

COST REGIMES IN DISPUTE RESOLUTION IN CENTRAL AND EASTERN EUROPE

1. INTRODUCTION

To draw near on the topic we would like to present the different cost regimes in the jurisdictions, in which Wolf Theiss has offices with a special focus on litigation. All of the following jurisdictions have similarities therefore being aware of the differences is essential when dealing with international disputes.

2. COST REGIMES IN LITIGATION

2.1 Albania

In Albania litigation costs are mainly composed of court and attorneys' fees, expenses for expert opinions and witnesses (including remuneration for any business days missed), and translation costs. The fees, expenses and remunerations for witnesses and translators are defined by the Council of Ministers. The court and attorneys' fees awarded to the plaintiff shall be charged to the defendant if the claim has been accepted by the court. However, if a party is exempted by the court with respect to the awarding of court fees, the fees shall be charged to the other party only if the claim has been accepted by the court. The defendant shall generally have the right to demand court fees be awarded in proportion to the refused part of the claim. The defendant shall have the right to demand court fees be awarded, even if the case is over.

Assumptions based on an amount in dispute of EUR 10,000,000:

First instance: preparation of 4 comprehensive briefs, six hearings with duration of 2h, 4h, and 4 x 8h; preparation of hearings/meetings with client, witnesses, correspondence with client: In total EUR 50,000 to 150,000;

Second instance: one brief, no hearing: EUR 15,000 to 25,000; third instance: one brief, no hearing: EUR 10,000 to 20,000.

Litigation costs are awarded against the losing party who must reimburse the winning party. If a claimant has been partially successful, the costs of both sides are divided on a pro-rata basis. However, each party assumes the reimbursement of the respective attorneys' fees.

2.2 Austria

Litigation costs in Austria are mainly composed of court and attorneys' fees, expenses for expert opinions and travel expenses for witnesses. Generally, litigation costs are awarded against the losing party who must reimburse the winning party. However, if either party prevails with a portion of their claim, the costs are divided on a pro-rata basis.

In Austria, contingency fees that entitle an attorney to a certain percentage of the amount obtained by the claimant are prohibited. Therefore *quota litis*, i.e., the participation of the lawyer in the recovery, is against the law in Austria.

The calculation of legal fees is based on the Austrian Act on Attorneys' Tariffs (*Rechtsanwaltstarifgesetz*) and the Act on Court Fees (*Gerichtsgebührengesetz*).

Court fees are based on the Court Fees Act and depend on the amount in dispute. Examples:

- Amount in dispute EUR 500,000: Court fees: EUR 8,987 in first instance;
- Amount in dispute EUR 1,000,000: Court fees: EUR 14,987 in first instance;
- Amount in dispute EUR 5,000,000: Court fees: EUR 62,987 in first instance.

Assumptions based on an amount in dispute of EUR 10,000,000:

First instance: preparation of 4 comprehensive briefs, six hearings with duration of 2h, 4h, and 4 x 8h; preparation of hearings/meetings with client, witnesses, correspondence with client: In total EUR 75,000 to 250,000;

Second instance: one brief, no hearing: EUR 30,000 to 60,000;

Third instance: one brief, no hearing: EUR 25,000 to 50,000.

Court fees have to be paid upon filing the claim. In the first and second instances court fees are to be paid by the party filing the appeal. If a claim is filed by a foreign party and enforcement of a decision on reimbursement of litigation costs is not safeguarded, the foreign party can be ordered to pay a security deposit.

The actual attorney fees of a party (depending on the fee agreement between attorney and client) may be substantially higher, but are of no relevance to the opposing party.

2.3 Bosnia and Herzegovina

Litigation costs typically include court fees, attorneys' fees, remuneration for experts and witnesses, translation expenses, etc., which may in the aggregate be substantial, depending on the amount in dispute. The losing party is obligated to reimburse all costs of the proceedings to the successful party at the conclusion of the proceedings.

Court fees are based on the Entity Law on Court Fees and depend on the amount in dispute. Please note that court fees in FBiH can vary from canton to canton.

Court taxes have to be paid upon filing of the claim. Court taxes in the first and second instances are to be paid by the party filing the appeal. Litigation costs are awarded against the losing party who must reimburse the winning party. However, the losing party will only reimburse the minimum amount in accordance with the relevant regulation, regardless of the amount agreed between the winning party and its attorney which may be significantly higher. The actual attorney fees of a party (depending on the fee agreement between attorney and client) may thus be substantially higher, but are of no relevance to the opposing party. If a claimant has been partially successful, the costs of both sides are divided on a pro-rata basis.

