in a profession that requires a law degree; and
- persons under probation ordered by a final court judgment, during the term of the probation.

Generally, the parties may freely select arbitrators: they do not need to choose from the list of arbitrators as this only serves the purpose of recommendation and providing information. Parties are free to agree in advance to any qualification or special feature of the arbitrators, including their nationality, profession or special expertise. There is no statutory limitation against agreement on gender or religion and unless the parties agree otherwise, the citizenship or lack of citizenship of a person may not serve as a reason for exclusion from an arbitrator position.

16 Background of arbitrators

Who regularly sit as arbitrators in your jurisdiction?

Most arbitrators are lawyers, university professors, attorneys and retired judges. Most arbitrators happen to be men and the authors are unaware of any attempts to change this tendency.

17 Default appointment of arbitrators

Failing prior agreement of the parties, what is the default mechanism for the appointment of arbitrators?

The general rule is contained in the Arbitration Act. According to this, in connection with arbitral tribunals containing three members, each party has the right to appoint one arbitrator, and the two arbitrators thus appointed shall designate the third arbitrator. When either party fails to appoint its own arbitrator within 30 days from the date of receipt of the other party's request to do so, or if the two arbitrators fail to agree on the third arbitrator within 30 days of their appointment, the arbitrator shall be appointed, upon the request of any of the parties – unless the parties authorised a third independent person or authority for this function, or if such an independent authority fails to act in due time – by the court of law with jurisdiction under the Arbitration Act.

In the case of HCCI arbitration, the missing arbitrator is appointed by the presidential board of the Arbitration Court.

18 Challenge and replacement of arbitrators

On what grounds and how can an arbitrator be challenged and replaced? Please discuss in particular the grounds for challenge and replacement, and the procedure, including challenge in court. Is there a tendency to apply or seek guidance from the IBA Guidelines on Conflicts of Interest in International Arbitration?

The appointment of an arbitrator may be terminated only upon his or her resignation, by a successful challenge procedure or by the mutual agreement of the parties in those cases where the Arbitration Act makes it possible.

A challenge may be exercised for the disqualification of an arbitrator only under those circumstances that are likely to give rise to justifiable doubts as to his or her lack of prejudice, independence or impartiality, or if he or she does not have the qualification agreed upon by the parties. The parties may agree on the procedure of challenging an arbitrator. In the absence of such an agreement, the party who intends to challenge an arbitrator must send a statement in writing to the arbitral tribunal containing the reason for the challenge within 15 days of being informed about the composition of the arbitral tribunal, or learning information about the circumstances that have given reason for the challenge. If the challenged arbitrator refuses to resign or the other party does not agree to the challenge, then the arbitral tribunal will decide on the challenge. If the arbitral tribunal rejects the challenge, the challenging party may, within 30 days, request the court of law to adjudge the challenge (in case of HCCI arbitration, the presidential board of the HCCI's decision, if it rejects such request, can be challenged at the court of law). The challenge proceedings at the court of law do not prevent the arbitral tribunal from continuing with its proceedings and from passing a decision, and do not stop the challenged arbitrator from participating in the proceedings and in the decision-making process.

If an arbitrator fails to comply with the statutory conditions to be an arbitrator owing to a reason arising after the acceptance of the appointment, or if the arbitrator de facto becomes unable to perform his or her functions or he or she fails to act in due time for any reason, he or she may resign his or her office or the parties may agree on the termination of his or her appointment. In the absence of this agreement, either party may request that the court, or in case of HCCI arbitration the presidential board, terminate the mandate of the arbitrator. The decision of the presidential board of the HCCI may be challenged in a court of law. No further remedy is available against the court decision.

19 Relationship between parties and arbitrators

What is the relationship between parties and arbitrators? Please elaborate on the contractual relationship between parties and arbitrators, neutrality of party-appointed arbitrators, remuneration and expenses of arbitrators.

The law does not specifically identify the type of legal relationship between an arbitrator and the party who nominated the arbitrator. Nevertheless, it derives from the Arbitration Act and the rules of other arbitration courts that arbitrators are independent and impartial, and are not considered, and cannot act, as representatives of the parties. An arbitrator cannot accept any instructions from the party nominating him or her (or from any third person) in his or her official capacity.

The amount of the fees is determined by the rules of each arbitration court.

20 Immunity of arbitrators from liability

To what extent are arbitrators immune from liability for their conduct in the course of the arbitration?

