Russian Arbitration Center

at Russian Institute of Modern Arbitration

ARBITRATION DIGEST OCTOBER 2021

CASE LAW DEVELOPMENTS

Mined Itself into Arbitration: Cryptocurrency Exchange Binance Faces ICC Proceedings

As reported by The Block, a media outlet specializing in digital assets, despite long negotiations between the parties, an unnamed investor has initiated an ICC arbitration due to the automatic liquidation of his assets by the cryptocurrency exchange. The investor believes that he incurred more than USD 140 million worth of damages as a result of the liquidation.

Claims have been brought against more than 45 legal entities associated with the exchange. Such a large number of respondents is due to the fact that the exchange adheres to the concept of decentralised headquarters and, as of now, it is not known whether it has any headquarters at all.

Read

LCIA Award in the Delovye Linii Case Again Not Enforced

The Commercial Court of Saint-Petersburg and the Leningrad Region has once again refused to recognise and enforce an LCIA award to recover USD 49 million from Alexander Bogatikov and his companies.

The Russian Court has recalled that it previously refused to enforce said award due to an arithmetical error and noted that the error had been corrected in the new version of the award.

However, the judge did not agree with the formula for calculating damages used when the award was being corrected. Thus, when making corrections, the arbitrators changed EBITDA from 9.9% to 12.5%, which the Russian judge saw as a violation of public policy, believing that that performance indicator was chosen by the arbitral tribunal at random.

Moreover, the Court has qualified the dispute between Mr Khabarov and Mr Bogatikov as a corporate one; in other words, a dispute linked to incorporation of a Russian legal entity and management of or participation in such an entity, and therefore deemed the arbitration clause made before 1 February 2017 unenforceable.

Read

Iberdrola's US Counterparty Not Allowed to Back Out

A subsidiary of a Spanish company Iberdrola has won USD 273 million from a US company Footprint Power Salem Harbour Development following an arbitration in the ICDR (*Footprint. Iberdrola Energy Projects, Inc. v. Footprint Power Salem Harbor Development LP*, ICDR Case No. 01-18-0001-6009).

In 2014, the parties made a contract to construct a power plant in Massachusetts. Four years later, when the project was 98% completed, Footprint terminated the contract and withheld USD 140 million as monetary security of due performance. The company identified delays in the power plant's construction, as well other breaches as its reasons for contract termination.

Iberdrola submitted to the ICDR, asking it to deem the termination unlawful and order a return of the security, arguing that the power plant was ready for commissioning six weeks after the contract was terminated. In the award, the arbitral tribunal supported the claimant and ordered Footprint to pay compensation within 30 days.

Read

Lawyers Migrating to the Opposing Party in Arbitration Not a Ground for Annulment

In June 2021, it was reported that a Spanish company TRT sought to challenge an ICC award after two members of the TRT team had changed sides and joined the firm representing the counterparty in the course of the arbitration proceedings.

On 12 October 2021, a Miami court did not find any grounds for setting the ICC award aside and dismissed the claimant's claims. Although the court ruled that this sort of conduct may be contrary to the applicable professional standards because TRT had not given its written consent, TRT had waived its right to object and had not provided any evidence of actual prejudice.

The court held that raising objections during the setting aside proceedings after a whole year since the fact took place, had deprived TRT of its right to object. The court concluded that US public policy requires that a party should object to a potential conflict of interest with reasonable promptness.

Read

Interim Relief When Arbitration Award Is Already Rendered

The Delhi High Court has refused to grant interim relief in a dispute between the founders of the largest Indian airline IndiGo, finding that such relief would amount to enforcing the award, which was impermissible at that stage.

Rakesh Gangwal, one of IndiGo's founders, applied to the Court with a request to oblige his opponent to take all necessary steps in order to convene an extraordinary general meeting of the airline's shareholders according to the LCIA award that had already been made.

It is reported that the IndiGo founders, Rakesh Gangwal and Rahul Bhatia, had been at loggerheads for years over managing the company, as, despite almost equal shares, the Articles of Association provided that one of them, namely, Rahul Bhatia, was entitled to give binding instructions to the other on how to vote at general meetings.

