Bulgaria Passes Substantial Amendments to the International Commercial Arbitration Act (2025)

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On 1 August 2025 the Law on Amendments and Supplements to the International Commercial Arbitration Act (LASICAA) was published in the State Gazette, No. 63. This legislation rebranded the previously existing International Commercial Arbitration Act to the more comprehensive Arbitration Act (AA) and introduced number of substantial changes.

According to the motivations provided with the LASICAA, the amendments are necessitated by the declining trust in arbitration in Bulgaria over the past few years and the publicly known cases of various abuses wherein arbitration was specifically used. The proponents argue that the unchecked ability to establish arbitrations, the limited circumstances under which an arbitration award can be annulled by the Supreme Court of Cassation (SCC), and the lack of effective means for subsequent oversight by the Minister of Justice foster the development of such undesirable practices.

In this regard, LASICAA offers a package of measures pointed towards improving the protection of parties in the arbitration process, strengthening legal certainty, and restoring trust in arbitration. These include narrowing the scope of ad hoc arbitration; establishing a Register of Arbitrations; revising eligibility requirements for arbitrators; implementing new procedural document service rules and additional guaranties for the parties; introducing new grounds for challenging arbitration awards; streamlining the processes for recognition of foreign arbitration awards; enhancing the oversight powers of the Minister of Justice etc.

Most of the changes are in effect as of August 1, 2025. It is projected that within a 4-month period from the publication of the LASICAA, the Minister of Justice shall also issue regulation regarding the newly established Register of Arbitrations, which will provide the subsequent opportunity for implementing the remainder of the new rules. It remains to be seen whether this timeline will be adhered to and if all necessary conditions for the actual functioning of the Register of Arbitrations will be met by December 3, 2025 (when most rules pertaining to the functioning of the register are intended to apply).

(i) Limitation of the Scope of Ad Hoc Arbitration

In the previous version of Article 4 of ICAA, it was stipulated that arbitration could either be a permanent institution or be established for the resolution of a specific dispute (ad hoc arbitration). There was parity between the two types of arbitration and given that ad hoc arbitration most prominently reflects the autonomy of the parties' will, it was preferred in

practice in several cases due to its particular flexibility and the complete confidentiality it ensures.

The new version of Article 4 stipulates that **arbitration on the territory of the Republic of Bulgaria can only be conducted by a permanent arbitration institution** (whether based in the Republic of Bulgaria or a foreign country). Only in the newly created paragraph 2 of the same provision is it clarified that **international arbitration with its seat in the Republic of Bulgaria may also be established for resolving a specific commercial dispute (ad hoc arbitration).** Thus, the possibility of conferring disputes for resolution by ad hoc arbitration is restricted solely to cases concerning international arbitration and exclusively for resolving commercial disputes. In this context, it should be noted that the terms "international arbitration" and "commercial dispute" are expressly defined in the AA:

- Paragraph 1 of § 1a of the transitional and final provisions defines "**International Arbitration**" as arbitration based in the Republic of Bulgaria when one of the parties has a permanent address, habitual residence, registered office, or actual management location outside the territory of the Republic of Bulgaria.

- Paragraph 2 of § 1a defines "**commercial dispute**" by referring to Article 365, items 1-3 of the Civil Procedure Code (CPC), which determine the application of specific procedural rules applied by state courts in commercial disputes (disputes under Article 365, items 1-3 CPC include claims concerning a right or legal relationship arising or related to: a commercial transaction, including its conclusion, interpretation, validity, performance, non-performance, or termination, consequences of its termination, as well as filling gaps in a commercial transaction or adapting it to newly arisen circumstances; a privatization contract, a public procurement contract, and a concession contract; participation in a commercial company or another legal entity – merchant, as well as establishing the inadmissibility or nullity of entry in the commercial register).

The reason cited by the legislator for adopting this new approach regarding ad hoc arbitration is explicitly stated in the motivations to LASICAA: "...in ad hoc arbitration, the arbitrator is completely independent and self-sufficient and thus unaccountable, both concerning applied procedural rules and substantive legal norms. While the number of such cases is not large, the potential for gross violations of parties' rights is immense. There are instances where, for example, the arbitrator disregards binding prior arbitration or court decisions and cancels them...".

