

Implementation of UNCITRAL Model Law on International Commercial Arbitration into Czech law

YCAP – Young Czech Arbitration Professionals is a platform connecting young lawyers interested in arbitration in Czechia. Apart from organizing educational and social events, YCAP aims to promote the interests of the up-and-coming generation of Czech arbitration lawyers. For this reason, we are committed to supporting the development of arbitration in Czechia in line with the best international practices and the development in the leading pro-arbitration jurisdictions over the last decades.

The selection of the seat of arbitration is one of the most important choices made in the formation of an arbitration agreement and results in a competition among jurisdictions to create the most favorable environment for arbitration proceedings. States that succeed in this competition benefit from attracting even disputes otherwise unrelated to the given jurisdiction. The benefits flowing to these jurisdictions are significant, ranging from the raised international profile to generating work for both the legal industry and facilities hosting of an arbitration hearing. At the same time, the local businesses of the successful States benefit from reduction of costs they would otherwise incur while arbitrating their disputes in a foreign, and unfamiliar, jurisdiction. According to the available statistical data, however, Czechia does not count among these preferred jurisdictions.

That Czechia is not taking full advantage of its potential as a preferred seat of arbitration is, in our view, due to a combination of factors, the chief among which is the 1994 Arbitration Act itself. After almost thirty years without a substantial amendment, the provisions of the Arbitration Act are rather outdated, fail to reflect the modern trends in arbitration, and cause numerous practical difficulties. For one, the provision of the Arbitration Act calling for subsidiary application of the Code of Civil Procedure is particularly problematic, as it directly contradicts the notion of arbitration as an alternative to - rather than a different form of - litigation. The current state of the set-aside proceedings is similarly troublesome, with its unpredictability and excessive length depriving arbitration of its benefits: informality and speed.

To represent a viable alternative to the resolution of commercial disputes before Czech courts and a competition to leading arbitration jurisdictions, arbitration in Czechia requires, in our view, a complex reform. The three key elements of such reform should be: (i) emancipation of the Arbitration Act from the Code of Civil Procedure; (ii) liberalization of regulation of arbitration agreements and arbitral proceedings; and (iii) enactment of effective, and if possible single-instance, judicial review of arbitral awards.

We believe that the first step of the reform should be the implementation of the UNCITRAL Model Law on International Commercial Arbitration (UML). This is because UML currently represents an international standard of arbitration law, already implemented in 118 jurisdictions, including all countries neighboring Czechia and a majority of the EU member states. The implementation of the UML would thus align Czech arbitration law to that of its foreign counterparts and would provide a good basis for its further development.

Considering the above, YCAP will dedicate a significant part of its activities to supporting the implementation of the UML into Czech law and the reform of Czech arbitration law in general. In the upcoming months, we intend to foster a public discussion among arbitration professionals on the specific modalities of the implementation and seek support for the same among the key stakeholders.

If you want to support the reform of arbitration law in Czechia—be it as an individual or representative of an organization or institution, please get in touch with us at info@ycap.cz. We will inform you about the further development of this initiative on our website and social media platforms.