Rahul Bhatia opposed Rakesh Gangwal's plans to expand IndiGo and accused him of attempts to take over the company. He initiated an arbitration, claiming that Rakesh Gangwal had breached the terms of the shareholders' agreement, as well as the Articles of Association.

In its award, the LCIA arbitral tribunal ordered to convene a general shareholders' meeting no later than within 30 days and vote for excluding the clause restricting sales of shares from the Articles of Association.

Read

Parties' Intention to Waive Arbitration Must Be Conclusive and Unconditional

The claimant initiated an arbitration against the respondent over an alleged breach of a construction contract, as well as another arbitration against the guarantor under the same contract. The respondent agreed that the arbitration agreement did exist between the Parties but claimed that the agreement lapsed after the parties had waived arbitration in favour of litigation. The respondent relied on the communications between the parties, evidencing that the claimant had invited the respondent to consider litigation, while the respondent sent a letter confirming its consent in response.

The court concluded that the parties did not reach an agreement to waive arbitration. It stressed that any intention of the parties to waive arbitration must be conclusive and unconditional. According to the court, in this case such an intention was contingent, since in response to the claimant's suggestion, the respondent also made amendments to the dispute resolution clause that the claimant never accepted.

Read

Take It Slow: a Hong Kong Court Prohibits Selling Shares before Arbitration in CIETAC

On 30 September, a Hong Kong court granted an injunction in favour of a Chinese investment company Shenzhen Hina New Economy and against Unipax Properties, a company based in California and engaged in leasing real estate. The court prohibited Unipax from disposing of its 100% share in the capital of a Hong

Kong company HK Bao Cheng Ka Yip Trading (HK BC) that invests in the Chinese transportation and logistics sectors, until the CIETAC delivers its award.

Last July, Unipax agreed to sell the investment company HK BC to Shenzhen Hina for USD 11.7 million. However, shortly after that, Unipax announced that it could not perform the contract due to a force majeure caused by visa and banking problems in view of the COVID-19 pandemic and "deteriorating Chinese-US relations."

Judge Mimmie Chan, who considered the case, stated that her preliminary view was that the state of diplomatic relations between China and the U.S. could not serve as a basis for a plea of force majeure; she also noted that the COVID-19 pandemic had spread across the entire world long before the share transfer agreement was signed. However, a final decision on this matter is in any event left to the arbitral tribunal.

At the same time, the Hong Kong court noted that in future Unipax may be unable to recover damages which could be caused to Shenzhen Hina, as the former was merely an investment holding company. Although there is no evidence of the risk of Unipax squandering its assets, the court concluded that such evidence was not required and the prohibition to dispose of shares until the CIETAC arbitration was over carried a lower risk of injustice.

Read

Oil Companies Against Terrorism

On 5 October, the Paris Court of Appeal dismissed an application from three oil companies (DNO, Petrolin Trading, and MOE Oil & Gas Yemen) that sought to set aside an ICC award in favour of the Yemen Ministry of Oil and Minerals and the state Yemen Oil and Gas Corporation (YOGC) based on the argument that the funds received under the arbitral award could be used to finance terrorists and could thereby violate human rights and international sanctions.

Although the Court acknowledged that human rights and international sanctions were a part of international public policy in France, the oil companies failed to prove that the funds would inevitably end up in the hands of terrorist organisations.

The Court noted that the Yemen Ministry and the YOGC were not covered by any sanctions that the oil companies cited. Accordingly, even under the pretext of safeguarding international public policy, the Court could not extend the sanctions to persons who are not subject to them.

It is worth mentioning that the case continues a series of proceedings initiated by international oil companies that abandoned their projects against the backdrop of the conflict between Yemen's Hadi Government and the Houthi movement.

Read

UK Privy Council “Allows” Courts to Freeze Assets Abroad

The Privy Council of the United Kingdom has confirmed that to assist enforcement of foreign judgements, English courts can grant freezing injunctions against the parties that fall under their personal jurisdiction.

