

New Arbitration Institutions Received the Right to Administer Disputes in Russia

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On 19 May 2021, the Russian Ministry of Justice granted the International Court of Arbitration of the International Chamber of Commerce (**ICC**) and the Singapore International Arbitration Centre (**SIAC**) a status of the Permanent Arbitration Institution (PAI), which means that ICC and SIAC **can administer a wide range of the arbitrations seated in Russia**.

Previously only two foreign arbitration institutions have received such a status (in addition to the Russian PAIs): the Vienna International Arbitration Centre (VIAC) and the Hong Kong International Arbitration Centre (HKIAC).

1. PERMANENT ARBITRATION INSTITUTION (PAI) AND AD HOC ARBITRATION

International merchants can use PAIs or *ad hoc* arbitrations (i.e. created for the resolution of the particular dispute) to settle their disputes.

However, the *ad hoc* arbitration in Russia has **many restrictions** – for example, it cannot arbitrate corporate disputes, and therefore, cannot be recommended for the majority of the companies/foreign investors.



Application of the *ad hoc* arbitration is very limited in Russia and de-facto cannot secure the interests of the international merchants, what leads to the increase of the role of the PAIs

PAIs can administer:

- ▶ international commercial arbitrations seated in Russia;
- ▶ various disputes seated in Russia or abroad, which are related to the residents of the Russian special administrative districts;
- ▶ certain types of the Russian corporate disputes;
- ▶ other disputes, which are not regarded as international commercial arbitration according to the Russian law (internal disputes).

2. PAIS' JURISDICTION

PAIs can settle the majority of the disputes arising between the international merchants, namely:

- ▶ disputes, where the business of at least one party is located abroad; and
- ▶ if any place, where a significant part of the obligations arising from the relations of the parties, or the place, which is most closely connected with the subject of the dispute, is located abroad; and
- ▶ disputes arising in connection with the foreign investments in the territory of Russia or Russian investments abroad.

3. CORPORATE AND INTERNAL DISPUTES

However, the right of PAIs to administer other disputes is very limited. For example, only PAIs with rules of arbitration of the corporate disputes registered in the Russian Ministry of Justice (at this moment, only some Russian PAIs registered them) can administer **corporate disputes** regarding:

- ▶ incorporation, reorganization and liquidation of the legal entity;
- ▶ claims brought by the shareholders of the legal entity seeking compensation for losses caused to the legal entity,
- ▶ invalidity of the transaction made by the legal entity and/or application of its consequences;
- ▶ appointment or election, termination or suspension of the powers and liability of members of the governing bodies of the legal entity etc.



Only PAIs that have rules of arbitration of the corporate disputes registered in the Russian Ministry of Justice can administer all of them

At the same time, some corporate disputes can be administered by **all PAIs**:

- ▶ disputes regarding sale and purchase agreements in respect of the shares/participation interest in the Russian companies,
- ▶ disputes regarding shareholder agreements in relation to the Russian companies.

Internal disputes can be administered by the international PAIs, which have a separate office in Russia – at this moment, none of the international PAIs has established such an office. This requirement is not applied to the Russian PAIs.

4. CONCLUSIONS

The following international arbitration institutions are licensed in Russia:

- ▶ International Court of Arbitration of the International Chamber of Commerce (ICC),
- ▶ Singapore International Arbitration Centre (SIAC),
- ▶ Vienna International Arbitration Centre (VIAC),
- ▶ Hong Kong International Arbitration Centre (HKIAC),

as well as the following Russian arbitration institutions:

- ▶ International Commercial Arbitration Court at the Chamber of Commerce and Industry of the Russian Federation (ICAC at the RF CCI),
- ▶ Maritime Arbitration Commission at the Chamber of Commerce and Industry of the Russian Federation (MAC at the RF CCI),
- ▶ Russian Arbitration Center at the Russian Institute of the Modern Arbitration,
- ▶ Arbitration Centre at the Russian Union of Industrialists and Entrepreneurs,
- ▶ National Center of Sports Arbitration at the Sports Arbitration Chamber,
- ▶ Arbitration institution at the All-Russian Industrial Association of Employers “Russian Engineering Union”.

However, not all of them have the right to administer all corporate and internal disputes.

In certain cases, the international merchants can supplement an arbitration clause with an addition to be able to replace the arbitration institution with another one, if the first institution cannot administer a certain dispute.



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