There are no special statutory regulations on this issue. The HCCI Rules stipulate that the arbitrators, the HCCI Arbitration Court and its employees shall not be liable to any person, for any act or omission in connection with the arbitration, except if they caused damage intentionally or with gross negligence.

Jurisdiction and competence of arbitral tribunal

21 Court proceedings contrary to arbitration agreements

What is the procedure for disputes over jurisdiction if court proceedings are initiated despite an existing arbitration agreement, and what time limits exist for jurisdictional objections?

Where an action is filed in connection with a matter that is subject to an arbitration agreement, the court terminates the court proceedings upon the request of either party, unless it declares that the arbitration agreement does not exist, is null and void, inoperative or inadmissible. The respondent must submit its dismissal request, at the latest, upon filing its counterclaim on the merits of the case. The submission of the request for dismissal and the counterclaim on the merits does not impede the opening or the continuation of the arbitration proceedings, and shall not impede the arbitral tribunal from the adoption of its award or decision while the issue is pending at the court.

If the court rejects the jurisdictional challenge and issues a decision on its jurisdiction or incorporates such a decision into its judgment on the merits, the respondent may challenge such a decision in the same manner and at each level of appeal, and an extraordinary judicial review process is available for challenging court decisions under Hungarian law.

22 Jurisdiction of arbitral tribunal

What is the procedure for disputes over jurisdiction of the arbitral tribunal once arbitral proceedings have been initiated, and what time limits exist for jurisdictional objections?

Primarily, the arbitral tribunal makes its own decision concerning its jurisdiction, including any objection in respect of the existence or validity of the arbitration agreement. Any objection with respect of the jurisdiction of the arbitral tribunal must be made at the time of submission of the statement of defence. A plea claiming that the arbitral tribunal exceeded its jurisdiction must be lodged without delay when the alleged excess of the jurisdiction was made. The arbitral tribunal may admit a later plea as well, in the event it finds the delay justified.

The arbitral tribunal may rule on the jurisdictional objection either when the objection was made, or in its decision on the merits of the case. In the event the arbitral tribunal rules that it has jurisdiction, either party may request, within 30 days from the date of receiving such a ruling, the court of law to adjudge the jurisdiction of the arbitral tribunal. The arbitral tribunal may continue the proceedings and may adopt its award or other decision while the court proceeding regarding the jurisdiction issue is pending. The final and binding decision of the regular courts will ultimately settle the jurisdictional dispute.

As a last resort, either party, or any person who is affected by the award, may file for action at a regular court of law to have the arbitral award set aside if the arbitration agreement was not valid under the law to which the parties subjected the arbitration agreement, or lacking such an indication, under Hungarian law; or the subject matter of the dispute is not capable of settlement by arbitration, or the arbitral tribunal exceeded the scope of the arbitration agreement.

Generally, parties are precluded from raising jurisdictional objections at a later stage of the proceedings unless they did so within the time frames specified above.

Arbitral proceedings

23 Place and language of arbitration

Failing prior agreement of the parties, what is the default mechanism for the place of arbitration and the language of the arbitral proceedings?

Failing agreement of the parties, the place of arbitration should be determined by the arbitral tribunal in due consideration of the circumstances of the case. In the case of a standing arbitral tribunal, the place of arbitration should be the place registered in the charter documents as its seat. According to the HCCI Rules, the place of the hearings is in Budapest. In addition, the arbitral tribunal may, unless otherwise agreed by the parties, convene at any place for consultation among its members, for hearing the parties, witnesses or experts, as well as for the inspection of physical evidence and documents.

Failing agreement of the parties, the Hungarian language should be used in the domestic proceedings, although in international proceedings the arbitral tribunal will define the applicable language and may order the translation of any evidence to the language of the proceedings.

24 Commencement of arbitration

How are arbitral proceedings initiated?

Unless otherwise agreed by the parties, in the case of an ad hoc arbitration the claimant can initiate arbitral proceedings by sending a notice of arbitration to the respondent. The proceedings of the tribunal shall open on the day on which the other party receives the notice of arbitration. In the case of a standing arbitral tribunal, proceedings can be initiated by sending a statement of claim to the arbitral tribunal.

