

Recognition and Enforcement of  
Foreign Arbitral Awards in Russia  
and Former USSR States



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Edited by  
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## Editor

**Roman Zykov** is the Managing Partner at Mansors Law Firm (Russia), and is recognized by the peers and global rankings as a leading arbitration lawyer in Russia and the CIS. His particular emphasis is on the construction, energy, mining, oil & gas, international trade, M&A and shareholders disputes.

He represents clients in arbitrations under major arbitration rules, and frequently acts as sole and co-arbitrator under ICC, SCC, VIAC, and UNCITRAL Rules. He also serves as a member of FIDIC Dispute Adjudication Boards.

Roman Zykov's previous roles included the Head of international arbitration and litigation group of a publicly listed gold mining company, a member of the dispute resolution groups in the leading law firms in the Netherlands and Scandinavia. Roman seconded in the Arbitration Institute of SCC. Since 2013 he is the Secretary General of RAA, and also heads several of its Working Groups: RAA WG on the Application of the New York Convention in Russia and CIS; WG on the Impact of Economic Sanctions on Arbitration; WG on RAA Index of Russian Legal Terms; and RAA Observers' Delegation to UNCITRAL's WG II (Dispute Settlement) and WG III (Investor-State Dispute Settlement Reform).

Roman is a lecturer at the Institute of Mining and Energy Law of Gubkin Russian State University of Oil and Gas, and the author of several books on arbitration and numerous law publications.



## Contributors

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**Alexander Korobeinikov** is a partner at Baker McKenzie (Kazakhstan). He specializes in dispute resolution, energy and natural resources, and antitrust and competition issues. Alexander has wide experience participating in litigation in Russia, Belarus, Kazakhstan and Central Asia, as well as in international arbitration cases under the arbitration rules of ICAC, UNCITRAL, ICC, SCC, LCIA and other arbitration institutions, as both a counsel and arbitrator. Alexander graduated with honours from the Belarusian State University with a Degree in Law and obtained Master of Laws from the School of Law of Queen Mary University of London.

**Alexander Sysoev** is an associate in the dispute resolution practice of White & Case (Russia). He has experience in both litigation and arbitration matters representing major Russian and foreign companies. He has advised clients on a number of complex

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finance, construction, insolvency, labour and other disputes, including those involving multiple jurisdictions.

**Alexandra Chilikova** was a litigation and arbitration associate in Kulkov, Kolotilov & Partners (Russia) till 2018 and is currently reporter at ICAC RF and a lawyer in the human rights project OVD-Info (Russia).

**Aleksandra Gerasimova**, PhD in Law, is the Head of FBK Legal practice (Russia). Alexandra specializes in representing clients in commercial, corporate and labour disputes, as well as real estate and construction disputes. She coordinates cross-border projects and liaison with foreign partners. She is recommended by ratings *Best Lawyers 2021* in litigation practice, *The Legal 500 EMEA 2020* in employment practice, *Pravo.ru-300 2019* in labour and migration law practice.

**Alexandre Khrapoutski** is a partner at Lex Torre Law Office (Belarus), advocate, MCI Arb, vice-chairman of RAA, board member of the Ukrainian Arbitration Association, founder and organizing committee co-chairman of the Eastern European Dispute Resolution Forum. He has participated in more than 50 arbitral proceedings as chairman of the tribunal, sole arbitrator, party-appointed arbitrator and counsel under the arbitration rules of ICC, SCC, VIAC, Belarusian CCI, Ukrainian CCI, Russian CCI. He is included in recommended lists of arbitrators in ICSID, IAC at the BelCCI, VIAC, AIAC, Vilnius Court of Commercial Arbitration, 'Lewiatan' and CAC at the Ukrainian CCI.

**Alexey Belykh** is an associate in the dispute resolution and bankruptcy & restructuring practices at Lidings (Russia), who works on a range of commercial disputes and focus on bankruptcy and restructuring. Alexey is particularly familiar with the enforcement of foreign judgments in Russia and enforcement of Russian court judgments abroad.