Agreements on *Quota litis* are generally prohibited for BiH lawyers in all types of proceedings.

It should be noted that in FBiH, there is a limit imposed by the parliament to the amount that can be charged by an attorney for a single action (preparation of lawsuit, representation at the hearing, etc.). This amount corresponds to the average salary in FBiH, which is currently around BAM 800 (approx. EUR 400).

2.4 Bulgaria

Litigation costs include court fees, attorneys' fees and expenses for expert opinions and witnesses. Litigation costs are awarded against the losing party which must reimburse the winning party.

Court fees depend on the material interest of the claim and whether special expertise is requested by the parties. In the common case, court fees amount to 4% of the material interest of the claim. In certain cases, such as where the material interest cannot be determined, the court fees are fixed. In some cases, such as labour disputes, etc., a fixed minimal fee is determined. In certain cases, the claimant does not pay any court fees (also common in labour disputes).

In Bulgaria, lawyers are free to determine and agree with clients on their fees. However, attorneys' fees cannot be lower than the amounts determined in the Regulation on Minimum Attorneys' Fees. Depending on the amount of the material interest of the claim, the minimal remunerations start from BGN 300 (approx. EUR 150) for cases with material interest of up to BGN 1,000 (approx. EUR 500) and reach BGN 830 (approx. EUR 420) + 3% for an amount over BGN 10,000 (approx. EUR 5,000).

However, the court may decide to reduce the amount of attorneys' fees to be reimbursed to the levels provided for in the Regulation on Minimum Attorney Fees. If a claimant has been partially successful, the costs of both sides are divided on a pro-rata basis. Court fees have to be paid upon filing the claim and evidence of the payment shall be presented to the court together with the claim. Usually, lawyers charge higher fees (3 to 4 times higher than the minimal ones). In order for a party to be able to claim its attorney fees in a case, it must produce evidence of the effective payment of such fees. It is therefore recommended to proceed with the payment before the oral hearings in the case.

2.5 Croatia

Litigation costs mainly include court fees, attorneys' fees and expenses for expert witness and opinions. Normally, costs are awarded against the losing party in accordance with the rules of civil procedure. In some situations, the court may award costs against a party, or a party's representative, who caused a delay to a hearing. A counsel may also be ordered to bear the costs of a hearing if the proceedings had to be postponed because he or she was not prepared for the hearing. Court fees are rather moderate, which allows litigation to be accessible to all individuals. Generally, court fees range from HRK 100 (approximately EUR 14) for amounts in dispute up to HRK 3,000 (approximately EUR 411), to the highest fee of HRK 5,000 (approximately EUR 685), for amounts in dispute exceeding HRK 465,000 (approximately EUR 63,700).

Attorneys' fees are prescribed by the Croatian Bar's Tariff and may range from HRK 250 (approximately EUR 35) for a brief or a hearing in a case with an amount in dispute up to HRK 2,500 (approximately EUR 343), up to the highest fee of HRK 100,000 (approximately EUR 13,700) for a brief or a hearing in a case with an amount in dispute of HRK 22,500,000 (approximately EUR 3,090,200) or more. The fees can be decreased for less demanding briefs or hearings, and can be increased for appeals, extraordinary legal remedies and arbitration proceedings. Although in practice the attorney and the client may agree upon higher fees, only fees that are in accordance with the Bar's Tariff will be recognized by the court for the purpose of reimbursement.

Court fees generally include fees for the statement of claim and fees for the court decision. Court fees for the statement of claim have to be paid upon filing the claim, while court fees for the court decision are payable after a court decision has been rendered. Court fees in the first and second instances are to be paid by the party filing the statement of claim or the appeal. If a claim is filed by a foreign party and enforcement of a decision on reimbursement of litigation costs is not safeguarded, the foreign party can be ordered to pay a security deposit.

Court fees are based on the Court Fees Act and depend on the amount in dispute. Examples: Amount in dispute HRK 100,000 (approx. EUR 13,700): court fees: HRK 2,700 (approx. EUR 370) in the first instance; Amount in dispute HRK 465,000 (approx. EUR 63,700) and higher: court fees are fixed at HRK 10,000 (approx. EUR 1,370) in the first instance. Court fees for appellate proceedings are increased by 100%.