In accordance with the HCCI Rules, all documents shall be submitted in a number of copies sufficient to provide one copy for each arbitrator, for each party and the secretariat. As far as possible, the documents shall also be submitted in electronic format. In the case of HCCI arbitration the statement of claim must indicate:

- the exact names and addresses of the parties;
- the data establishing the jurisdiction of the HCCI Arbitration Court;
- the petition of the claimant;
- the legal grounds of the claim, the facts and reference to evidence supporting them;
- the amount in dispute;
- the name of the arbitrator appointed or a request for the appointment of an arbitrator by the HCCI Arbitration Court;
- a statement regarding the applicable substantial law and the language of the proceedings;
- a list of the documents attached to the statement of claim; and
- the proper signature of the claimant, or the signature of his or her counsel with certified authorisation.

The parties must send all documents submitted to the HCCI Arbitration Court simultaneously to the other parties as well, proving the delivery (eg, with notice of receipt). The claimant must transfer the registration fee and submit the bank certificate thereof to the secretariat of the HCCI Arbitration Court. After submitting the statement of claim, the claimant shall also transfer the advance payment as communicated by the secretariat to the bank account of the HCCI Arbitration Court. The effectuation of the aforementioned payments is a precondition to the initiation of the proceedings.

25 Hearing

Is a hearing required and what rules apply?

Subject to the rules of the Arbitration Act, the parties may freely agree upon the rules of procedure, or they may stipulate the use of the rules of procedure of a standing arbitral tribunal. Lacking such an agreement, the arbitral tribunal may determine the rules of procedure at its own discretion within the framework of the Arbitration Act.

Unless otherwise agreed by the parties, the arbitral tribunal may freely decide whether it will hold a hearing and give the parties the opportunity to submit their petitions. A hearing must be held at the request of either party, regardless of any previous agreement of the parties to the contrary. In case of a hearing, the arbitral tribunal hears the witnesses and experts present. The parties shall be given sufficient advance notice of any hearing and of any action of the arbitral tribunal undertaken for the purpose of inspection of physical evidence or documents.

All statements submitted to the arbitral tribunal by one party shall be communicated to the other party. Furthermore, any expert report or evidentiary document on which the arbitral tribunal may rely in making its decision shall be communicated to the parties.

Minutes shall be prepared of the arbitration proceedings, and one copy thereof shall be served upon each of the parties.

Unless otherwise agreed by the parties, arbitration proceedings are not public.

26 Evidence

By what rules is the arbitral tribunal bound in establishing the facts of the case? What types of evidence are admitted and how is the taking of evidence conducted?

The Arbitration Act stipulates that the parties may submit, together with their statements and pleadings, all other documents that they consider relevant for the case, or may refer to any document or other evidence that they plan to submit. The arbitral tribunal may order that any written evidence be translated into the language of the proceeding.

The arbitral tribunal shall hear the witnesses and experts who are voluntarily present, however, it may not impose a fine or apply any means of coercion. At the request of the arbitral tribunal the local court shall provide legal assistance in the form of conducting the procedure for presenting evidence, or by application of coercive measures (see question 27).

Unless otherwise agreed by the parties, the arbitral tribunal may appoint experts if any special expertise is required for the establishment or judgment of any relevant fact or other circumstance that the arbitral tribunal is lacking. The arbitral tribunal may also appoint one or more experts to provide an opinion on issues specified by the tribunal, and may order either party to provide information to the expert or access to any relevant documents or objects to the expert for inspection.

According to the HCCI Rules, each party must prove the circumstances on which he or she bases a claim or a defence. The arbitral tribunal may also instruct a party to submit further evidence, order the presentation of an expert's opinion, obtain evidence from third persons and order the hearing of witnesses. The parties shall submit the original written evidence or a copy thereof so that each party is provided with one copy and the HCCI Arbitration Court with four copies. If the party fails to submit the required evidence, the arbitral tribunal may make its decision on the basis of the available information and evidence.

The manner of taking evidence is determined by the arbitral tribunal, and the arbitrators evaluate the evidence according to their inner conviction.

27 Court involvement

In what instances can the arbitral tribunal request assistance from a court, and in what instances may courts intervene?

The general rule is that in arbitration proceedings the court may intervene or proceed only if it is specifically allowed by the Arbitration Act. The Arbitration Act stipulates that it is not incompatible with the arbitration proceedings if either party requests a court for provisional measures and the court grants such measures even before or during the proceedings. Moreover, the court may order protective measures in a case pending before an arbitral tribunal. As already mentioned in question 26, if the presentment of evidence before the tribunal is likely to entail considerable difficulties or unreasonable extra costs, upon the request of the arbitral tribunal the local court shall provide legal assistance in the form of conducting the procedure for the presentment of evidence, or will apply coercive measures, if necessary, in the procedure if conducted by the arbitration court.