The changes emerged controversy during the public discussion of LASICAA. The legislator's approach is very restrictive and raises numerous objections. The ban on domestic ad hoc arbitration, as well as international ad hoc arbitration on disputes that cannot be classified as commercial (according to the definition introduced in paragraph 2 of § 1a of AA), has no parallel in contemporary arbitration practice. On the contrary, ad hoc arbitration is well-known, recognized, and established in both national and international practices, and it has

found reflection in the UNCITRAL Model Law and the Recognition and Enforcement of Foreign Arbitral Awards of 1958 (the "New York Convention"), as well as in the legal frameworks of hundreds of countries. In this context, it is noteworthy that the chosen legislative solution radically limits the freedom to contract between parties—an essential principle for arbitration—and creates a risk of marginalizing the Republic of Bulgaria as an arbitration jurisdiction. In this sense, it may perhaps be more appropriate for the concerns mentioned in the motivations to LASICAA to be addressed through suitable regulation and the improvement of rules regarding the possibilities for protection against rendered arbitration awards and those concerning the liability of arbitrators (criminal, administrative-penal, and civil liability for damages), especially since administrative oversight and protection against flawed awards, as will be seen below, are a central focus of LASICAA.

Unfortunately, the method chosen by the legislator for introducing the ban on ad hoc arbitration, which permits this type of arbitration only when it can be classified as international and deals with a commercial dispute, reveals a serious potential to create numerous new issues for practice. The use of the categories "international arbitration" and "commercial dispute," as defined by national law in the Republic of Bulgaria in the AA as a boundary for determining the admissibility of ad hoc arbitration, is also an absolute novelty and ascribes them significance that they traditionally do not possess. The concepts of international arbitration and commercial dispute have been introduced in international (and national) practice for entirely different purposes, and now, LASICAA raises the question of to what extent the resolutions formed thus far relating to these categories in practice and theory could be transferred to determine the admissibility of ad hoc arbitration under the AA. In this context, some considerations can also be expressed regarding the "autonomous" definitions introduced in § 1a of the transitional and final provisions of the AA for these concepts. For example, the definition of international arbitration does not include companies with predominantly foreign participation (such as registered Bulgarian subsidiaries of foreign companies) as a separate hypothesis. In this way, the autonomous definition of international arbitration introduced by the AA deprives these enterprises of the opportunity to agree on ad hoc arbitration, a possibility they have had for years. This outcome is unlikely to be the intention of the legislator with LASICAA and is not justified. It affects the equality of the parties and will decrease foreign investments, trust in the Bulgarian legal system, and the attractiveness of our country as a venue for arbitration. Questions also arise regarding how the referral in item 2 of § 1a of the transitional and final provisions of the AA to Articles 365, items 1 – 3 of the CPC relates to the concept of commercial dispute. Within the scope of referral (as indicated in item 3 of Article 365 CPC), there are disputes that have previously been considered non-arbitrable, establishing inadmissibility or nullity of registration and the non-existence of a fact registered in the commercial register. Whether the introduced definition of commercial dispute imposes an understanding of the circle of arbitrable disputes is also questionable.

Before the adoption of the regulation regarding the conditions and procedures for maintaining, accessing, and storing the newly established Register of Arbitrations by the Minister of Justice, numerous questions arise concerning how the assessment for qualifying

ad hoc arbitration as international, respectively, the dispute being considered as commercial, will be carried out, as well as regarding the circle of persons who will have to implement this assessment. In § 25 of the transitional and final provisions of the AA, it is stipulated that pending cases as of the date when the law comes into force, including those formed for resolving a specific dispute in deviation from Article 4, paragraph 2 of the AA (where the ban on ad hoc arbitration concerning domestic matters is established), will be concluded while adhering to the requirements of the LASICAA, with registration occurring before the date of the issuance of the arbitration award. Cases initiated for resolving a specific dispute in deviation from Article 4, paragraph 2 of the AA, which are not pending as of the date when the law comes into effect, should not be registered, as violating Article 4 of the AA is stipulated as a ground for refusal. How the assessment will be conducted by the relevant officials, which in certain cases may prove to be anything but formal, raises concerns. Additionally, the law does not provide an explicit answer to the question what the consequences will be for arbitration agreements concluded in violation of Article 4, paragraph 2 of the AA, respectively, the awards issued based on them, because of which numerous interpretations are possible.

(ii) Register of Arbitrations and Additional Requirements for Arbitrations

- **Register of Arbitrations**

A central element of the reform is the establishment of the so-called Register of Arbitrations. The Register of Arbitrations is a structured electronic database containing **information about permanent institutions** conducting arbitration activities based in the Republic of Bulgaria, as well as about **arbitration proceedings** initiated before an arbitration established for the resolution of a specific dispute or before a permanent arbitration institution based outside the territory of the Republic of Bulgaria. Registration of the arbitration, and consequently of the case, is a **condition for the lawful performance of arbitration activities**. An arbitration award rendered by an unregistered arbitration or arbitrator is null and void, and the arbitration, respectively, the arbitrator, may be subject to sanctions.

The Register of Arbitrations is maintained by the Ministry of Justice. The register is **public** in the part containing data regarding the arbitration institutions and the names and professions of the arbitrators associated with them. The remaining data and documents in the register are **accessible to a limited circle of persons** (the Minister of Justice and persons authorized to maintain the Register; the Inspectorate under the Minister of Justice per the Judiciary Act; the court).