This approach has been formulated after the consideration of the decision by the Eastern Caribbean Court of Appeal that decided that BVI courts could only grant freezing injunctions against the parties if proceedings for substantive relief were ongoing in the BVI.

The case arose due to the attempt of Convoy Collateral to freeze assets of its former director in the territory of the BVI ancillary to a dispute pending in Hong Kong concerning the recovery of USD 92 million worth of damages from the director. The attempt was successful at first; however, in 2019, the freezing injunction was overturned; in 2020, this decision was upheld by the Eastern Caribbean Court of Appeal.

In turn, the UK Privy Council has observed that freezing injunction is not an instrument ancillary to the main cause of action. Instead, the injunction generally serves to prevent the right to claim enforcement from becoming ineffective due to removal of assets out of the jurisdiction. The Council has noted that for an application for a freezing injunction to be considered, it is necessary to put forward compelling arguments that the applicant will obtain a decision in his favour, which the court ruling on freezing the assets could then enforce.

Read

French Court of Cassation Puts an End to Allegations of Bribery Against a Large Machine-Building Company

The French Court of Cassation has found that the Paris Court of Appeal erred in blocking enforcement of an ICC award against Alstom based on alleged evidence of bribery.

A consulting firm ABL founded by a former Alstom employee entered into a number of agreements for legal services, whereby it was to file bids for the participation in transport projects in mainland China. In 2008, however, Alstom stopped paying under its agreements, alleging that there was insufficient evidence of ABL carrying out any activities and a risk that the Alstom Group could be criminally prosecuted for bribery.

The arbitration award concluded that Alstom did not prove bribery in its relations with ABL. The Swiss Federal Court upheld the award, stating that it did not have the authority to reconsider the arbitrators’ findings on the allegations of bribery. Nevertheless, in 2019, the Paris Court of Appeal overturned the judgement enforcing the award, finding “serious, precise, and consistent indications” that the sums paid by Alstom to ABL had been used to bribe Chinese public officials, making enforcement contrary to international public policy.

The Court of Cassation has found that the Paris Court of Appeal distorted the contents of oral hearing transcripts, noting, among other things, that an ABL manager repeatedly refused to answer how she obtained certain documents from the Chinese authorities.

Read

INVESTMENT ARBITRATION NEWS

A Smart One Will Not Climb a Mountain. A Smart One Will Go to Arbitration

A British mining company, Nordgold, owned by the Russian companies Severgroup and KN-Holdings, is involved in a French project "Montagne d'or" (Nordgold's share amounts to USD 9.1 billion) and develops a gold mine in French Guiana in South America. Nordgold requested that the French Government extend the company's 25-year mining licence and grant a permission to excavate a mine of the size of 32 football fields, but was denied both requests in 2019.

French authorities refused to grant the requests on the ground that the project no longer complied with environmental regulations: development of the mine would cause the disappearance of more than 1,500 hectares of tropical forests and the formation of a large pit. The chiefs of indigenous tribes living near the mining areas were concerned with the possibility of contamination of the local river and land. President Emmanuel Macron, who supported the project earlier, now says that gold mining in French Guiana is no longer in line with environmental standards. Nevertheless, the companies successfully challenged the refusal in French courts, and the case is now pending before the Supreme Administrative Court of France.

Given these developments, in June 2020, Severgroup and KN-Holdings filed a USD 4.6 billion claim against France under the 1989 France-Russia BIT (*Severgroup LLC and K.N. Holding OOO v. French Republic*). The claimant is also reportedly planning to initiate a parallel arbitration against France with regard to the same investments.

Read

Even Australia Faces Arbitration Sometimes

Since 2012, Clive Palmer, the owner of Australian mining enterprises (Mineralogy), has been in litigation with the Western Australian Government under the State's Commercial Arbitration Act and the legislative amendments that significantly complicated the procedure for submitting bids and gaining approvals for mining projects.

