

Ceskoslovenska Obchodni Banka, a.s.
v. The Slovak Republic
(ICSID Case No. ARB/97/4)

Introductory Note

On April 18, 1997 the Ceskoslovenska Obchodni Banka, A.S. (CSOB), a bank organized under Czech law, instituted ICSID arbitration proceedings against the Slovak Republic in respect of a dispute related to the financial consolidation of CSOB. The request was registered by the Secretary-General on April 25, 1997.

In the absence of agreement between the parties on the number of arbitrators and the method of their appointment, CSOB chose the formula provided in Article 37(2)(b) of the ICSID Convention i.e., a tribunal consisting of three arbitrators, one appointed by CSOB, one appointed by the Slovak Republic, and the third, who would be the President of the Tribunal, appointed by agreement of the Parties. Professor Andreas Bucher, a Swiss national, was appointed by CSOB and Professor Piero Bernardini, an Italian national, was appointed by the Slovak Republic.

In the absence of agreement between the parties on the appointment of the President of the Tribunal, CSOB invoked Article 38 of the ICSID Convention which provides that, if the Tribunal has not been constituted within 90 days after the notice of registration of the arbitration request, the Chairman of the ICSID Administrative Council shall, at the request of either party and after consulting both parties as far as possible, appoint the arbitrator or arbitrators not yet appointed. After consultation with the parties, the Chairman of the Administrative Council appointed Professor Thomas Buergenthal, a U.S. national, as the President of the Tribunal.

As a preliminary matter the Slovak Republic raised a number of jurisdictional objections. The Tribunal issued on May 24, 1999 its decision on

the objections to jurisdiction, upholding jurisdiction over the dispute. The text of that decision is reproduced in 14 ICSID Review—FILJ 250 (1999).

Following the rendition of the Tribunal's decision on jurisdiction, the proceeding on the merits was resumed and the Claimant filed its memorial on November 15, 1999. On December 23, 1999, the Respondent filed a further and partial objection to jurisdiction. The Tribunal issued on December 1, 2000 its decision on the further and partial objection to jurisdiction. The text of the decision is reproduced below with the parties' consent.

Margrete Stevens
Senior Counsel, ICSID