- **Registration of a Permanent Arbitration Institution**

According to the new rules, arbitration on the territory of the Republic of Bulgaria can only be conducted by a permanent arbitration institution based in Bulgaria **if it is registered in the Register of Arbitrations**. According to § 24 of the transitional and final provisions,

individuals engaged in arbitration activities as a permanent institution in the territory of Bulgaria must apply for registration in the Register within three months of its establishment. Registration is based on an application submitted by the representative of the legal entity that established the arbitration institution or by an authorized representative with explicit powers of attorney. As a condition for conducting the registration, it is required that the arbitration institution is established as a legal entity registered in the appropriate register (for example, the commercial register and the register of non-profit legal entities) and **meets certain additional requirements**: 1. to have adopted rules for the structure and organization of arbitration activities, as well as a fee schedule for fees and expenses incurred during the performance of the activity, and to maintain a list of arbitrators; 2. to maintain an office, administrative records, archives, and a website with a link to the electronic case management system; 3. members of the governing body and those listed in the list of arbitrators must meet the legal requirements established by law.

The Minister of Justice renders a decision on the registration application within seven days with a reasoned ruling. If the legal requirements are not met and the deficiencies are not corrected, the Minister of Justice refuses the registration. **A refusal may also be issued when systematic serious violations of the law have been established regarding the arbitration whose registration has been requested, as well as when it has been established that a ruling concerning a non-arbitrable dispute has been issued, and the decision has been declared null and void**. The refusal is subject to appeal pursuant to the Administrative Procedure Code.

For permanent arbitration institutions, individualized data concerning the legal entity to which the arbitration institution is established, data on the members of the management body of the arbitration (if any), as well as the names, professions, and contact information of the arbitrators through whom the permanent institution conducts arbitration activities, must be registered and kept up to date. **If an arbitrator for a specific case is a person outside the list of the arbitration institution, the specific arbitration case file will also list the names, titles, and addresses of the parties; names, professions, and contact information of arbitrators chosen or appointed to resolve the dispute.**

An arbitration institution is deleted from the Register of Arbitrations upon request from the representative of the legal entity to which it is established, upon termination of the legal entity, or when there are circumstances constituting grounds for refusal of its registration. In these cases, pending arbitration proceedings are concluded by an arbitration panel formed in accordance with the applicable rules at the commencement of the proceeding.

- **Arbitration Proceedings Registration**

Regarding ad hoc arbitration and permanent arbitration institutions based abroad but with place of arbitration located in Bulgaria, special rules are introduced, whereby **data for each specific proceeding** is entered in the Register of Arbitrations. The registration of pending

proceedings as of the date the law comes into effect is carried out before the date of issuing the arbitration decisions.

The application for registration is submitted by the chairman of the arbitration panel in the specific case within seven days from its formation. The Minister of Justice renders a decision on the application for registration within seven days with a reasoned ruling. If the legal requirements are not met and the deficiencies are not corrected, the Minister of Justice refuses the registration. The refusal is subject to appeal pursuant to the Administrative Procedure Code.

For arbitration proceedings initiated before an arbitration established for the resolution of a specific dispute, or before a permanent arbitration institution based outside the territory of the Republic of Bulgaria but the place of arbitration located in Bulgaria, the following information must be recorded: 1. the date of submission of the request for arbitration; 2. the names, titles, and addresses of the parties; 3. the names, professions, and contact information of the arbitrators selected or appointed to resolve the dispute, and when they are arbitrators at a permanent arbitration
n institution based outside the territory of Bulgaria, the name, registration number, and address of the foreign arbitration institution are also recorded; 4. the date and number of the arbitration award. The Register will also include: 1. the request for arbitration and the response to it; 2. a notice for an upcoming open session concerning the arbitration case—date and method of holding it; 3. the arbitration award.

- **Additional Requirements for Arbitrations**

Among the additional requirements outlined for arbitration institutions checked during their registration, the new Article 46a introduces the requirement that every arbitration court must maintain **administrative records and archives**. The administrative records must also be maintained in electronic form, with an electronic file established for each case. Access to the electronic file is provided to the parties, to the arbitrators appointed or designated to consider and resolve the case, to the court, **to the Minister of Justice, and to the Inspectorate under the Minister of Justice in accordance with the Judiciary Act**. According to § 24 of the transitional and final provisions, individuals engaged in arbitration activities as a permanent institution in the territory of Bulgaria must align their activities with the legal requirements within three months from the establishment of the Register of Arbitrations.

