

NOVELTY ELEMENTS OF THE JURIDICAL NATURE OF THE ARBITRATION FROM THE PERSPECTIVE OF THE NEW CIVIL CODE AND THE NEW CIVIL PROCEDURAL CODE IN ROMANIA

Camelia Florentina STOICA*

ABSTRACT: *In the article the need to adapt the arbitration in Romania to the requirements deriving from the status of Romania as a Member State of the EU was presented. The modifications brought to this institution were presented, especially the novelty elements related to the juridical nature of the arbitration. Also the difference between the arbitration and other alternative dispute resolution means have been noted, especially by report to mediation, conciliation and settlement.*

Such a novelty element exists even from the definition of the arbitration of art. 533 par. 1 of the Civil procedural Code which states that the arbitration represents an "alternative jurisdiction with a private character". A symmetry between art. 533 of the New civil procedural code and art. 169 of the Civil Code is noted. The mixt nature is of the essence of the arbitration and has been rightfully regulated by the lawmaker in the civil procedural provisions.

In art. 534 par. 1 of the Civil procedural code the object of the arbitration is presented, the new regulation being characterized by a higher degree of precision. In the article novelty elements related to the parties of the arbitration were also presented.

With respect to the arbitral agreement, its legal regime is governed, both by the provisions of the new Civil Code and of the New Civil procedural code by the articles 1179 of the Civil Code and 540 of the Civil Procedural Code.

In art. 541 of the Civil procedural Code the law maker provided the assumption of the arbitral agreement, when the claimant files an arbitration claim and the respondent does not raise objections at the first hearing for which he was legally summoned. The arbitral convention can only be concluded in writing under the sanction of nullity (art. 343 of the Civil procedural code).

As a conclusion an evolution was noted with respect to the regulation of the arbitration as a dynamic domain with an increasing importance at the international level, in the Civil code and the Civil Procedural code, and it remains that through the efficient application of the codes and the direct involvement of the state in the economical life to increase the foreign investments and the public-private partnerships.

KEYWORDS: *arbitration, Civil code, Civil procedural code, legal nature of the arbitration, arbitral agreement*

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* University Senior Lecturer, Ph.D, Head of the Law Department Academy of Economic Studies Bucharest, ROMANIA.