

PRESS RELEASE

LATVIA: Important aspects of arbitration

Latvia is not as popular as a place for international arbitration as Sweden, for example. However, some foreigners still choose Latvia and its arbitrations as the place and tribunal for settling their disputes.

What are the most important aspects to be taken into account regarding dispute resolution by Latvian arbitration?

Significantly faster dispute resolution procedure

While arbitration in general is known to be a faster dispute resolution method compared to litigation, Latvian arbitration can be seen as providing even faster dispute resolution than arbitration in other countries. Usually Latvian arbitrations provide awards within approximately 3 – 6 months from the moment of receipt of the claim statement. The former article 493 of Civil Procedure Law of January 1, 2015, regarding arbitration, replaced by new and separate Arbitration Law, even provided each party of the arbitration agreement with the rights to withdraw from the arbitration agreement without consent of the other party if the arbitration tribunal has failed to provide the award within one year and the parties have not agreed that the award may be provided within longer period of time.

Limited application of interim measures

According to sub-article 2 article 139 Civil Procedure Law and article 33 Arbitration Law actually the only interim measure, which is available in case if the dispute shall be solved by arbitration in Latvia, is the possibility to request the court, which have jurisdiction over the territory of presence of the defendant or his property, to apply the seizure of assets or other measure in order to secure the enforcement of possible arbitral award. Such request could be filed to the court only before the claim statement is submitted to the arbitration.

Broad possibilities for contesting the validity of arbitration agreements

As in many other countries, Latvian law also applies the principle of competence-competence, providing the arbitral tribunal with the right to decide on its own jurisdiction over the certain dispute. However, at the end of last year, on November 28, 2014, the Constitutional Court adopted an important judgment in case 2014-09-01. With this judgment the Constitutional court declared sub-article 1 article 495 Civil Procedure Law and also sub-article 1 article 24 Arbitration Law (which entered into effect only later, on January 1, 2015), as far as these norms provided the exclusive competence of arbitral tribunals to decide over their jurisdiction, and prohibited the court to deal with this matter, as incompatible with article 92 of Constitution of the

Republic of Latvia. The respective amendments to sub-article 1 article 24 Arbitration Law are still to come. However, at least so far it may be said that Latvian law does not provide detailed and certain regulation (in comparison, for instance with sub-article 2 article 1040 German Civil procedure law), how the state court may examine the jurisdiction of arbitration tribunal. Therefore, taking into account the said judgment of the Constitutional Court, it may be supposed that the courts may apply their rights to examine the jurisdiction of arbitration tribunals in quite a broad manner.

Strict view of enforcement

In its judgment from 17 January 2005 in case 2004-10-01 Constitutional Court emphasized that the state is liable for the arbitral awards as far the state has accepted them similarly to the court judgments and declared as enforceable. Latvian courts pay strict attention to the particulars of the arbitration awards when the matter of enforcement arises. For instance, it is provided by settled Latvian case law that the court may, during the examination of enforcement matters, allow compulsory enforcement only for the part of a contractual penalty which is granted by the arbitration to the claimant if the court finds the amount of that contractual penalty to be too excessive¹.

Absence of setting aside procedure for arbitral award

Unlike several other countries, Latvian law does not provide the unsatisfied party with the possibility to ask the court to declare the arbitral award to be set aside. It means, that mainly the defendant has no active remedies to be used against arbitral award and shall wait until the claimant will ask the court to adopt the decision of enforcement of arbitral award in order to present his arguments that the arbitration tribunal has failed to comply with procedural or other important requirements during the arbitral proceedings.

¹ Decision from April 18, 2013, of Senate's Civil Department of Latvian Supreme Court in case No. SPC-14/2013. Available in Latvian at:

http://at.gov.lv/lv/judikatura/judikaturasnolemumu-arhivs/senatacivillietu-departaments/hronologiska-seciba_1/hronologiska-seciba/

“Resolving disputes via arbitration in Latvia offers many benefits. A closer look at the details of those benefits is well worthwhile.”

Lauris Rasnacs, ECOVIS Convents, Riga, Latvia

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