Although the changes outlined aim to enhance transparency and combat misuse of arbitral procedures and fraudulent arbitrations, they raise a series of objections, many of which were expressed during the public discussion. Not only do they undoubtedly increase the administrative burden on arbitrations and arbitrators, imposing previously nonexistent obligations reinforced by corresponding sanctions, but the amendments also affect, in some respects, the very nature of arbitration and the principles upon which it is founded.

The rules introduced by LASICAA seriously challenge the principles of independence, confidentiality, and voluntariness that are foundational to arbitration. The provision for access to sensitive data related to pending arbitration proceedings to executive authorities—represented by the Minister of Justice and the Inspectorate—constitutes an interference in the autonomous sphere of the arbitration process. Arbitration is not a part of the judicial system of the Republic of Bulgaria nor part of the executive authority. Therefore, executive authorities, including the Minister of Justice cannot have oversight powers over specific arbitration proceedings. Granting such powers contradicts the principle of separation of powers, undermines trust in the impartiality of the process, and discourages the choice of arbitration as a method of dispute resolution. One of the primary motivating factors for parties to choose arbitration is the guaranteed confidentiality of the proceedings. Providing access to arbitration files and data for anyone outside the procedural participants (the parties and arbitrators) creates a risk of sensitive information leaking, fundamentally lacking sufficient guarantees that this data will be used strictly within necessary boundaries and without risks of abuse. Neither the UNCITRAL Model Law nor leading arbitration jurisdictions (France, Austria, the UK, Singapore, Switzerland) allow access to arbitration files for executive authorities, and this is since arbitration is an autonomous system governed by the will of the parties.

The provision imposing on the Minister of Justice the power to refuse the registration of arbitration institutions also raises serious concerns regarding the autonomy of arbitration from the executive authority. While the reasoned ruling of the minister of justice is subject to judicial review, the very process of registration presents risks of using the procedure as a means of administrative (and political) pressure. Granting the Minister the power to refuse essentially means that the establishment of an arbitration institution will depend on an executive authority, and arbitration institutions will operate under the threat of external interference, which contradicts the very essence of arbitration and is extremely unacceptable when considering politically sensitive cases.

For permanent arbitration institutions based outside the Republic of Bulgaria, the requirement for registration has the potential to lead to a refusal to provide arbitration services by some of the most reputable such institutions, which would have a direct negative impact on investments in the country. LASICAA does not resolve internal issues related to abuses by unregulated national arbitrations but directs its requirements towards institutions that have nothing to do with these problems. It is also questionable that the Bulgarian state can impose rules on such international institutions and their associated arbitrators that contradict the assurances of confidentiality given to the parties to the dispute guaranteed by the rules of those institutions.

A separate group of objections related to the principle of confidentiality arises from the registration requirement regarding ad hoc arbitration when it is at all permissible. One of the main reasons parties choose ad hoc arbitration is the complete confidentiality of the proceedings—both regarding the content of the case materials and regarding the very existence of a dispute. In this regard, imposing a registration obligation for proceedings

reviewed by international arbitration may lead to the practical non-application of this type of arbitration in Bulgaria and possible migration of arbitration proceedings to other neighboring countries.

Regarding additional registration of data when the dispute is considered by arbitrators not listed in the relevant institutional arbitration, it should be noted that leading arbitration institutions in Europe have long abandoned the practice of mandatory or even illustrative lists of arbitrators for various reasons. Adopting the opposite position as a starting point in LASICAA does not account for this trend and creates undue privileges in using arbitrators from the lists, given that they are not required to disclose additional information.

On the other hand, it is questionable whether the newly introduced requirements effectively establish true control mechanisms and real barriers against unacceptable practices in local arbitrations, where the problems highlighted in the motivations to LASICAA are rooted. In practice, LASICAA lacks requirements for real institutional capacity to a large extent. It does not introduce substantial minimum requirements for creating an arbitration institution in Bulgaria. On the contrary, the requirements are lowered and are rather formal. There are no specific requirements regarding permanent administrative staff, the necessity for maintaining a secretariat, linguistic preparation of engaged personnel, regular reporting of activities, etc.

(iii) Revised Requirements Concerning Arbitrators and Rules for Appointing an Arbitrator in the Absence of Party Agreement

After discussions regarding the changes in Article 11, paragraph 2 of ICAA, it was explicitly provided that **an arbitrator can also be an individual who is not a citizen of the Republic of Bulgaria** if the rules of the relevant arbitration institution allow it, as well as when they are an arbitrator for a foreign arbitration institution or for a specific dispute.