The award in the first arbitration in 2014 confirmed that the application filed by Mineralogy had been properly made. Following the second arbitration in 2018, the Australian company proved that it was entitled to damages incurred as a result of the legislative amendments. In the course of the third arbitration initiated in 2020, Mineralogy claimed damages in the amount of USD 21.4 billion. To avoid potential payment in the dispute, the Western Australian Parliament passed a new law that absolved the State of any responsibility in connection with applications for mineral mining. Clive Palmer continued to challenge the decisions of the Western Australian Parliament before higher judicial authorities; however, he did not succeed (*Palmer v. The State of Western Australia, Mineralogy Pty Ltd & Anor v. State of Western Australia*).

Now, Clive Palmer intends to commence an international arbitration under the Singapore-Australia Free Trade Agreement using a Mineralogy subsidiary based in Singapore.

Read

Egypt Buried in Cement

A German company HeidelbergCement, together with its Italian and French subsidiaries, has initiated an arbitration against Egypt in the ICSID (this is the third arbitration brought by cement producers) under bilateral investment treaties (*HeidelbergCement AG, HeidelbergCement France S.A.S., Italcementi S.P.A. and Ciments Français S.A.S. v. Arab Republic of Egypt*, ICSID Case No. ARB/21/50).

HeidelbergCement is one of the world's largest producers of concrete, sand, crushed rock, and cement, and has been developing its business in Egypt since 2000 through Suez Cement. Egypt, in turn, favors local cement producers.

This May, the Egyptian Government proposed that the companies cut production by 10%, as well as opened a new large cement plant. The value of the new plant is estimated at USD 1 billion. The claimant contends that Egypt is exerting pressure on foreign investors and interfering with the regulation of the market.

Read

Investments vs Environment: US Oil Investor Brings an ICSID Claim Against Slovakia

US oil and gas company Discovery Global has f an ICSID claim against Slovakia pursuant to a bilateral investment agreement (*Discovery Global LLC v. Slovak Republic*, ICSID Case No. ARB/21/51).

The claimant alleges that the Slovak authorities have been obstructing the company's drilling activities since 2017, although its Slovak subsidiary Discovery Alpine Oil and Gas (AOG) holds the relevant license. AOG's operations have been hindered by rallies and protests of the local eco-activists, who are seriously concerned that the exploration activities will harm the environment.

Moreover, the American investor also notes that the national court has discriminated against the company by refusing to recognize its right to access the exploration site, and the Slovak police have provided no assistance.

Read

Courtesy of *Achmea*: Lithuanian Investor Drops ICSID Claim Against Denmark

Lithuanian investor, who had previously initiated an ICSID arbitration against Denmark, has dropped his claim following the Achmea judgment, predicting difficulties with future enforcement and Denmark dismissing the investor's attempts at a dialogue (*Donatas Aleksandravicius v. Kingdom of Denmark, ICSID Case No. ARB/20/30*). The claim was noteworthy since it was the first one filed against Denmark pursuant to a BIT and, moreover, one filed after the Court of Justice of the European Union (CJEU) had passed the *Achmea* judgment.

Last year, most EU member states entered into an agreement terminating their intra-EU BITs and preventing EU member states from initiating new arbitrations. As for the ongoing disputes that had begun before the judgment was published by the CJEU, the Court stated that the parties were to "set up a dialogue" to resolve the conflict.

The Lithuanian investor believed that an ICSID claim was well-founded since the basis for the claim had arisen before Lithuania and Denmark signed the agreement to terminate the intra-EU BITs. However, he soon changed his mind, stating that due to Denmark's approach, the dispute could end up dragging on for many years, calling for huge expenses, and decided to withdraw the claim. At the same time, the investor plans to take advantage of other ways to protect his rights – through recourse to national courts, the ECtHR, or the European Commission.

Read

Seeking Gold and Interim Measures

There have been new developments in the arbitration between a Canadian investor and the Kyrgyz Republic concerning the Kumtor Mine, which we covered back in May (*Centerra Gold Inc. and Kumtor Gold Company v. The Kyrgyz Republic*, PCA Case No. 2007-01/AA278).