The arbitral tribunal shall approach the local court on whose territory the presentment of evidence may be conducted most efficiently.

Following the issuance of the arbitral award, the court may suspend the enforcement of the award or may overturn (set aside) the award upon the request of a party under certain circumstances (see question 43).

28 Confidentiality

Is confidentiality ensured?

According to the Arbitration Act, the hearings are not public and the arbitrators are fully committed to confidentiality with regard to all information they have received when discharging their responsibilities, including after the termination of the proceedings.

According to the HCCI Rules, the confidential nature of the proceedings shall be respected by every person who is involved in whatever capacity. Information on the proceedings to third persons can only be given upon agreement of the parties and the conciliator or mediator. The HCCI hearings are not public; only the presiding arbitrator, the members of the arbitral tribunal, the parties, the recorder, the interpreter, the experts, the witnesses and the president of the HCCI Arbitration Court may be present at the hearings, or any other persons whose presence has been consented to by the arbitral tribunal and all parties. Further, the HCCI Arbitration Court may not give any information on pending proceedings and on its decisions, or the contents thereof. The decision of the tribunal may be published in legal journals or special publications only with the permission of the president of the Arbitration Court and only in such a way that the interests of the parties will not suffer any harm. Even then, the names of the parties, their countries of residence, the nature and counter-value of the subject matter can only be included in a publication with the express consent of the parties. By stipulation of the HCCI Arbitration Court, the parties undertake that they shall also comply with these rules and shall ensure that others do so.

Interim measures and sanctioning powers

29 Interim measures by the courts

What interim measures may be ordered by courts before and after arbitration proceedings have been initiated?

Either party may submit a request before or during the arbitration proceedings to an ordinary court requesting the imposition of interim or provisional measures, and the court may grant such measures. The court may order protective measures in a case pending before an arbitral tribunal, if the party requesting such a measure can produce an authentic instrument or a private document with full probative force in proof of the inception, quantity, and expiry of his or her claim. The party filing for such intervention must inform the arbitral tribunal on his or her request as well as on the decision of the court.

Coercive force cannot be applied by the arbitral tribunal, only by the ordinary court.

30 Interim measures by an emergency arbitrator

Does your domestic arbitration law or do the rules of the domestic arbitration institutions mentioned above provide for an emergency arbitrator prior to the constitution of the arbitral tribunal?

No emergency arbitrators are used in Hungarian arbitration proceedings. However, the HCCI Rules make possible an expedited arbitration proceeding.

31 Interim measures by the arbitral tribunal

What interim measures may the arbitral tribunal order after it is constituted? In which instances can security for costs be ordered by an arbitral tribunal?

The general rule is that the arbitral tribunal may, upon request, order either party to implement provisional measures – or provisional measures to the extent that the tribunal deems necessary – and may require either party to provide appropriate security in connection with such a measure. In the event the party does not obey voluntarily with such a measure, only regular courts can order enforcement of the measure. This would take considerable time and would present the possibility of different appeals available to the obligor within the regular court system.

32 Sanctioning powers of the arbitral tribunal

Pursuant to your domestic arbitration law or the rules of the domestic arbitration institutions mentioned above, is the arbitral tribunal competent to order sanctions against parties or their counsel who use 'guerrilla tactics' in arbitration? May counsel be subject to sanctions by the arbitral tribunal or domestic arbitral institutions?

Neither the Arbitration Act nor the individual arbitration rules of the different arbitration institutions authorise arbitrators to order sanctions against the parties or their counsels.

Update and trends

The Arbitration Act was implemented in 2017, based on which the HCCI Rules were also modified. As a result of these resent modifications of arbitration law, no major change to the legislation in this field is foreseen in the near future. The most recent decision of an ICSID tribunal was issued on 9 October 2018 in the proceeding initiated by UP and CD Holding Internationale. Currently, there are three pending ICSID arbitration proceedings against Hungary.

Awards

33 Decisions by the arbitral tribunal

Failing party agreement, is it sufficient if decisions by the arbitral tribunal are made by a majority of all its members or is a unanimous vote required? What are the consequences for the award if an arbitrator dissents?

Unless otherwise agreed by the parties, decisions on the merit of the case shall be passed by a majority of votes of the arbitrators. In the absence of a majority decision, the presiding arbitrator shall have the decisive vote. Procedural questions shall be decided by the presiding arbitrator if so authorised by the parties or by all other arbitrators.

34 Dissenting opinions

How does your domestic arbitration law deal with dissenting opinions?