The existing requirements for arbitrators have been expanded. Prior to the changes in Article 11, paragraph 3 of ICAA, it was stipulated that an arbitrator may be a competent adult citizen who has not been convicted of a deliberately committed crime under general law, has higher education, at least eight years of professional experience, and possesses high moral qualities. Now these requirements are supplemented with two new conditions: **individuals may not be deprived of the right to exercise a certain profession or activity, or to hold a specific position, and may not be in bankruptcy proceedings and have not been reinstated in their rights as bankrupt or been convicted regarding bankruptcy.**

Changes have also been introduced in the rules for appointing arbitrators in the absence of selection by the parties. **The President of the Bulgarian Chamber of Commerce and Industry is retained as the "appointing authority" solely for international commercial ad hoc cases**. Neither the European Convention nor the UNCITRAL Model Law—upon which ICAA is based—provides explicit authorities for a specific individual to perform the role of the so-called appointing authority. This is a matter of national legislative decision; thus, the

remaining part of the model selected by the legislator, wherein **in other cases, the appointment of an arbitrator in the absence of selection by the parties will be carried out by the head of the respective arbitration institution**, is fundamentally possible. According to the motivations to LASICAA, this approach acknowledges the existence of more arbitration institutions treated equally. However, whether the new model provides sufficient guarantees for transparency in this process, impartiality, and independence of the appointing authority in all cases is a question that raises doubts.

(iv) New Rules on the Service of Procedural Documents and Additional Guarantees for the Rights of Individuals Involved in the Proceedings

- **Service of Procedural Documents**

The LASICAA brings important modifications to Article 32 of the AA regarding how procedural documents, including arbitration awards, are served. Now, requests for arbitration can be delivered to parties located in Bulgaria through a licensed postal or courier service, or via a bailiff or notary. However, documents related to arbitration may only be sent by email if the party involved specifically requests this method in writing. For respondents, this email service is permissible only after a hard copy of the arbitration request has been delivered through one of the other acceptable methods. This amendment contrasts with common practices in international commercial arbitration, where procedural documents, such as requests for arbitration, are usually served solely via email. This change raises concerns as it may allow a respondent acting in bad faith to hinder arbitral proceedings by evading proper receipt of the request for arbitration, despite having a valid arbitration agreement.

Additionally, Article 32 of the AA establishes a sequence for the ways in which procedural documents can be served, explicitly providing that they can be served on the respondent through a notary or private bailiff if they could not be delivered upon the first attempt through a universal postal service for registered shipments or through courier services performed by a registered entity listed in the public register for non-universal postal services. At the request of the claimant, service through a notary or private bailiff may also be utilized in the initial sending of documents, with the respective costs borne regardless of the outcome of the case.

- **Additional Guarantees for the Rights of Individuals Involved in the Proceedings**

Entirely within the context of the motivations expressed in LASICAA, the legislator introduces a series of additional guarantees for the rights of individuals involved in the arbitration proceedings as potential recipients of identified abuses in practice.

In Article 7, paragraph 4 of the AA, the **applicability of silent or tacitly concluding an arbitration agreement is limited** when a party to the case is an individual person. It is assumed, however, that an arbitration agreement exists when the respondent—an individual participates in the arbitration process by submitting a written response, presenting

evidence, or appearing at the arbitration session, without contesting the jurisdiction of arbitration, and is a party to the dispute in their capacity as a sole trader, entrepreneur, partner, or shareholder, manager, or member of the management body of a company, or proxy, as well as having obligated themselves or provided collateral for obligations of a trader or entrepreneur that are subject to the dispute.

Like the existing regime, the new version of Article 32 of the AA also provides certain hypotheses under which service is considered effective, even though this is not the case in reality (so-called fictitious service). If, after diligent search, the party cannot be located at their registered address or permanent and present address, or at the address indicated in the contract between the parties, the notice is considered to be received if the attempts to serve are certified by the server. The notice is also deemed served if the recipient has refused to receive it, as well as when they have not appeared to receive it after a invite was left for that purpose. As a form of heightened protection for individuals under Article 7, paragraph 4 of the AA, and an attempt to balance the protection of their rights and the limitation of obstacles to the development of arbitration proceedings is the rule in LASICAA that states that these **individuals are not subject to service fictions,** except in cases where prior actual service of documents has already been made. Since this approach may prevent the arbitration proceedings from progressing, it is stipulated that at the request of the claimant, attempts at service may continue, or the case may be terminated. In the latter case, they have the right to bring their claim before the competent court, with the law explicitly stating that the **statute of limitations is suspended during the terminated arbitration proceedings.**

New rules have also been introduced concerning the declaration and coming into effect of the arbitration award. Up to this point, it was stipulated that the arbitration award signed by the arbitrators is sent to the parties and is considered declared upon its delivery to one of them. Upon delivery, it comes into effect, becomes obligatory, and is subject to enforcement. According to the proponents of the draft law, these rules create a problem with improper notification of the parties regarding the rendered arbitration decision. In this regard, the new version requires that **the award be declared in the electronic file of the arbitration case or in the Register of Arbitrations** if rendered by arbitration established for resolving a specific dispute. In addition, the decision is sent to the parties, and only after its delivery to both parties does it come into effect and is subject to enforcement.