2.6 Czech Republic

Litigation costs mainly include court costs, attorneys' fees, and expenses for expert opinions, evidence and language translations/interpretations, which and are normally paid by the unsuccessful party. Court fees are based on the Court Fees Act and depend on the amount in dispute.

If the amount in dispute is:

- up to CZK 20,000, the court fee is CZK 1,000;
- from CZK 20,000 to CZK 40,000,000, the court fee is 5% of the total value of the claims;
- higher than CZK 40,000,000, the court fee is CZK 2,000,000 and 1 % of the value exceeding CZK 40,000,000. Value higher than CZK 250,000,000 is not taken into account.

Court fees at the first and second instances are due at the court's request after the action/appeal has been filed. Court fees exceeding CZK 5,000 must be paid by bank transfer to the court's bank account. Court fees not exceeding CZK 5,000 may be paid by duty stamps.

The actual attorney fees of a party (depending on the fee agreement between attorney and client) may be substantially higher, but are of no relevance to the opposing party.

2.7 Hungary

Litigation costs mainly consist of stamp duties, party counsels' fees and costs of expert opinions, evidencing actions and translations/interpreters. Generally, stamp duties, payable in advance at the outset of the case, are equal to 6 % of the amount in dispute subject to a cap of HUF 1.5 million. Appeals against first instance judgments in general carry a stamp duty of 8 % of the amount in dispute subject to a cap of HUF 2.5 million.

The stamp duty depends on the amount in dispute, as follows:

first instance: 6% of the amount in dispute, subject to a cap of HUF 1.5 million;
second instance: 8% of the amount in appeal, subject to a cap of HUF 2.5 million;
extra-ordinary remedies: 10% of the amount in dispute subject to a cap of HUF 3.5 million.

As a general rule, attorneys' fees are subject to the engagement letter between the client and the attorney. In the absence of an engagement letter or if the court believes that the legal expenses are overstated, the court will decide on the attorney fees in accordance with a statutory provision amounting to 1-5% of the value of the case. Litigation stamp duties do not include attorney fees.

The following principals apply to Hungarian proceedings:

- Stamp duties must be paid simultaneously with filing a statement of claim.
- Stamp duties will be borne by the losing party.
- In the event of a partial win, the costs for both sides are divided on a pro-rata basis.
- Courts usually do not award the winning party's full legal expenses, and therefore these expenses are seldom recovered in full.

2.8 Kosovo

Court expenses in Kosovo are rather low, which results in a very high number of litigation cases. By way of example, for cases in which the amount in dispute is more than EUR 10,000 the court fees for the initiation of proceedings are EUR 50 plus 0.5 % of the amount in dispute, whereby the total fee may not exceed EUR 500. According to the Civil Procedure Code the losing party is required to reimburse the opposing party for all of its court expenses.

Kosovo courts suffer from a high degree of inefficiency due to the low number of judges and a considerable backlog of cases. Consequently, while court proceedings are relatively swift once they commence, it usually takes a considerable amount of time before cases are heard (unless urgent preliminary measures are sought). By way of example, at the beginning of 2013 the Basic Courts in Kosovo had 342,323 unresolved cases inherited from the past years, while for the first three months of 2013 the Basic Courts accepted 109,231 new cases. During this time period, the Basic Courts in Kosovo were able to resolve 86,433 cases, leaving 365,121 unresolved cases at the end of the first trimester of 2013. According to the 2010 enforcement of contract survey conducted by the World Bank "Doing Business" project, the enforcement of a contract in Kosovo, without the appellate procedure, involves 53 procedures and takes 420 days. The survey notes that the costs of enforcing a contract in Kosovo amounts to 61.2 % of the claim, of which 25.1 % are attorney costs, 18 % are court costs and 18 % are enforcement costs.

Official fees in Kosovo Courts range from EUR 15 for a claim up to EUR 1,000 to EUR 500 for a claim of over EUR 10,000.

According to the World Bank's Doing Business in Kosovo Report 2011, approximate costs for a case, including a claim assumed to be equivalent to 200% of income per capita, are as follows:

- attorney Costs: 25.2% of the claim;
- court Costs: 18% of the claim;
- enforcement costs: 18% of the claim.

According to the aforementioned report, there are 53 procedures that must be undertaken for the enforcement of a contract in Kosovo.

