Annulment of Arbitral Awards: Croatia/Slovenia Case

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Case Outline

Shiprepair Contract
- Shiprepairer – Croatian based
- Shipowner

Agent
- Guarantor for shipowner’s obligations (payment) towards shiprepairer
  - Slovenian based

Issue
- Shipowner unable to pay the shiprepair fee
- Shiprepairer seeking compensation from Agent
Croatian Arbitration

Permanent Arbitration Court in Zagreb
- Whether there is a valid arbitration agreement between the shiprepairer and agent
- Arbitration court determined that there is a valid agreement
- Agent liable to pay shiprepair fees

First instance – Commercial Court in Rijeka
- Non-competence due to arbitration clause
- Agent acceded to the arbitration agreement

Second instance – High Commercial Court in Zagreb
- Confirms the first instance decision

Proceedings – and how it went wrong

Proceedings - Slovenia
- First instance court – recognized the arbitration award
- Second instance court – annulment due to lack of arbitration agreement (confirmed by Supreme Court)

Arbitration Annulment - Croatia
Agent – Commercial Court in Zagreb:
- Confirms the validity of arbitration agreement
- High Commercial Court in Zagreb confirms

Aftermath
1. Croatian proceedings (revision proceedings) – settled
2. Slovenian proceedings:
   - Constitutional Court – failed
   - European court of Human Rights
   - But finally settled
## Total Duration
Arbitration Velocity Lost in Translation

<table>
<thead>
<tr>
<th>Arbitration Agreement Judicial Validation Proceedings</th>
<th>Arbitration</th>
<th>Arbitration annulment in Croatia</th>
<th>Arbitration recognition and annulment in Slovenia</th>
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### Total Length of Proceedings

Around 15 years
In the Spotlight

• Prima-facie or subject-matter pre- and post-judicial control?
• Pre-arbitration arbitration agreement vs. post-arbitration arbitration award annulment (with regard the arbitration agreement)?
• Arbitration State and Recognition State coordination? (Green Paper on the review of Council Regulation (EC) no 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters)
“Thank you for the attention!”