(v) New Rules regarding Protection against Flawed Arbitration Awards

- **New Grounds for Challenging Arbitration Awards as Null and Void**

To ensure more integrative protection in cases where the property rights of individuals and legal entities are adversely affected, LASICAA **supplements the grounds for nullity and annulment of arbitration awards**. It is notable that the idea of the nullity of arbitration awards first expressed in Article 47, paragraph 2 of ICAA in 2017 has been extended by the

current changes, which establish some new grounds leading specifically to the nullity of the arbitration award.

With LASICAA, in Article 47, paragraph 2 of the AA, **the circumstances of an arbitration award being rendered by an arbitration or arbitrator not registered in the Register of Arbitrations are added as grounds for nullity**. Essentially, the legislator has elevated the completion of an administrative duty, which is unrelated to the basis of the arbitration's competence and the arbitration agreement, as a condition for the validity of the arbitration award. Unlike a judge, who derives their competence from holding their office, the arbitrator performs their function based on the agreement achieved among the parties and the trust expressly vested in them by the parties. For them, such requirements are a formality that does not express the essence of their activity. Therefore, despite the undeniable need for adequate mechanisms to counteract some specific cases of abuse, it is highly questionable whether a hypothesis of an arbitration award rendered by an arbitration or arbitrator not registered in the Register of Arbitrations should render it null and void. Furthermore, it cannot be supported that the understanding adopted in the new version of Article 47, paragraph 2 of the AA coincides with Article 49, paragraph 1 of the AA, which states that when declaring the arbitration award null on any of the grounds in Article 47, paragraph 2, the interested party may refer the dispute for consideration by a competent court. This makes sense when it concerns a dispute where the party is a consumer, due to which the arbitration agreement itself is void. However, such a resolution is entirely incompatible and contradicts the will of the parties within the arbitration agreement when the arbitration award has been declared null due to being rendered by an arbitration or arbitrator not registered in the Register of Arbitrations.

Some procedural rules concerning the possibility of declaring an arbitration award null have also been supplemented. It is expressly stipulated that a claim for establishing the nullity of an arbitration award can be filed by the parties and their successors before the SCC without time limitation. In § 26 of the transitional and final provisions, it is provided that a claim for nullity of an award rendered before the entry into force of LASICAA can be filed up to three months from the day the applicant received the award, and only on the grounds provided in the law at the time of the award's rendering. When the court is seized with a claim for annulment, it also deliberates on the nullity of the decision even without a request for this. Thus, it seems the legislator brings the regime for protection against flawed arbitration awards closer to that of judicial decisions, which in cases of nullity can likewise be challenged without a time limit. Although from this perspective, the possibility to challenge the arbitration award for nullity appears logical, it significantly compromises the idea of finality of the arbitration award, the single-instance nature of the arbitration process, and the exclusive character of the grounds on which it may be challenged. In this sense, when legislative grounds are established under which an arbitration award may be challenged as null, they should genuinely pertain to cases where the qualitative characteristics of the rendered act are affected, such that it cannot be considered valid at all.

- **New Grounds for the Annulment of Arbitration Awards**

With LASICAA in Article 47, paragraph 1, item 3 of the AA, **the contradiction of the arbitration award with public order in the Republic of Bulgaria has been restored as a ground for annulment**. This ground existed until 2017 but was repealed by the legislator in one of the previous revisions of ICAA due to lobbying and without any specific considerations for this. According to the motivations for the current reform, its restoration will enable the SCC to annul an award that is obviously contrary to fundamental provisions of Bulgarian law (including, in our view the European public policy which forms part of the Bulgarian public policy) and to return it for reconsideration by the arbitration. Restoring the contradiction with public order as a ground for annulment of arbitration awards can be supported, but it should be clarified that this ground does not fit precisely within the context of the cases that served as the impetus for the adoption of LASICAA. The consideration of public order is an institute of international private law, and its regulation in ICAA as a ground for annulment of arbitration awards is due precisely to the fact that this law was initially applied in international commercial arbitrations. Not coincidentally, the New York Convention regulates the contradiction with public order in the state where enforcement is sought as a ground for non-recognition and exclusion of enforcement of foreign arbitration awards—as outlined in Article V.2(b). In this sense, the application of this ground should not allow the SCC to review disputes resolved by the arbitration award, even if procedural violations were permitted by the arbitration. At the very least, in these cases, other grounds for annulment of the arbitration award are provided (the party was not duly informed about the appointment of an arbitrator or of the arbitration proceedings or, due to reasons beyond their control, was unable to participate in the proceedings—Article 47, paragraph 1, item 4 of the AA; the formation of the arbitration court or arbitration procedure was not in accordance with the parties' agreement unless it contradicts mandatory provisions of this law, and in the absence of an agreement—when the provisions of the AA were not applied—Article 47, paragraph 1, item 6 of the AA).