2.9 Poland

Litigation costs are mainly composed of court and attorney's fees, expenses for expert opinions and travel expenses for witnesses. Generally, costs of litigation are awarded against the losing party. However, if either party prevails with a portion of their claim, the costs are divided on a pro-rata basis. In exceptional circumstances, the court may order the losing party to reimburse only a part of the costs of litigation to its opponent or not charge it with such costs at all.

Court fees are based on the Court Fees Act and depend on the amount in dispute:

- in general, the court fee amounts to 5% of the claim value;
- the court fee for a class action amounts to 2% of the claim value;
- the minimum amount of court fee is PLN 30,00;
- the maximum amount of court fee is PLN 100,000,00.

Court fees in the first and second instance are to be paid by the party filing the statement of claim/appeal. The actual attorneys' fees (depending on the fee agreement between the attorney and the client) can be substantially higher, but are of no relevance to the opposing party.

2.10 Romania

Litigation costs are mainly composed of court and attorneys' fees and expenses for expert opinions and the production of evidence. Litigation costs are awarded against the losing party who must reimburse the winning party. However, courts tend to decrease the initial amount. If a claimant has been partially successful, the costs of both sides are divided on a pro-rata basis.

Court fees have to be paid upon filing the claim. In the second and third instances fees are to be paid by the party filing the appeal. The fees are 50% of the court fees paid in the first instance. In order to claim the attorneys' fee the party must submit the proof of payment of the evidence otherwise the application is rejected. The actual attorneys' fees of a party (depending on the fee agreement between attorney and client) may be substantially higher, but are of no relevance to the opposing party.

Agreements on *Quota litis* fees are prohibited for Romanian lawyers in all types of proceedings.

However, attorneys' fees may be decreased by the court depending on the complexity of the case. Court fees are based on the Emergency Ordinance no. 80/2013 on judicial stamp taxes and depend on the amount in dispute.

Examples:

- Amount in dispute EUR 500,000: Court fees: EUR 6,000 in first instance;
- Amount in dispute EUR 1,000,000: Court fees: EUR 11,000 in first instance;
- Amount in dispute EUR 5,000,000: Court fees: EUR 51,000 in first instance.

2.11 Serbia

Litigation costs mainly consist of court and attorneys' fees, expenses for expert opinions, travel expenses for witnesses, and translators' expenses, which are generally awarded against the losing party. If a party has been partially successful, the court may order that each party bears its own costs, or that one party reimburses the other party a proportional amount of the costs. Regardless of the outcome, a party must reimburse the costs of the other party that result as a fault of that party.

Court fees have to be paid upon filing the claim. If a claim is filed by a foreign party, a defendant may file a request for a security. If the court accepts such a request, the foreign party shall be obligated to pay such security. Otherwise, the claim shall be deemed revoked.

Unless the parties agree otherwise, each party bears its own costs if the litigation results in a court settlement or a settlement after mediation.

Reimbursement of attorneys' fees has to be made on the basis of the fees provided for in the Act on Attorneys' Tariffs. The actual attorney fees of the party (depending on the fee agreement between attorney and client) may be substantially higher but they are of no relevance to the opposing party.

Agreements on *Quota litis* and contingency fees are generally prohibited for Serbian lawyers in all types of proceedings.

Court fees are based on the Law on Court Fees and depend on the amount in dispute. Examples for commercial disputes:

- Amount in dispute: EUR 47,620; court fees: EUR 1,000 in the first instance;
- Amount in dispute: EUR 95,240; court fees: EUR 2,750 in the first instance.

2.12 Slovak Republic

Litigation costs are mainly composed of court and attorneys' fees, expenses for expert opinions and travel expenses for witnesses, and are generally awarded against the losing party who must reimburse the winning party. If a claimant has been partially successful, the costs of both sides are divided on a pro-rata basis. However, reimbursement of attorney fees is only made on the basis of the fees provided for in the Regulation on Attorneys' Tariffs. The actual attorney fees of a party (depending on the fee agreement between attorney and client) may be substantially higher, but are of no relevance to the opposing party.

Court fees are based on the Court Fees Act and depend on the amount in dispute (6% of the dispute amount; max. EUR 16,596.50 and max. EUR 33,193.50 in commercial matters). In the first and second instances fees have to be paid upon filing the claim or upon the request of the court; otherwise, the court normally terminates the proceeding. Some proceedings are exempt from court fees.

Agreements on *Quota litis* and contingency fees are generally permitted for Slovak lawyers in all types of proceedings, but the attorneys' fees may not exceed 20% of the dispute amount (value).