If the dissenting arbitrator does not sign the award, this fact must be indicated in the award. Although the Arbitration Act does not address the question of whether the dissenting arbitrator may include his or her opinion into writing, there is no restriction on this possibility, taking into account the secrecy rules. The HCCI Rules specifically allow the dissenting arbitrator to issue its dissenting opinion in writing.

35 Form and content requirements

What form and content requirements exist for an award?

The arbitral award and the ruling for the termination of the proceedings must be made in writing and contain (unless it is an award incorporating the settlement agreement of the parties) the reasons for the decision. It also must include the date of the award, the place of the arbitration and the costs of the proceedings, including the fee of the arbitrators and the manner of satisfaction. It must be signed by the arbitrators and the standing arbitration. In the case of a multi-member tribunal, the signatures of the majority of the arbitrators is sufficient, provided that the reason for any omitted signature is stated.

36 Time limit for award

Does the award have to be rendered within a certain time limit under your domestic arbitration law or under the rules of the domestic arbitration institutions mentioned above?

The Arbitration Act does not contain any general rule on the time frame of the proceedings. Under the HCCI Rules, the proceedings must be completed within six months from the setting up of the tribunal 'whenever it is possible'; except under the expedited proceedings, in which case the proceedings have to be completed within three months. The award must be incorporated in writing within 45 days or within 15 days respectively.

37 Date of award

For what time limits is the date of the award decisive and for what time limits is the date of delivery of the award decisive?

Time limits for filing a request with the arbitral tribunal for a correction, the issuance of a supplementary award or provision of interpretation, as well as the time limit for filing a court claim for the setting aside of the award, commence on the date of delivery of the award.

38 Types of awards

What types of awards are possible and what types of relief may the arbitral tribunal grant?

The Arbitration Act does not contain provisions on the different types of awards. The arbitration tribunal issues an award on the merit of the case, or it may terminate the proceedings with a resolution. The tribunal, at the request of the parties, incorporates the settlement agreement of the parties in the form of an award, provided that it finds the settlement in compliance with the law.

39 Termination of proceedings

By what other means than an award can proceedings be terminated?

The arbitral tribunal terminates the proceedings, if:
- the claimant fails to present its statement of claim;
- the court establishes its lack of jurisdiction;
- the claimant withdraws its claim, unless the respondent objects thereto and the tribunal finds that the respondent has a legitimate interest in the final settlement of the dispute;
- the parties fail to pay the procedural fee;
- the parties agree to the termination of the proceedings; or
- the tribunal finds that the continuation of the proceedings has, for any other reason, become unnecessary or impossible.

40 Cost allocation and recovery

How are the costs of the arbitral proceedings allocated in awards? What costs are recoverable?

Typically, arbitration decisions follow the local rules of costs allocation, according to which the losing party must cover or reimburse all costs and expenses of the winning party.

41 Interest

May interest be awarded for principal claims and for costs, and at what rate?

Interest may be awarded in accordance with the relevant rules of law applicable to the merit of the case.

Proceedings subsequent to issuance of award

42 Interpretation and correction of awards

Does the arbitral tribunal have the power to correct or interpret an award on its own or at the parties' initiative? What time limits apply?

The arbitral tribunal may correct any errors of names (including misspellings), any errors in numbers or calculations or any other typing errors on its own initiative or on the request of either party if found justified. The deadline for requesting such correction is 30 days, unless the parties agree in a different time frame. Unless agreed otherwise by the parties, either party may request the arbitral tribunal, within 30 days from the receipt of the award, to provide an interpretation of a specific part or point of the award or the supplementing of the award with respect of issues that have been presented during the proceeding but the tribunal failed to address. The arbitral tribunal may issue such an interpretation or supplement if it finds the request justified. The interpretation shall comprise a part of the disposition of the award. The tribunal has 30 days from receipt of such requests to respond, which can be extended by an additional 30 days.

43 Challenge of awards

How and on what grounds can awards be challenged and set aside?

Arbitration awards cannot be appealed at courts.

The party or any person who is affected by the award, may file, within 60 days from delivery of the award, a request with the court of law for setting aside the award if:
- the party concluding the arbitration contract lacked legal capacity or competence;

- the arbitration agreement is invalid under the law to which the parties have subjected it, or in the absence of such an indication, under Hungarian law;
- the party was not given proper notice about the proceedings or was unable to present his or her case because of other reasons;
- the award was made in a legal dispute that was not covered by the arbitration agreement;
- the composition of the tribunal or the procedure did not comply with the agreement of the parties (unless such an agreement was in violation of the Arbitration Act), or in the absence of such an agreement, was in violation of the Arbitration Act;
- the subject matter of the dispute is not capable of settlement by arbitration under Hungarian law; or
- the award is contrary to Hungarian public policy.