Centerra Gold was forced to file an application requesting interim measures against the Kyrgyz Republic and Kyrgyzaltyn JSC, the state-owned gold refining monopoly, namely, asking to conduct mining works strictly in accordance with the previously approved plan and to provide the investor with regular reports on the mine's operations. According to the investor, in pursuit of quick super profits, the new mine management is mining only high-grade ore, which may reduce the life of the mine and make their plans to reconfigure the mine from an open pit to an underground mine geologically impossible. The investor is also concerned that the improper operation of water pumps by the new management could cause the mine's flooding.

Moreover, Centerra Gold seeks to limit the rights of the Kyrgyz Republic and Kyrgyzaltyn JSC to transfer the investor's shares and the mine's assets without payment of relevant profits into an escrow-account, which is interesting given that the Kyrgyz Republic happens to be the claimant's largest shareholder with a 26% shareholding acquired through state-owned Kyrgyzaltyn JSC.

Finally, the investor seeks an order directing the respondent and Kyrgyzaltyn JSC to refrain from interfering with the arbitration process by imposing fines and harassing the investor's employees.

Read

Corrupt Investor Dooms Its Own Case

In 2017, a BVI-incorporated company Penwell filed a claim pursuant to the Kyrgyz Law on Investments demanding USD 298 million for the expropriation of the controlling stake in the Kyrgyz mobile operator BiMoCom LLC, better known as Megacom.

Penwell noted that it had received around 20 judgments from various Kyrgyz courts of different levels confirming that the company had been wrongfully deprived of its share in Megacom, but the government failed to comply with the rulings. In reality, since 2014, 100% of Megacom has been held by the Kyrgyz State Property Management Fund.

The arbitral tribunal dismissed Penwell's claims in full. The Kyrgyz Republic noted that the dismissal was due to the fact that, while operating in the country, the company repeatedly resorted to corrupt practices, both with the help of local partners and directly.

Read

A Ten-Year-Long Legal Battle Is Coming to Its Logical Conclusion

An ICSID tribunal has issued an award ordering a Bangladeshi state authority to pay for the gas supplied by a Canadian company Niko Resources.

Two arbitrations were initiated as early as in 2010: in one, Niko Resources sought payments for the gas supplied; in the other, it asked to declare that it was not liable for the damage caused by explosions at two gas wells it serviced. At the early stage of the proceedings, it was decided that the same arbitral tribunal was to consider both cases at the same time.

During the consideration of the case, a number of preliminary decisions were made in both matters; however, the arbitral tribunal has now rendered the final award, ordering Bangladesh to pay USD 43 million for the gas supplied.

Read

ARBITRATION NEWS

RF CCI Adopts New Rules on Impartiality of Arbitrators

The Chamber of Commerce and Industry of the Russian Federation has announced new rules on impartiality and independence of the arbitrators adopted by the order dated 30 September 2021.

The wording of the new rules has been brought in line with the Federal Law "On Arbitration (Arbitral Proceedings) in the Russian Federation" and the updated Russian Commercial Procedure Code, but the general content and structure of the rules have not changed since 2010. Nevertheless, a number of unique provisions have been added to the new rules.

Thus, Article 1 now states that the following rules not only regulate the conduct of arbitrators but also include obligations of the parties and their counsels (a separate article deals with the latter).

The clause concerning public statements about pending cases has been removed from the "red" list of circumstances precluding arbitrators from exercising their mandate – now only general obligations contained in Art. 4 provide that "an arbitrator shall not make public statements concerning the case without the parties' consent."

Issue of third-party funding has also been addressed in the new rules: the arbitrators now shall check whether they have a conflict of interests with such sponsors (Art. 4(7)), while the parties are obliged to disclose any such funding (Art. 10(3) and para. 13(3)).

Certain changes were made to provisions concerning the challenge of arbitrators. According to the new rules, a party shall duly substantiate the challenge of an arbitrator (Art. 14(2)). An arbitrator failing to disclose circumstances calling into question their impartiality (Art. 6) is not in itself a ground for a challenge (Art. 15(6)). Additionally, the decision on the release of the arbitrator shall be final and precludes another competent authority from further considering the validity of the release (Art. 15(9)).

New rules have entered into force from 1 November 2021.