2.13 Slovenia

Litigation costs include court fees, attorneys' fees and expenses for expert opinions and witnesses and are generally awarded against the losing party who must reimburse the winning party. If a claimant has been partially successful, the costs of both sides are divided on a pro-rata basis. However, reimbursement of attorney fees only has to be made on the basis of the fees provided for in the Act on Attorneys' Tariffs. The actual attorney fees of a party (depending on the fee agreement between attorney and client) may be substantially higher, but are of no relevance to the opposing party.

Court fees in the first and second instances are to be paid by the party filing the appeal. If a claim is filed by a foreign party and enforcement of a decision on reimbursement of litigation costs is not safeguarded, the foreign party can be ordered to pay a security deposit (subject to international conventions and EU Law). Security deposits cannot be ordered for EU citizens.

Court fees are based on the Court Fees Act and depend on the amount in dispute. Examples:

- Amount in dispute EUR 500,000: Court fees: EUR 6,525.00 in *first instance*;
- Amount in dispute EUR 1,000,000: Court fees: EUR 9,525.00 in *first instance*;
- Amount in dispute EUR 5,000,000: Court fees: EUR 36,225.00 in *first instance*.

2.14 Ukraine

Litigation costs include court fees, the amount of which depends on the subject of the claim (whether it is a monetary or a non-monetary claim), the type of application (a statement of claim or a motion), and on the type of court (civil, administrative, commercial and instance level).

For example, in a commercial proceeding, the court fee for the submission of a monetary statement of claim equals 2% of the amount of the claim, but may not be less than 1.5 minimal salaries (approximately EUR 104) or more than 60 minimal salaries (approximately EUR 6,720). Court fees are to be paid prior to the filing of a statement of claim, an appeal, a cassation claim, or any other procedural document to which a fee applies.

If a claimant is successful, it is likely that the court will require the unsuccessful party to reimburse the claimant for the court fees that the claimant paid to initiate a lawsuit. In some cases the amount of the court fees that are to be compensated by one party to the other may be reduced by the court. The court may also decide that court expenses will be distributed equally between the parties.

3. ARBITRATION

3.1 Albania

The procedural costs depend on whether a sole arbitrator or an arbitral tribunal of three members is appointed, the complexity of the case, and the administrative charges. Hourly fees or a fixed fee and success fee may be agreed upon between the attorney and the client.

The costs of arbitration depend on the arbitration agreement and the amount in dispute, the amount of documents, number of witnesses, and whether expert opinions are required. The costs of arbitration also include the fees of arbitrators and administrative charges.

The arbitrators have large discretion regarding the award of costs. The award of legal fees is usually not determined by reference to a statutory tariff. Currently there are no arbitration courts in Albania.

3.2 Austria

Vienna, Austria's capital city, is a major hub for arbitration in Europe and the Vienna International Arbitral Centre of the Federal Economic Chamber (VIAC) is not only the most important arbitration institution in Austria but also one of the leading arbitration institutions in Europe, especially regarding disputes relating to Central and Eastern Europe.

The procedural costs depend on whether a sole arbitrator or an arbitral tribunal of three members is appointed, the complexity of the case and the administrative charges.

The costs of arbitration to a large extent depend on the arbitration agreement and the amount in dispute, the amount of documents, number of witnesses and whether expert opinions are required. The costs of arbitration also include the fees of arbitrators and administrative charges.

The arbitrators usually have large discretion regarding the award of costs. However, in practice the award on costs often depends on the outcome of the case. The award of legal fees is usually not determined by reference to a statutory tariff.

Assumption based on the procedural costs of the Rules of Arbitration and Conciliation of the Vienna International Arbitral Centre (VIAC): sole arbitrator and an amount in dispute of EUR 10,000,000: Procedural costs: registration fee of EUR 2,000; administrative fees of EUR 20,500 and fees for a sole arbitrator of EUR 74,500.

3.3 Bosnia and Herzegovina

Both the FBiH and RS Civil Procedure Codes allow parties to settle disputes through arbitration. However, in practice this method of dispute settlement is rarely used in BiH.

Until present date, only a very limited number of arbitration proceedings have been initiated and realized before Arbitration Court.

The procedural costs depend on whether a sole arbitrator or an arbitral tribunal is appointed.

Institutional arbitration is regulated by the Arbitration Rules of the Arbitration Court attached to the Foreign Trade Chamber of BiH (adopted in 2003).