44 Levels of appeal

How many levels of appeal are there? How long does it generally take until a challenge is decided at each level? Approximately what costs are incurred at each level? How are costs apportioned among the parties?

The judgment of the court issued on the challenge may be appealed at a higher court. The decision on the challenge may take about one year on each level. Under Hungarian law, costs of the proceedings, including reasonable attorneys fees, are typically borne by the losing party.

45 Recognition and enforcement

What requirements exist for recognition and enforcement of domestic and foreign awards, what grounds exist for refusing recognition and enforcement, and what is the procedure?

An arbitration award has the same effect as that of a binding court decision. The court refuses to enforce the arbitration award if the subject matter of the dispute is not subject to arbitration under Hungarian law or the award is contrary to Hungarian public policy.

In respect of foreign arbitration awards, Hungary is a party to the 1958 New York Convention, and Council Regulation (EC) 44/2001 – which has been implemented in Hungary – and Regulation 805/2004 of the European Parliament.

Recognition of foreign awards does not require a separate procedure. The party who wishes to enforce an arbitral award must supply the original or a certified copy thereof with the court of law. If the award is not in the Hungarian language, the party must furnish a certified Hungarian translation as well.

46 Time limits for enforcement of arbitral awards

Is there a limitation period for the enforcement of arbitral awards?

Enforcement of arbitral awards is regulated by the general statute of limitation rules of the substantive law of the case. Commencement of arbitration proceedings terminates the term of the statute of limitation (ie, it starts again). During the proceedings, the statute of limitation rests.

47 Enforcement of foreign awards

What is the attitude of domestic courts to the enforcement of foreign awards set aside by the courts at the place of arbitration?

With regard to recognition and enforcement of foreign awards, the courts are bound by the rules discussed above. The authors are unaware of published decisions that relate specifically to this particular topic.

48 Enforcement of orders by emergency arbitrators

Does your domestic arbitration legislation, case law or the rules of domestic arbitration institutions provide for the enforcement of orders by emergency arbitrators?

There are no specific rules regarding the enforcement of the decisions of emergency arbitrators. Consequently, if the decision and the arbitral proceedings meet the requirements set by the New York Convention, the decision may be subject to enforcement proceedings.

49 Cost of enforcement

What costs are incurred in enforcing awards?

A procedural fee of 1 per cent of the claimed amount (with a minimum 5,000 forint and maximum 350,000 forint), 50 per cent of the service fee of the executor (in the amount of 0.5 to 3 per cent progressively defined) and 50 per cent of that latter fee for the expenses of the court executor must be advanced by the claimant. There might be additional procedural expenses (eg, registration of the execution right in the land registry, etc). If the execution is successful, the court executor is entitled to a certain percentage of the collected amount (3 to 8 per cent progressively defined). The attorney's fees in international cases are typically agreed upon in the retainer contract.

Other

50 Judicial system influence

What dominant features of your judicial system might exert an influence on an arbitrator from your jurisdiction?

No discovery, as it is known in the common law jurisdictions, is part of the legal system in Hungary. This means that the party who has the burden of proof or seeks to provide evidence otherwise, has a more difficult task to access and provide evidence that is in the possession of the other party. The court, in the course of the proceedings, at the request of the party, may oblige the other party to provide certain documents. Written testimonies are not used if testimony is necessary; typically the witness must appear at the court to testify. Party officers may be heard on behalf of the party. Their testimony will be treated as a presentation of the party and not as a testimony of an independent witness.

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51 Professional or ethical rules applicable to counsel

Are specific professional or ethical rules applicable to counsel in international arbitration in your jurisdiction? Does best practice in your jurisdiction reflect (or contradict) the IBA Guidelines on Party Representation in International Arbitration?

There are no special ethical rules in Hungary applicable to international arbitration. Some concepts of the IBA Guidelines prevail in practice.

52 Third-party funding

Is third-party funding of arbitral claims in your jurisdiction subject to regulatory restrictions?

No regulatory restrictions exist regarding third-party funding of arbitral claims.

53 Regulation of activities

What particularities exist in your jurisdiction that a foreign practitioner should be aware of?

Legal regulations of all kinds are subject to frequent modifications that may affect arbitration proceedings as well.

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