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INTERVIEW

Arbitration *From the legal counsel's view*

What is your experience with domestic and international arbitration?

I have been a lecturer of civil procedure since 1996 at the Faculty of Law and as such, arbitration has been part of my lecturing discipline. I have also conducted in-depth studies on the recognition and enforcement of foreign judgments and international arbitration. In this context, I have conducted doctrinal studies and practical cases of dispute resolution through arbitration regardless of being domestic or international.

From April 2007 to February 2014, I have acted as State Advocate representing the Republic of Albania before Foreign Courts and International Arbitration, and in this capacity, albeit the representation in the International Arbitration, I have provided legal advice to the state authorities in terms of consulting the contracts and the relevant dispute resolution. From January 2010 to October 2013, I have acted as the General Advocate and at the same time, I represented the Republic of Albania before the International Arbitration, advising on international contracts in the drafting and implementation phase.

Concurrently, I continued to give lectures on international arbitration at the Faculty of Law and the School of Magistrates, and I have provided legal opinion on arbitration proceedings, or on consulting the international contracts with an international arbitration clause in and outside the country.

When holding the position of the State Advocate, you have been part of the counsel team representing the Albanian State. What would you define as the first steps to be taken from the viewpoint of a counsel?

Yes, I have acted as a counsel or co-counsel in the case. In the position of State Advocate, I have personally represented the Republic of Albania as counsel in some cases, whereas in some other cases, I have been co-counsel, together with foreign lawyers contracted from the Republic of Albania.

As a counsel in an arbitration case, I may say that the very first step is to build a strategy with a good team that will work on the case. The next step is to select the arbitrator. Further on, I would say that it is the collection of all evidences that will be submitted in the process, preparing the factual witnesses and experts.

Precisely drafting the terms of reference as well as the procedural rules applicable to the arbitration process is of paramount importance in the first phase of the arbitration process.

What is your favourite phase when it comes to working in an arbitration case?

To me, the most favourite phase in an arbitration case is the hearing.

Is there any particular case you have worked on which stands out?

There are some cases that stand out regardless of the outcome, be that in commercial or investment arbitration.

I can mention Pantechniki vs Republic of Albania, Sky Petroleum vs Republic of Albania, which were cases related to investment arbitration, but also other cases in commercial arbitration, such as General Electric vs Republic of Albania or S. Saranda vs Republic of Albania.

It is also worth mentioning the work done by the team for the management of the conflict with the CEZ company, namely for the revocation of the license and then the preparation of the international arbitration's claims with regard to the privatization contract with CEZ.

Does an academic background in practicing law be of an advantage for a client?

An academician in the field of arbitration and a law practitioner in the same person is a good choice for a client. It is understandable that an academician who has knowledge of the doctrine of arbitration and has also led and represented cases in practice is a very good choice for a client.

If you were to pick one or two advantages of institutional arbitration, which would you mention?

An institutional arbitration provides good management of the case, including a reasonable timeframe for adjudicating the case, procedural Rules being established in advance and made public to the parties who have accepted them previously.

In international arbitration but also in domestic arbitration, there is a gender gap in terms of the appointment as arbitrator or counsel between women and men. Why do you think this happens? What should be done to enhance the role of women in arbitration?

It is true that in the world of arbitration men are more involved than women, regardless of the role of arbitrator or counsel. Being considered a serious issue as long as the values of the disputes are high, it is because arbitration requires a lot of work and commitment.

It is considered that this kind of work is perhaps for men, who are hardworking and take the responsibility in leading or deciding on difficult matters. Nevertheless, this is not a presumption. There are many cases, where the women have acted very successfully as counsels in the case or arbitrators in such processes. There is a need to promote women as arbitrators and counsels in domestic or international arbitration proceedings.

I think that arbitration institutions should apply gender quotas on the lists of arbitrators, in order to give women the opportunity to be assigned as arbitrators. As a counsel, I think that they can be promoted by being proved with opportunities for presentations in forums, workshops, seminars, conferences, etc., or involvement in working groups for drafting laws, strategies, regulations / rules of arbitration.

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