According to the FBiH Attorney's Tariff, attorneys' fees for all actions in arbitration proceedings are the same as the fees in standard civil proceedings. When representing a client in international arbitration proceedings, the attorney is entitled to double the amount of fees applicable in standard civil proceedings.

3.4 Bulgaria

Arbitration of commercial and civil disputes is regulated by the International Commercial Arbitration Act (promulgated in State Gazette Issue No. 60/5.08.1988, as amended from time to time, "ICAA"), and applies to all commercial disputes with the exception of disputes for property rights or possession over real estate, rights under an employment agreement or maintenance obligations, which all fall within the jurisdiction of the Bulgarian State Courts (i.e., such disputes are not arbitrable).

The procedural costs depend on the arbitration court, the parties' agreement, and the complexity and interest of the case. The arbitration institutions distinguish between domestic and international arbitration cases. Attorneys' fees are determined in the same way as in standard civil proceedings.

Costs include the arbitration court fee, costs of experts and attorneys' fees.

3.5 Croatia

Arbitration in Croatia is governed by the Croatian Arbitration Act of 2001. The purpose of the act was to create a modern law based on the UNCITRAL Model Law and to incorporate features of the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

The procedural costs depend on whether a sole arbitrator or an arbitral tribunal of three members is appointed, the complexity of the case and the administrative charges.

The costs of arbitration to a large extent depend on the arbitration agreement and the amount in dispute, the amount of documents, number of witnesses and whether expert opinions are required. The costs of arbitration also include the arbitrators' fees and the administrative charges.

The arbitrators usually have large discretion regarding the award of costs. However, in practice the award on costs often depends on the outcome of the case. The award of legal fees is usually not determined by reference to a statutory tariff.

Assumption based on the procedural costs of the Rules of Arbitration of the Permanent Court of Arbitration of the Croatian Chamber of Commerce (Zagreb Rules): sole arbitrator appointed and an amount in dispute of EUR 1,000,000: Registration fee of EUR 200, administrative fees of EUR 2,140 and fees for a sole arbitrator of EUR 10,700.

3.6 Czech Republic

Arbitration in the Czech Republic is governed by Act No. 216/1994 Coll., on Arbitration Proceedings and the Implementation of Arbitral Awards (the "Arbitration Act") and applies to both domestic and international arbitration proceedings.

Arbitration fees are based on the Rules for Costs of Arbitration Proceedings and depend on the amount in dispute.

The procedural costs depend on whether a sole arbitrator or an arbitral tribunal of three members is appointed, the complexity of the case, and the administrative charges. Arbitration costs are awarded against the losing party who must reimburse the winning party. Arbitration costs include fees, attorneys' fees and expenses for expert opinions and witnesses.

In general, a special tariff for arbitration fees and administrative fees (lump-sum reimbursement of the costs of the arbitration court) applies to international disputes; in domestic disputes, the arbitration fees are 5% of the disputed amount, subject to a cap of CZK 1,000,000 (approx. EUR 40,000). The arbitration fee for domestic disputes in a foreign language is 50% higher.

The fee for accelerated arbitration proceedings is 50% higher (accelerated proceedings take approx. 3 months in domestic disputes and 4 months in international disputes).

If a sole arbitrator is appointed in an international dispute, the arbitration fee is reduced by 30% and the administrative fee is reduced by 20%.

3.7 Hungary

Arbitration has had a growing significance over the past two decades. An increasing number of contracting parties, in particular those active in the construction and energy industry, have submitted their disputes to arbitration in recognition of the advantages of these procedures.

Arbitration in Hungary is governed by the Hungarian Arbitration Act (Act LXXI of 1994) which closely follows the UNCITRAL Model Law. The act applies to both domestic and international commercial arbitration proceedings.

The arbitration fee depends on whether an arbitral tribunal or a sole arbitrator is appointed. The arbitration fee includes the registration fee, arbitrators' fee and administrative costs and the state duty. The arbitration fee does not include other cost incurred by the Arbitration Court, e.g., experts' and interpreters' fees. The attorneys' fee is subject to the engagement.

3.8 Kosovo

According to the Law on Arbitration, enacted on 10 September 2008, arbitration is a recognized instrument for the resolution of both domestic and international disputes between physical persons and legal entities.

The costs are transparent and predictable, and the parties make the payment of arbitrators through PTA (Kosovo Permanent Tribunal of Arbitration). In principle, the costs of arbitration are borne by the unsuccessful party. The costs are apportioned if the parties solve the dispute by settlement.

