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Uzbekistan





Uzbekistan

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A. Legislation and rules

A.1 Legislation

Arbitration proceedings in Uzbekistan are regulated by domestic legislation, as well as international treaties ratified by Uzbekistan.

Uzbekistan is a party to a number of international and regional treaties that relate to arbitration, including the New York Convention and several CIS treaties.

Additionally, Uzbekistan is a member state of ICSID, and investors thereby have the right to seek settlement of disputes within the framework of this convention (subject to an arbitration agreement between investors and Uzbekistan).

Regarding domestic arbitration, the Law On Arbitration Courts (the “Law”) was adopted only relatively recently, in 2006.

The main provisions of the Law are based on UNCITRAL Model Law principles, but there are some significant differences.

For example, an arbitral tribunal may only apply the legislation of Uzbekistan, and violation of this rule is a ground for setting aside an award. In addition to the Law, arbitration is also regulated by the relevant provisions of the Civil Procedural Code and the Commercial Procedural Code.

There is no specific legislation that sets forth rules for international arbitration proceedings in Uzbekistan.

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Therefore, Uzbek authorities are considering whether to adopt a specific law regulating international arbitration and the enforcement of foreign awards. Under the bill recently published by the Ministry of Justice, this new law will also be based on UNCITRAL Model Law principles.

In addition, under Resolutions of the President of the Republic of Uzbekistan adopted in 2016-2017, relevant provisions regulating the enforcement of foreign arbitral awards should be included in the Civil Procedural Code and the Commercial Procedural Code. It is expected that relevant amendments will come into force in 2018.

Furthermore, the President of the Republic of Uzbekistan approved the new structure of the local Chamber of Commerce and Industry, including the international arbitration institution, and prescribed the Chamber to take measures for the development of ADR, including arbitration.

In the absence of specific laws, in May 2013 the Supreme Economic Court adopted a resolution providing binding guidelines for economic courts concerning the enforcement of foreign arbitral awards. Similar to the resolution relating to domestic arbitration, the Supreme Economic Court took a very pro-arbitration approach, in keeping with international trends.

A.2 Institutions, rules and infrastructure

After the adoption of the Law in 2006 and relevant sub-laws regulating the procedure of establishing and registering arbitration institutions, the number of arbitration institutions registered in Uzbekistan significantly increased. There are currently around 50 arbitration institutions in Uzbekistan.

However, as in most other CIS countries, the most widely used of these are two arbitration institutions established by the local Chamber of Commerce and Industry: the Domestic Arbitration Court and the International Commercial Arbitration Court.



The DAC was established in 2007 shortly after the adoption of the Law, to arbitrate domestic disputes. In 2011, the Uzbek Chamber of Commerce and Industry decided to establish the IAC to review disputes in which at least one of the parties is a foreign company.

The DAC and the IAC handle all types of commercial disputes between local and foreign companies, with the exception of disputes that are non-arbitrable under Uzbek law (eg, disputes relating to registration of rights over immovable property, and challenges to decisions of state authorities).

At the same time, as mentioned above, the IAC's activity is not regulated by local laws and the enforceability of its awards in Uzbekistan is very debatable.

B. Cases

B.1 Investment arbitration cases

Under the new trend in Uzbekistan in the settlement of its disputes with investors, pro-state outcomes of investment arbitration cases against Uzbekistan are not unusual.

The government has become much more experienced in investment arbitration and foreign investors need to be very well-prepared if they wish to successfully protect their rights in investment arbitration proceedings.

While previously the government preferred to settle claims of foreign investors amicably, recently it has decided to take a very aggressive position and argue its cases in front of arbitral tribunals.

In addition, in 2016, a group of Uzbek companies (JSC Tashkent Mechanical Plant, JSCB Asaka, JSCB Uzbek Industrial and Construction Bank, and the National Bank for Foreign Economic Activity of the Republic of Uzbekistan) acted as claimants in ICSID proceedings against a neighboring country, Kyrgyzstan, seeking the protection of their rights — a first-of-its-kind case.

Recently, it was announced that parties to these arbitration proceedings agreed to settle the case amicably and it is expected that proceedings will be closed at the beginning of 2018.

B.2 Court practice relating to arbitration

Since the legal basis for arbitration in Uzbekistan was formed relatively recently, Uzbek courts do not have significant experience applying these laws, meaning that their practice is inconsistent. In addition, Uzbek court decisions are not usually publicly disclosed.

Therefore, we are not aware of any significant developments in local court practice on issues relating to arbitration.

C. Funding in international arbitration

As stated above, Uzbekistan is still creating a legal framework for the development of international arbitration proceedings in the country.

Therefore, issues relating to third-party funding in international arbitration are not addressed in local laws and court practice.

However, we consider that, in theory, parties in Uzbekistan may use third-party funding, while the practical application of this option may lead to a number of issues, including currency control and tax issues.