



Resolving International Disputes in Russian State Arbitration Courts and the International Commercial Arbitration Court of the Russian Chamber of Commerce and Industry

The changes and potential in Russia's economy have attracted many companies to the Russian Federation in search of business opportunities.

As Russia actively integrates into the global economy, the number of international contracts is continually increasing, making the legal protection of both domestic and foreign commercial interests ever more important. In Russia, the rights of foreign trade partners are protected by two main jurisdictional bodies: the state arbitration courts of the Russian Federation (hereinafter referred to as arbitration courts) and the International Commercial Arbitration Court of the Russian Chamber of Commerce and Industry (hereinafter referred to as the ICAC).

For companies and businessmen, it is difficult to determine the difference between the two and system is more appropriate for their claims.

Having analyzed the theory and practice surrounding business disputes involving foreign entities in Russia, one can conclude that neither state arbitration courts nor the ICAC is the sole recommended juridical body. Both alternatives have pros and cons. The fundamental distinctions between the two are reviewed below.

Advantages of Solving Disputes via the ICAC:

1. Highly qualified arbiters and the possibility to choose an arbiter whose particular specialty is the subject of the dispute.
2. The guarantee that the ICAC decision will be enforced both in Russia and abroad according to the New York Convention of 1958. A clause on ICAC arbitration should be included in contracts if:
 - Parties are registered in different jurisdictions. In this case, they will be interested in choosing an international arbitration court rather than a national court to avoid disadvantages associated with language barriers, unfamiliar legal procedures, etc. Moreover, the influence of either country on the court decision will be limited.
 - Contracts are multilateral and will be executed in countries with different jurisdictions.
 - Parties are registered in the same country, but one of the parties is "weaker" in relation to the other, for instance, when signing a contract with a large or state-owned company.

Considering the significance (especially on the eve of Russia joining the WTO) and novelty of this institution, lawyers should explain the ICAC litigation process to businessmen, advocate its advantages and ensure that arbitration decisions are binding upon the parties and are enforced undeviatingly and voluntarily.



Advantages of Solving Disputes via State Arbitration courts:

Advantages for resolving disputes in state arbitration courts are: lower costs, shorter litigation times and the possibility to use additional measures for legal defense, namely the appeals process, which examines the legality and validity of the court's decision.

Russian arbitration procedure laws are becoming more consistent with international standards. And although not all specialists approve of the amendments to the Arbitration Procedural Code (APC), progress in the state arbitration system is evident.

The upward trend in the volume of cases handled by Russian arbitration courts continues. Despite the fact that the number of cases is increasing, the state system of settling commercial disputes still manages to ensure accessibility to justice and maintain a relatively high performance.

Conclusion

It is necessary to understand the problem of interaction between state arbitration courts and the ICAC. There are still many gaps in the law regarding the implementation of secured measures and the execution of ICAC decisions and the issue of enforcement orders.

We believe that Russian legislators should reconsider many aspects of the mechanism for reviewing the legality and validity of ICAC decisions. In particular, state arbitration courts should have in their competence the right to re-examine in essence the judgments passed by the ICAC if new circumstances are revealed.

We believe that civilized relations should be kept amicably. However, if the parties cannot settle dispute by means of negotiations, they will get a fair and objective decision from state courts or the ICAC.