Read

Intersectionality of Race, Culture and Gender in International Arbitration

On 18 November 2021, Young ArbitralWomen Practitioners (YAWP) are organizing a discussion addressing empirical research on race, culture, and gender diversity in international arbitration. Participants will examine the importance of considering such information and explore the lessons that law firms and organisations can draw on after studying such empirical data.

The event will take place online (in English). You can register here.

Read

BCLP Publishes Results of Its Survey on Party-Appointed Experts in International Arbitration

Bryan Cave Leighton Paisner (BCLP) has published its survey on party-appointed experts in international arbitration. The survey included 289 respondents, where 44% were at least once expert witnesses, while 75% held law degree. 96% of the respondents considered it important for the parties to have the right to rely on the evidence of a party-appointed expert; meanwhile, 84% of the respondents believed it to be a "basic right" of each party.

Read

Arbitration Institute of the Dubai International Financial Centre (DIFC-LCIA) Abolished

DIFC-LCIA Arbitration Centre was established in 2008 by the Dubai International Financial Centre (DIFC) together with the London Court of International Arbitration (LCIA) and functioned as a permanent arbitral institution where disputes were administered in accordance with the LCIA Arbitration Rules within Dubai's "offshore zone". The center was designed for parties from different jurisdictions interested in having their dispute administered in a common-law jurisdiction.

Among the legal consequences of adoption of Decree No. 34 issued on 14 September 2021 by Sheikh Mohammed bin Rashid Al Maktoum, Ruler of Dubai, is the transfer of all cases from the abolished Arbitration Centre to the Dubai International Arbitration Centre (DIAC). Moreover, arbitral tribunals will continue administering all cases referred to them in accordance with the applicable DIAC Rules and procedures, unless the parties agreed otherwise.

Read

ADR EVENTS

Russian Arbitration Week 2022

On 4-9 April 2022, the Russian Arbitration Week (RAW) will be held for the first time in Moscow. RAW 2022 will take place in all formats, including the in-person, hybrid and online formats. Within RAW framework, the leading experts in arbitration will give various lectures and workshops, while foreign and domestic arbitral institution will organize round tables. The Russian Arbitration Day will be one of the events of the RAW as well.

If you are interested in taking part in RAW 2022 as partner/sponsor and organising events within its framework, please contact via info@russianarbitrationweek.com.

Read

Russian Arbitration Day 2022

Russian Arbitration Day (RAD) will take place on 5 April 2022. RAD is a unique conference dedicated to the development of arbitration in Russia and abroad, which has rightfully become one of the most successful in the CIS region since its first introduction in 2013. During these years, RAD brought together over one and a half thousand Russian and foreign participants in an offline format and more than three thousand online users. The growing interest in this conference indicates the importance of the further development and organising of RAD on a more global basis.

VII Russian Arbitration Day will be held offline. There will also be a live broadcast of the event in Russian and English languages. RAD 2022 Moderators: Roman Khodykin, Galina Zukova, Julia Zagonek.

Read

Arbitration Forum “5 Years After the Arbitration Reform: What’s Next?”

On 20 October 2021, Arbitration Forum “5 Years After the Arbitration Reform: What’s Next?” took place in Moscow as part of the 2021 Week of Russian Business. The Forum’s agenda included issues related both to the current state of arbitration, as well as to the prospects for its development.

Among the Forum’s participants were leading representatives of academic and practicing arbitration communities, as well as state authorities (the Ministry of Justice, the Ministry of Economic Development, the Supreme Court, the State Duma, the Bank of Russia, and the Federal Service for Intellectual Property

(Rospatent)). The Forum was moderated by the President of the Russian Union of Industrialists and Entrepreneurs Aleksander Shokhin.

Yulia Mullina, Executive Administrator of the Russian Arbitration Centre (RAC), also took part in the Forum. A video recording of the Forum is available here.

Read

Sib Legal Week 2021

Major legal event Sib Legal Week took place in Novosibirsk between 4 and 9 October 2021. The format of the event allowed to combine organising and hosting round tables and conferences, together with moot courts for students and practicing lawyers. Sib Legal Week's programme included, in particular, discussing the legal skills necessary today and the latest trends in jurisprudence: such as, for example, a public talk "Guide to the Legal Profession", a Legal Writing master-class from Roman Bevzenko, a discussion on "Legal Design", and other events.

