



## VIENNA INTERNATIONAL ARBITRAL CENTRE TO BE GIVEN STATUS OF PERMANENT ARBITRAL INSTITUTION IN RUSSIA

By 8 July 2019 the Vienna International Arbitral Centre ("VIAC") is to be included on the list of foreign arbitral institutions recognised in Russia as permanent arbitral institutions ("PAI"). VIAC will be the second foreign arbitral institution to be given the status of a PAI, following the Hong Kong International Arbitration Centre (the "HKIAC"), which became a PAI on 25 April 2019.

### DETAILS RELATED TO OBTAINING BY VIAC OF STATUS OF A PAI

- The Council for the Advancement of Arbitration (the "Council") at the Ministry of Justice (the "MoJ") recommended on 18 June 2019 that VIAC be vested with the power to function as a PAI<sup>1</sup>. The MoJ now has to put that recommendation into practice within 15 business days of the Council's meeting. VIAC is thus set to become the second foreign arbitral institution, after the HKIAC, to be given the status of PAI. To date, just five Russian institutions and one foreign institution have obtained this status<sup>2</sup>.
- According to the information currently available, VIAC does not intend (at this point, at least) to open a separate division in Russia that would administer arbitration of domestic disputes, i.e. disputes that are not international commercial disputes (a dispute between two Russian entities that has no foreign element, for example, could qualify as a domestic dispute; for more details, see the April 2019 client briefing).
- Once VIAC obtains the status of a PAI, it will be able under Russian law to hear disputes that relate to, amongst other things, the ownership of shares and participation interests in Russian companies, the creation of encumbrances over them and the exercise of rights conferred by them.

#### Key points

- VIAC is going to be the second foreign arbitral institution, after the HKIAC, to be given the status of PAI.
- It will probably not be able to hear Russian domestic disputes.
- VIAC will be able to hear certain categories of corporate disputes (e.g. disputes relating to the ownership of shares and participation interests in Russian companies).

#### Other Clifford Chance publications on Russian arbitration

- Client briefing from August 2016 ([Rus.](#), [Eng.](#))
- Client briefing from January 2019 ([Rus.](#), [Eng.](#))
- Client briefing from February 2019 ([Rus.](#), [Eng.](#))
- Client briefing from April 2019 ([Rus.](#), [Eng.](#))

<sup>1</sup> <https://to77.minjust.ru/ru/novosti/sostoyalos-zasedanie-soveta-po-sovershenstvovaniyu-treteyskogo-razbiratelstva-0>.

<sup>2</sup> The International Commercial Arbitration Court at the Chamber of Commerce and Industry of the Russian Federation, the Russian Arbitration Centre at the autonomous non-commercial organisation "Russian Institute of Modern Arbitration", the Arbitration Centre at the Russian National Non-governmental Organisation "Russian Union of Industrialists and Entrepreneurs", the Maritime Arbitration Commission at the Chamber of Commerce and Industry of the Russian Federation, National Centre for Sport Arbitration at the at the autonomous non-commercial organisation "Chamber of Arbitration for Sport" and the HKIAC.

- If an international commercial dispute is to be referred to VIAC with the seat of arbitration in Russia, the parties will be able to expressly exclude the residual jurisdiction of the Russian state courts with regard to several aspects of the arbitration, including the appointment of arbitrators<sup>3</sup>, challenges to arbitrators<sup>4</sup> and other matters (for more details, see the April 2019 client briefing).
- To date, VIAC has heard relatively few disputes involving Russian parties. According to the statistics for 2016-2018 on VIAC's official website, around 5-9 disputes per year<sup>5</sup>. We think that VIAC's new status as a PAI is likely to increase the popularity of this arbitration institution in Russia.

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<sup>3</sup> Article 11 of RF Law No. 5338-1 of 7 July 1993 On International Commercial Arbitration (the "**ICA Law**").

<sup>4</sup> Article 13 of the ICA Law.

<sup>5</sup> Available at: <https://www.viac.eu/en/statistics>.

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