

VIAC to Become Second Foreign Arbitration Institution Permitted to Administer Disputes in Russia

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On 18 June 2019, the Council for the Development of the Arbitration Process of the Ministry of Justice of the Russian Federation—the body promoting the creation of favorable conditions for development of arbitration in Russia—recommended granting the Vienna International Arbitration Centre at the Austrian Federal Economic Chamber (the “VIAC”) the status of a permanent arbitration institution (“PAI”).¹ The Institution is expected to start operating in Russia on or before 8 July 2019, once it has been included in the list of foreign arbitral institutions recognized as a PAI.²

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VIAC therefore will become the second foreign arbitration institution with the right to administer a number of arbitrations in Russia, following the Hong Kong International Arbitration Centre (the “HKIAC”). The HKIAC was included in the register in April this year and, accordingly, received PAI status.³

As discussed in our previous client update,⁴ following the 2016 arbitration reform, institutional arbitrations in Russia can be administered only by arbitral institutions with PAI status.⁵ At present, only six arbitral institutions have that status: five Russian based⁶ and one foreign—the HKIAC. The addition of another reputable arbitral institution such as the VIAC to the list of institutions recognized as PAIs is positive news for participants in the Russian market and the Russian arbitration community at large. In

¹ The press release published on the website of the Ministry of Justice of the Russian Federation is available [here](#).

² The period of 15 business days is set forth in Article 44(4.1) of Federal Law No. 382-FZ on Arbitration in the Russian Federation, dated December 29, 2015 (the “Arbitration Law”) and paragraph 50 of the Regulations on the Creation and Activities of the Council for the Development of the Arbitration Process approved by Order No. 45 of the Ministry of Justice of the Russian Federation, dated 20 March 2019.

³ We discussed this development in our 16 April 2019 update, available [here](#).

⁴ We discussed the results of the arbitration reform in detail in our 16 February 2016 update, available [here](#).

⁵ See Article 52(13) of the Arbitration Law and Article 225.1(5) of the Commercial (Arbitrazh) Procedure Code of the Russian Federation. In the absence of such a permit any arbitration that the institution administers, and the award that results from it, would be considered ad hoc.

⁶ These institutions are: (1) the International Commercial Arbitration Court of the Chamber of Commerce and Industry of the Russian Federation; (2) the Maritime Arbitration Commission at the Chamber of Commerce and Industry of the Russian Federation; (3) the Russian Arbitration Center at the Russian Institute of Modern Arbitration; (4) the Arbitration Centre at the Russian Union of Industrialists and Entrepreneurs; and (5) the National Centre for Sports Arbitration.

addition to expanding the menu of dispute resolution options available to businesses today, it represents a significant step towards creating a more developed platform for resolution of international disputes in Russia.

Once included in the list, the VIAC, like the HKIAC, will have the right to administer a wide range of commercial matters, including international disputes with the seat of arbitration in Russia⁷ and certain corporate disputes, such as disputes arising out of the ownership of shares in a Russian legal entity or the management of a legal entity (e.g., under a shareholder agreement) and the activities of share registrars.

However, because the VIAC does not have a separate subdivision in Russia, it will not be able to administer a number of categories of domestic disputes. Further, the VIAC will not yet be able to administer certain arbitrable corporate disputes for which a PAI is required to have specialized corporate arbitration rules. This means that disputes arising out of a company's incorporation, reorganization and liquidation and disputes brought by shareholders to recover damages caused to a legal entity and to invalidate transactions made by a legal entity will be beyond the VIAC's remit in Russia—for the time being.

Lord Goldsmith QC comments:

“Russian and Russian-based disputes are an important part of the diet of international arbitration. Parties involved in international transactions need to have confidence entrusting the adjudication of these disputes. It is good therefore that the recognition of the VIAC as a permanent arbitration institution will provide another choice for businesses when it comes to choosing a method to resolve their disputes and that arbitral awards resulting from disputes resolved in this way will be enforced in Russia.”

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Please do not hesitate to contact us with any questions.

⁷ Disputes may be referred to international commercial arbitration (i) if at least one of the parties has its business located abroad or if the agreement between the parties is mainly performed abroad, or the dispute is most closely linked to a place outside of Russia and (ii) if such disputes arise out of foreign investments in Russia or Russian investments abroad (Article 1(3) of Law of the Russian Federation No. 5338-1 on International Commercial Arbitration, dated 7 July 1993).



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