Yulia Mullina, the RAC Executive Administrator, participated in the round table "International and Domestic Arbitration: Nuances, Peculiarities, and Advantages". Experts discussed issues that may arise in expedited proceedings in international arbitration, presented examples of atypical disputes in domestic arbitration, suggested solutions to problems arising when the seat of arbitration is different from the location of arbitral institution, as well as considered potential ways to reduce the costs of arbitration. The round table was moderated by Maxim Kulkov (Managing Partner, Kulkov, Kolotilov & Partners).

Read

10th St Petersburg Air Law Conference

On 8 October 2021, the 10th St Petersburg Air Law Conference brought together representatives of aviation and legal communities, with 79 participants from Russia and abroad. The event was organized by the National Association of Air Law, AEROHELP Institute of Air and Space Law, and St Petersburg State University; the Russian Arbitration Center was one of the partners. As part of the conference, the participants discussed state sovereignty in national air space, prospects for the aviation market after the COVID-19 pandemic, liability pertaining to the carriage of passengers in times of the pandemic, remedies in aviation cases, as well as the commercial use of drones. Sessions were moderated by recognized experts, namely, Stephan Hobe, Director of the Institute of Air Law, Space Law and Cyber Law at the University of Cologne, and Pablo Mendes de Leon, President of the European Air Law Association.

Among conference speakers was Rinat Gareev, RAC Case Manager, who talked about air dispute settlement in commercial arbitration.

Read

International Scientific Conference of Asia-Pacific Mediators

On 8 October 2021, International Scientific Conference of Mediators of Asia-Pacific Region "The Role and Potential of Mediation and Negotiation in the Peaceful Settlement of Global and Private Disputes in the Asia-Pacific Region" took place in Vladivostok as part of the VI Pacific Law Forum. Leading foreign and Russian experts and scientists specializing in alternative dispute settlement from Sweden, Japan, USA, Brazil, and the UK participated in the event.

The conference consisted of multiple subsections, namely, "Mediation and Negotiations as an Instrument of Developing and Strengthening Global and Private Partnerships in the Asia-Pacific Region," "A Modern International System for Resolving Military, Criminal and Private Disputes in the Asia-Pacific Region," and "The Role and Potential of Mediation and Negotiation in the Peaceful Settlement of Global and Private Disputes in the Asia-Pacific Region."

Katarina Piskunovich, RAC Case Manager, member of the RAC Mediation Working Group, Russian representative in the Campaign for Greener Arbitration, was given the honor to present the concluding remarks in the subsection "Modern Technologies and Techniques Used in Mediation and Negotiations in the Asia-Pacific Region. Mediation as a Dispute Resolution Tool in Arbitration and in Various Legal Systems of the Asia-Pacific Countries." She highlighted the interconnection between mediation and arbitration as alternative methods of dispute settlement, as well as the need for the most effective development of the institute of mediation and its optimization for using both within each state, and, as far as possible, ensuring its harmonization.

Video of the conference is available here.

Read

Arbitrator Intelligence Webinar on Diversity

On 9 October 2021, the Arbitrator Intelligence held a webinar on "Analyzing and Solving the Inequality in Appointing Arbitrators."

The participants of the discussion came up to the following main ideas:

We should debunk the myth that following the inclusivity principle when appointing an arbitrator can harm the quality of the arbitration;

Parties always request additional information about different arbitrators, and direct feedback from the arbitrators may be very valuable;

Lists of arbitrators should be as diverse as the users of arbitration: having specialists with different qualities and characteristics is a key to achieving inclusivity in arbitrator appointments;

Efforts to promote diversity in the world inevitably depend on the culture and traditions of each country;

Steps towards diversity should be thoughtful and consistent.

The webinar is available on the Arbitrator Intelligence YouTube channel. You can also contribute to achieving diversity in the appointment of arbitrators by providing your feedback via this form or by scheduling a call with Arbitrator Intelligence.

Read

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