In Article 47, paragraph 3 of the AA, LASICAA also creates an entirely new ground for the annulment of arbitration awards, without an analogy in the previous regulatory framework of arbitration in Bulgaria: **when the falsity of a document, of a witness's testimony, of an expert's conclusion, upon which the award was based, or a criminal act by the party, their representative, a member of the arbitration panel, or its employee in connection with the proceedings on the case is established through the appropriate judicial process.** Similarity may be sought with the regulation in Article 303, paragraph 1, item 2 of the CPC concerning the annulment of court decisions when this results from such circumstances. It is worth noting that unlike other grounds for annulment, where the deadline for filing the claim is three months from the day the applicant received the award, **the deadline for the newly created ground for annulment starts from the day the judgment or the decision concerning the claim for establishing the falsity of the relevant document/criminal circumstance comes into effect** (Article 124, paragraphs 4 or 5 of the CPC). The new ground in Article 47, paragraph 3 of the AA and the manner in which the timeframe related to its relevance is set create concerns regarding the enforcement of the same, as it seems that in such cases there may be a significant period of uncertainty

regarding the fate of the arbitration award, creating conditions for tactical or unscrupulous actions aimed at delaying the enforcement of arbitration awards by initiating claims years after their issuance. This ultimately impinges on legal certainty. The international arbitration practice is not foreign to cases where, considering the material interest of the proceedings, speculations continue, regarding the impartiality of the panel or other participating individuals (experts, consultants, etc.) for years following the issuance of the arbitration award. Granting immediate procedural relevance to such speculative claims by treating them as a potential ground for annulment, even via establishing them through the appropriate procedural route, largely negates arbitration as an alternative to state judicial proceedings.

- **Other Rules in the Consideration of Claims to Challenge Arbitration Awards**

As an essential element in protecting individuals against abuses within the arbitration process, LASICAA considers the possibility that the enforcement of the arbitration award may be suspended while the claim for its annulment or declaration of nullity is pending. Until now, suspending enforcement was possible against a guarantee equal to the interest from the annulment of the arbitration award. With the changes, it is provided that **the SCC may suspend enforcement even without security when persuasive written evidence exists** for the respective ground for annulment. The possibility for a securing measure to be approved without the provision of a guarantee previously existed according to general securing rules, which do not apply to suspending enforcement of arbitration awards but practically seldom finds application. The unclear boundaries of assessment posed using the blanket phrase “persuasive written evidence” in the AA are among the reasons why the new provision is criticized. It is very likely that the wording used in the AA, like that in the CPC, may lead to the generation of inconsistent and even contradictory practices.

According to the motivations to LASICAA, one of the obstacles for protecting the rights of parties in the arbitration process are the fees for examining claims for annulment, which are now identical to those for initiating claims before the court—namely, 4% on the interest, which as the SCC should not be examining the case substantively, is unjustified. For this reason, the previously existing rule that referred to the general rules of the CPC (Article 71 CPC) is repealed, and instead, it is provided that the amount of the state fee for examining these claims is determined by a tariff of the Council of Ministers. **The declared intention is for this fee to be lower, 1% of the interest, but not more than a certain upper limit, with this issue expected to be regulated within four months through amendments to the Tariff for State Fees collected by the courts according to the CPC.**

(vi) Recognition and Enforcement of Foreign Arbitration Awards

- **Recognition and Admission of Enforcement**

Considering the considerations expressed during the public discussion (including those by DGKV), against the application of the previously enacted provisions **the LASICAA repeals**

the previous Article 51, paragraph 3 of ICAA. It previously stipulated that claims for recognition and admission of enforcement of awards made by foreign arbitration courts and the settlements concluded before them in arbitration proceedings are to be brought, unless otherwise provided for in an international treaty to which the Republic of Bulgaria is a party, before the Sofia City Court, and Articles 118-122 of the International Private Law Code (IPLC) apply accordingly, excluding the debtor's right to file a defense against the extinguishment of the claim.

