

CENTRAL ASIAN STATES AND EUROPEAN UNION ABET DIALOGUE ON INTERNATIONAL ARBITRATION



The EU-Central Asia Rule of Law Platform held a “Regional Seminar on International Arbitration” in Dushanbe, Tajikistan, on 6-7 October 2016, in furtherance of the recommendations of the Ministers of Justice of Central Asia and the EU who, at the Fourth Conference on Rule of Law in Astana (October 2014), *“encouraged the development of alternative methods of dispute resolution”*.



Messrs Rustam Shohmurodzoda, Minister of Justice of the Republic of Tajikistan, and Hidajet Biščević, Head of Delegation of the European Union, co-chairing the regional seminar

High-level specialists from the Ministries of Justice, Finance, Economy and Tax and legal specialists of other ministries, state agencies, Supreme Economic Courts, Presidential Offices, Chambers of

Commerce and Industry, lawyers, judges, arbitrators and academics from Kazakhstan, the Kyrgyz Republic, Tajikistan and Uzbekistan engaged in a dialogue on best international -primarily European- regulations and practices along with experts from France, Germany and Greece. The seminar aimed at facilitating the resolution of economic disputes arising out of cross-border investment, thereby ensuring legal security for investors, improving the business climate and enabling sustainable economic development in the five Central Asian States.



Over 90 arbitrators and heads of legal departments of line Central Asian ministries exchanged experience with their European peers



Mr Lai Kamara, international arbitrator, and Mrs Françoise Kamara-Ribettes, Counselor-Dean to the First Civil Chamber of the French Cassation Court

Arbitration as a means of dispute resolution is provided by bilateral investment agreements. These agreements promote the rule of law and facilitate foreign investment by providing security to foreign investors in a different legal environment. They offer a framework for the effective settlement of investment disputes.



Ms Aigerim Bralina, Chair of the Commercial Arbitration Court of the Eurasian Mediation Center

The key challenge for states is the need to ensure that the goal of protecting and encouraging investment does not affect their ability to continue to pursue public policy objectives. A major part of that challenge is to make sure that any system for dispute settlement is fair and independent. The regional seminar opened a dialogue including issues such as the

modern framework for domestic and international arbitration, models and process of arbitration, bilateral investment treaties, the arbitration clause and arbitrators.



Ms Yasmine Gouédar and Mr Holger Green, French and German Ambassadors to Tajikistan, emphasised the importance of economic regulation as an integral part of the rule of law

A number of essential elements should be included in international arbitration agreements, with model language available, including the agreement to arbitrate, a definition of the scope of disputes subject to arbitration, the means for selecting the arbitrator(s), a choice of the arbitral seat, and the adoption of institutional or *ad hoc* arbitration rules.

A number of other provisions can also be included in international arbitration clauses, including the language for the conduct of arbitration, choice of applicable law, arbitrator qualifications, costs, and procedural matters.



For Messrs Nuzshan Tashtanov and Davronbek Akhmedov, respectively State Secretary of the Kyrgyz Ministry of Justice and Head of Information and Analysis Unit on International Arbitration of the Ministry of Justice of Uzbekistan, improving the overall business climate is key to attracting more foreign direct investment

Not all existing types of commercial arbitration are suitable for the resolution of disputes between states (or state-owned

companies) and private companies. Because investment arbitration involves more political implications than mere commercial arbitration, states may be directly affected by an arbitration award, the system should be transparent. Third-party funding can have detrimental effects on the arbitral process and should be regulated as in the UK, including as concerns disclosure rules, loyalty obligations and other issues.



Dr Dietrich Kast and Mr Philipp Hermes, international arbitrators and members of the Karlsruhe and Hamburg Bars

The possibility of creating a bilateral arbitration institution in order to promote investment in the Central Asian countries while protecting the investments of European companies, and vice-versa, with specific arbitration rules and tenured judges, has been raised.



Ms Nodiri and Mr Shohmudzoda, Vice-Minister and Minister of Justice (top) and Ms Rustamova, Mr Osimi and Mr Mansurzoda, respectively Deputy-Chair of the Chamber of Commerce and Industry, Deputy Prosecutor General and Chairman of the High Economic Court of the Republic of Tajikistan (down)