3.9 Poland

Arbitration in Poland is governed by Part V of the Polish Civil Procedure Code (Kodeks postępowania cywilnego), as revised in 2005, which defines the limits of arbitration including the validity of arbitration agreements and the minimum standards that must be observed for a fair trial.

The procedural costs depend on whether a sole arbitrator or an arbitral tribunal composed of three members is appointed.

The following estimates are based on the procedural costs of the Court of Arbitration at the Polish Chamber of Commerce in Warsaw (SAKIG):

Assumptions: sole arbitrator is appointed and the amount in dispute is EUR 1,000,000:
Total costs: registration fee in the amount of EUR 625 and arbitration fee in the amount of EUR 14,000.

Assumptions: sole arbitrator is appointed and the amount in dispute is EUR 10,000,000:
Total costs: registration fee in the amount of EUR 625 and arbitration fee in the amount of EUR 50,000.

In case of an arbitral tribunal composed of three arbitrators the arbitration fee doubles.

3.10 Romania

Arbitration in Romania is governed by the Fourth Book - Domestic arbitration (Articles 541 – 621) and by the Seventh Book – International Civil Trial – International Arbitration (Articles 1110-1132) of the NCPC. An arbitral dispute taking place in Romania is qualified as international if it contains a foreign element.

The procedural costs depend on whether a sole arbitrator or an arbitral tribunal of three members is appointed, the complexity of the case and the administrative charges.

The costs of arbitration depend to a great extent on the amount in dispute, the amount of documents, the number of witnesses and whether expert opinions are required.

The arbitrators usually have large discretion regarding the award of costs. However, in practice the award on costs often depends on the outcome of the case. The award of legal fees is usually not determined by reference to a statutory tariff.

The following two estimates are based on the procedural costs of the Court of International Commercial Arbitration attached to the Chamber of Commerce and Industry:

Assumption: Sole arbitrator appointed and an amount in dispute of EUR 1,000,000: Total costs: registration fee: EUR 150, administrative fees of EUR 29,700 and fees for a sole arbitrator of EUR 17,890.

Assumption: Sole arbitrator and an amount in dispute of EUR 10,000,000: Registration fee: EUR 150; administrative fees of EUR 105,700 and fees for a sole arbitrator of EUR 70,990.

3.11 Serbia

Arbitration proceedings are governed by the Serbian Arbitration Act, which entered into force on 10 June 2006. The Arbitration Act applies to both domestic and international arbitration proceedings where the seat of arbitration is in Serbia.

According to the Rules of the Foreign Trade Court of Arbitration at the Serbian Chamber of Commerce, at the time of submission of a request for arbitration, a claim, a counterclaim, or a set-off claim, the party shall deposit the amount of EUR 200 with the Secretariat of the Court of Arbitration (registration fee).

The claimant has to pay the whole amount of arbitration costs determined by the chairman of the Court of Arbitration in accordance with the value of the claim and in accordance with the limits defined by the Tariff of Costs and Fees.

Assumption: The amount in dispute is EUR 1,000,000: Total costs: registration fee of EUR 200 and administrative fee of EUR 27,000.

Assumption: The amount in dispute is EUR 10,000,000: Total costs: registration fee of EUR 200 and administrative fee of EUR 67,100.

3.12 Slovak Republic

The main arbitral institution in the Slovak Republic is the Arbitration Court of the Slovak Chamber of Commerce and Industry established in 2002. The Arbitration Court deals with commercial disputes of both national and international nature. It has its own rules of arbitration.

Costs depend on several factors: Whether a sole arbitrator or an arbitral tribunal of three members is appointed, the complexity of the case, the administrative charges and other expenses (translation, travel and accommodation of foreign arbitrators, etc.), if the dispute is national or international, whether a speedy decision is expected, etc.

In cases with a speedy decision within 1 month, the arbitration fee is increased by 75% and if within 4 months, by 50%.

In simple proceedings (without any hearings, only based on evidence), the arbitration fee is decreased by 30%. Total decrease may be up to 50%. Similarly, the administrative fee may be decreased up to 30% in total.

If the dispute is decided by a sole arbitrator, the arbitration fee is decreased by 30% and the administrative fee by 20%.

The following estimates are based on the procedural costs of the Arbitration Court of the Slovak Chamber of Commerce and Industry:

Assumption: sole arbitrator appointed and an amount in dispute of EUR 1,000,000: Total costs: Arbitration fee of EUR 14,000, administrative fee of EUR 9,500.

