

Guidelines issued to HKIAC and VIAC on the arbitral administration of corporate disputes in Russia

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The Russian Council for the Improvement of Arbitral Procedure has issued clarifications regarding certain disputed issues of Russian arbitration law in response to a joint written request by HKIAC and VIAC, which was addressed to it in February 2020.

The Russian Council for the Improvement of Arbitral Procedure has issued clarifications regarding certain disputed issues of Russian arbitration law in response to a joint written request by the Hong Kong International Arbitration Centre (HKIAC) and the Vienna International Arbitration Center (VIAC).

On 10 February 2020, HKIAC and VIAC, the only foreign arbitral institutions to have obtained the status of permanent arbitral institutions (PAI) in Russia, submitted their request for clarification (see [Legal updates, Russian Ministry of Justice grants VIAC permission to administer disputes in Russia](#) and [HKIAC approved to administer disputes in Russia](#)).

The Council clarified the discrepancy in article 225.1(2) of Commercial Procedural Code (CPC) and articles 7(7.1) and 45(7.1) of the Law on Arbitration, which made it unclear which corporate disputes can be administered by a PAI acting in Russia without devising special arbitration rules for corporate disputes, and which cannot (see [Article, Russian Arbitration Law 2016: key issues](#)). The following corporate disputes do **not** need to be administered under special corporate arbitration rules:

- Disputes regarding rights to shares and their incumbency.
- Disputes arising out of corporate agreements.
- Disputes related to the registrar's recording of rights to shares.

This clarification widens the scope of disputes that VIAC and HKIAC can administer since neither has, as yet, adopted such rules.

The Council reminded VIAC and HKIAC that disputes arising out of public procurement contracts will remain non-arbitrable until a special law is passed designating the arbitration institution entitled to administer such disputes. However, general civil procurement contracts are arbitrable.

Foreign arbitral institutions that do not have a permanent office in Russia (such as VIAC and HKIAC) may not administer Russian domestic arbitrations, even if they have PAI status.

The Council stated that PAIs may establish a special body to consider prima facie jurisdiction before the tribunal has been constituted. However, where the issue is in doubt, it must be referred to the tribunal. PAIs also need to inform the parties and the tribunal of possible violations of Russian arbitration law.

Despite not being legally binding, the Council's clarifications represent a useful comment on Russian arbitration law not only for VIAC and HKIAC, but also for state courts and practitioners.

Source: *Russian Council Issues Response to HKIAC-VIAC Joint Request for Clarifications*.

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