Based on Article 51, paragraph 3 of ICAA, judicial practice had developed a distinct tendency toward introducing additional formal requirements in the recognition and admission of enforcement of foreign arbitration awards that do not directly stem from the legal framework; for instance, the requirement for the arbitrators' signatures on the decision to be notarized, as well as for apostilling and legalization of the notarization of the arbitrators' signatures. These requirements established by judicial practice constituted unreasonable procedural obstacles to the recognition and admission of enforcement of foreign arbitration awards and contradicted the New York Convention. Article 119, paragraph 2 of the IPLC, to which ICAA referred until now, essentially states that for the request for admission of enforcement of a foreign decision, (i) a certified copy of the decision by the court that issued it and (ii) a certificate from the same court that the decision is enforceable must be submitted. These documents must be certified by the Ministry of Foreign Affairs of the Republic of Bulgaria. The certificate from the Ministry of Foreign Affairs, specified in Article 119, paragraph 2 of the IPLC, is part of the legalization procedure for foreign official documents for their recognition in Bulgaria. However, this rule should not apply to recognizing foreign arbitration awards, as they are not public documents and, therefore, the requirements for legalization applicable to public documents should not apply. According to Article IV, paragraph 1 of the New York Convention, the application for recognition and admission of enforcement must also include (i) a duly certified original of the arbitration award or a duly certified copy thereof, and (ii) the original or a certified copy of the arbitration clause. The New York Convention does not impose a specific form on the arbitration award, nor does it require notarization of the arbitrator's signature placed on the arbitration award. National legislation cannot impose stricter requirements than those provided for in the New York Convention.

Now, Article 51, paragraph 4 of the AA stipulates that the **international treaties concluded by the Republic of Bulgaria apply to the recognition and enforcement of foreign arbitration awards**, with the application being made before the Sofia City Court. With the removal of the referral to the recognition and admission of enforcement of court decisions and in the absence of other applicable procedural rules. It is to be seen how the SCC would apply this provision and given that New York Convention provides for application mutatis mutandis of the national procedural rules whether this would result of the application of the problematic clause of the IPLC thus making this change residual.

- **Issuance of Writ of Enforcement**

Following the amendments, the district court seized with a request to issue a writ of enforcement based on the enforceable arbitration award will need to verify, in addition to the other circumstances it has monitored thus far, **whether the relevant arbitration and/or arbitrator is registered in the Register of Arbitrations**, **as well as whether the decision has been duly declared**. To establish these circumstances, the court must carry out an official check in the Register of Arbitrations and in the electronic file of the case. The court refuses to issue a writ of enforcement based on null and void awards according to Article 47, paragraph 2 of the International Commercial Arbitration Act (Article 405, paragraph 5 of the CPC). As can be seen from the changes, after the amendments, this rule pertains not only to disputes where a party is a consumer (which have been non-arbitrable since 2017) but also to the newly introduced grounds for nullity of arbitration awards.

The extent to which the Register of Arbitrations and the electronic files will provide a real opportunity for the declaration of arbitration awards, respectively, for the completion of this verification by the court before these rules come into force (March 3, 2026), raises concerns regarding the risk of blocking the courts' activities in issuing writs of enforcement based on arbitration awards.

(vii) Oversight Powers of the Minister of Justice

One of the main emphases of LASICAA is related to **enhancing the role of subsequent administrative control exercised by the Minister of Justice**. To this end, it is stipulated that the SCC will be required to send the Minister of Justice every decision declaring an arbitration award null or annulled, and the district court will send every order denying the issuance of a writ of enforcement. The Inspectorate under the Minister of Justice will also be able to perform random checks without specific cause, and for conducting the checks, every arbitration court must provide permanent official access to the electronic archive of all pending and concluded cases.

New grounds for administrative liability have been introduced for rendering an arbitration award by an arbitrator not registered in the Register of Arbitrations, for carrying out arbitration activities in violation of the registration requirements of the arbitration institutions and the arbitration proceedings established for resolving a specific dispute. Some of **the existing fines and pecuniary sanctions have been increased**. For instance, when an award is issued for a dispute that cannot be considered by arbitration, and the decision is declared null on this basis by the SCC, the arbitrator will now face a fine of 1,000 to 5,000 leva (before, the penalty was from 500 to 2,500 leva), and the arbitration court, the respective legal entity to which it is established, faces a monetary sanction of 5,000 to 25,000 leva (before, the penalty was from 5,000 leva).

Along with the existing possibility for issuing mandatory instructions to arbitrations, a new possibility is introduced whereby **the Minister of Justice may order the delition of an arbitration from the Register of Arbitrations** in cases of systematic serious violations of

the law or when the conditions for initial registration are not met, as a specific administrative coercive measure.

Conclusion

The amendments introduced by the LASICAA represent a significant shift in Bulgaria's arbitration framework, emphasizing increased regulation and oversight to combat abuse and restore trust in the arbitration process. The establishment of a Register of Arbitrations and additional requirements for both arbitration institutions and proceedings underscore the intent to enhance transparency and accountability.

However, the restrictions on ad hoc arbitration, registration requirements alongside the newly provided powers to the minister of justice, raise concerns about the balance between regulatory oversight and the essential principles of independence, confidentiality and efficiency that underpin arbitration.

As these changes take effect, their impact on Bulgaria's position as an arbitration venue and the practical implications for parties engaging in arbitration will need careful observation and assessment.