Assumption: Sole arbitrator and an amount in dispute of EUR 10,000,000: Total costs: arbitration fee of EUR 62,400; administrative fee of EUR 16,700.

3.13 Slovenia

Slovenia recently enacted the new Slovenian Arbitration Act (Zakon o arbitraži) which adopts the UNCITRAL Model Law, including the recommendations adopted by UNCITRAL in 2006 concerning the written form requirements of arbitration agreements and interim measures of protection.

In Slovenia, there are permanent arbitral institutions attached to the Slovenian Chamber of Commerce of Slovenia (Gospodarska zbornica Slovenije), the Insurance Association (Zavarovalnica Triglav d.d.), and the Ljubljana Stock Exchange.

The procedural costs depend on whether a sole arbitrator or an arbitral tribunal of three members is appointed, the complexity of the case, and the administrative charges.

The following estimates are based on the procedural costs of the Rules of Arbitration of the Permanent Court of Arbitration Attached to the Chamber of Commerce and Industry of Slovenia:

Assumption: international dispute, sole arbitrator appointed and an amount in dispute of EUR 1,000,000: Procedural costs: registration fee of EUR 500.00; administrative fees of up to EUR 5,580.00 and fees for a sole arbitrator of up to EUR 18,600.00.

Assumption: international dispute, sole arbitrator appointed and an amount in dispute of EUR 10,000,000: Procedural costs: registration fee of EUR 500.00; administrative fees of up to EUR 8,340.00 and fees for a sole arbitrator of up to EUR 27,800.00

The costs of arbitration depend on the arbitration agreement and the amount in dispute, the amount of documents, number of witnesses and whether expert opinions are required. Costs of arbitration also include the fees of arbitrators and administrative charges. In case

there is an arbitral tribunal with three arbitrators, the fees double. The arbitrators usually have large discretion regarding the award of costs. However, in practice the award on costs often depends on the outcome of the case. The award of legal fees is usually not determined by reference to a statutory tariff.

3.14 Ukraine

Ukrainian law provides for separate legal regimes with respect to domestic and foreign or international arbitration proceedings. The primary law regulating domestic arbitration covering disputes between Ukrainian parties is the Law of Ukraine "On Courts of Arbitration" No. 1701-IV dated 11 May 2004.

The Law of Ukraine "On International Commercial Arbitration" No. 4002-XII dated 24 February 1994 (the "ICA Law") regulates international arbitration proceedings conducted in Ukraine. The ICA Law is based on the UNCITRAL Model Law for international arbitration.

The procedural costs depend on the amount in dispute, the number of arbitrators, the complexity of the case and administrative charges.

Examples: If the amount in dispute is

- from USD 200,001 to USD 500,000, the arbitration fee is USD 9,200 + 2% on the amount above USD 200,000;
- from USD 500 001 to USD 1,000,000, the arbitration fee is USD 15 200 + 1% on the amount above 500,000;
- from USD 5,000,000, the arbitration fee is USD 40,200 + 0,3% on the amount above USD 5,000,000.

If the case is considered by a sole arbitrator, the arbitration fees are subject to a 20% decrease.

ABOUT WOLF THEISS

Established in 1957, Wolf Theiss is one of the leading European law firms in Central, Eastern and South-Eastern Europe with a focus on international business law. With 340 lawyers in 13 offices located in Albania, Austria, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Hungary, Poland, Romania, Serbia, Slovakia, Slovenia and Ukraine, Wolf Theiss represents local and international industrial, trade and service companies, as well as banks and insurance companies. Combining law and business, Wolf Theiss develops comprehensive and constructive solutions on the basis of legal, fiscal and business know-how.

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Holger Bielesz has been a dispute resolution partner of Wolf Theiss Rechtsanwälte GmbH & Co KG since 2010 and specializes in civil & commercial dispute resolution, succession law disputes as well as in representing clients in high-profile white collar crime cases. Holger Bielesz regularly advises clients in relation to internal investigations, money laundering, bribery and corruption, as well as general commercial disputes. He is a post-graduate of the College of Europe, a highly reputed EU law academic institution. Before joining Wolf Theiss, Holger Bielesz gained in-depth professional expertise in EC competition law at a high-profile international law firm in Brussels. Holger is a regular speaker, both in Austria and at international conferences of legal practitioners, in particular DRI International and the ABA Section of International Law. He is ranked Band 4 in Chambers in the field of Dispute Resolution - Litigation.