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Uzbekistan





## Uzbekistan

Alexander Korobeinikov<sup>1</sup> and Alissa Inshakova<sup>2</sup>

### A. Legislation and rules

#### A.1 Legislation

Arbitration in Uzbekistan continues to be governed by domestic legislation, as well as by 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, therefore, 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 (“Law”) was adopted only relatively recently, in 2006. The main provisions of the Law are based on the principles of the UNCITRAL Model Law, 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 new Economic Procedural Code of the Republic of Uzbekistan (“EPC”)<sup>3</sup> adopted in January 2018.

The EPC was adopted as part of the reform of Uzbekistan’s judicial system initiated in 2017 by Uzbekistan’s new President, Shavkat Mirziyoyev. The EPC entered into force on 1 April 2018, after which the existing Commercial Procedural Code of the Republic of Uzbekistan ceased to be effective.

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<sup>1</sup> Alexander Korobeinikov is a counsel in Baker McKenzie’s Almaty office and a member of Baker McKenzie’s International Arbitration Practice Group.

<sup>2</sup> Alissa Inshakova is an associate in Baker McKenzie’s Almaty office and a member of Baker McKenzie’s Dispute Resolution Practice Group.

<sup>3</sup> The Economic Procedural Code of the Republic of Uzbekistan, approved by Law of the Republic of Uzbekistan No. ZRU-461 dated 24 January 2018.

The EPC includes a separate chapter regulating the recognition and enforcement of foreign court judgments and arbitral awards. Pursuant to this chapter, foreign judgments and awards will be recognized and enforced by economic courts in Uzbekistan only when doing so is provided for (i) by relevant international treaties; or (ii) by the laws of the Republic of Uzbekistan.

In addition, in early 2017, the draft Law “On international commercial arbitration” was published for discussion on the single portal of interactive state services. The document is aimed at regulating relations in the field of creation, activity and abolishment of international commercial arbitration courts in Uzbekistan.

## 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 (DAC) and the International Commercial Arbitration Court (IAC).

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 (e.g., disputes relating to the 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.

In November 2018, Tashkent International Arbitration Center (TIAC) under the Chamber of Commerce and Industry of the Republic of Uzbekistan was established in Uzbekistan. The TIAC will resolve disputes arising from contractual and other civil law relations between commercial organizations through international arbitration.

The TIAC will also resolve disputes related to investments, intellectual property and blockchain technologies. Accepting applications for dispute resolution through international arbitration, as well as holding hearings and other proceedings, can be carried out online using modern information and communication technologies without the presence of arbitrators and parties. Representatives of parties involved in resolving disputes through international arbitration at the TIAC do not require a license to practice law when reviewing arbitral awards in the competent courts of the Republic of Uzbekistan, nor when considering any issues in the arbitration disputes considered at the TIAC.

The TIAC has the right to resolve disputes through a mediation procedure and other alternative dispute resolution methods in the manner prescribed by law.

Relevant TIAC arbitration rules are still being considered and have not yet been published.

## **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 October 2018, an ICSID tribunal upheld one of the claims lodged by Federal Elektrik Yatırım in 2013 under the 1992 Turkey-Uzbekistan bilateral investment treaty and the ECT in relation to several contracts signed with Uzbek state-owned entities with respect to upgrading the country's domestic gas market to a metered system. The decision has not yet been published.

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 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 in 2019.

## 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.