**Alexey Vyalkov** is an associate at Aitkulov & Partners (Russia). Prior to that he was an associate at Clifford Chance, Moscow. He specializes in Russian and cross-border litigation, as well as international arbitration and public international law. He has experience in oil and gas, construction, corporate and banking sectors. He is an author of a number of publications in the area of international arbitration and public international law, for which he has been awarded the 2017 Gillis Wetter Memorial Prize by LCIA and the 2017/2018 International Law in the XXI Century Prize by ICLRC.

**Alexey Yadykin** is a counsel in the dispute resolution practice of Freshfields Bruckhaus Deringer LLP (Russia). He specializes in arbitration, court proceedings and internal investigations. He has represented major Russian and foreign clients in numerous cross-border litigation proceedings and commercial arbitrations in Russia and abroad and published extensively on the new Russian arbitration legislation in Russian and international legal media.

**Anastasia Rodionova**, MCI Arb, is the Director for Commerce (Legal) in Eurasian (ERG) Group (diversified mining and smelting group) (Russia). She has over 18 years

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**Anastasia Shashkova** is a senior lawyer of FBK Legal team (Russia) and specializes in PPP, corporate law, M&A as well as in due diligence. She has graduated from the Moscow State Law Academy in 2010 with honours. Since then she has been working in such fields of law as transportation law, maritime law, corporate law. Ms Shashkova also has a profound experience in PPP. Anastasia also holds a degree in translation.

**Andrei Kopytin** is a Russian-qualified associate in dispute resolution practice at Linklaters (Russia). He has wide experience in advising and representing leading international and Russian corporations on a wide range of disputes. His experience includes representing and advising clients in arbitration cases under various rules, as well as in commercial and construction disputes, complex technology disputes, bankruptcy, and debt recovery cases and enforcement proceedings.

**Andrey Panov** is a counsel in Allen & Overy's dispute resolution practice (Russia). He has over 12 years of experience representing his clients before Russian and foreign courts, as well as before international arbitral tribunals. Andrey has acted as lead counsel and conducted his own advocacy in numerous commercial, construction, joint venture, post-M&A and investment arbitration cases under ICC, SCC, LCIA, SIAC, and ICAC Rules. He also sits as an arbitrator in domestic and international cases under various sets of rules, including ICC rules.

**Andrey Zelenin** is Lidings' Managing Partner (Russia), advocate, with 15+ years of experience in supporting international business in Russia. As the firm's founding partner he is involved in corporate and M&A, dispute resolution and IP practices of the firm. Primarily focused on energy, pharmaceutical, FMCG and automotive sectors, he is particularly good in complex negotiations regarding local or cross-border transactions, niche corporate and regulatory advice, general support and oversight of client's investment activities in Russia. Andrey has great experience in litigation in the Russian courts, international arbitration and cross-border disputes, particularly in intellectual-property contentious matters, in disputes involving financial institutions, companies from FMCG, IT/TMT and life sciences sectors.

**Anna Grishchenkova** is a partner at KIAP Law Firm (Russia). Anna has 17 years of experience in dispute resolution and is recommended by major legal rankings *Chambers Europe*, *Chambers Global*, *Legal 500 EMEA* and *Best Lawyers*. Anna is a vice-chairman of arbitration commission of ICC Russia and included in a list of arbitrators in VIAC, AIAC, HKIAC, and KCAB. Anna's core specialization: commercial, construction, corporate disputes. Anna has participated in 400+ legal proceedings, including representation of clients in Russian and international arbitration institutions. Anna is an author of the book *Psychology and Persuasion Skills in Dispute Resolution*, co-editor and co-author of the *Commentary on Russian Arbitration Laws* (RAA).

**Anton Alifanov** is a senior associate at Dentons Law Firm (Russia). Anton has an LL.M. Anton focuses on litigation and international commercial arbitration and has extensive

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experience in dispute resolution and legal advising for Russian and foreign clients. For the past 15 years, Anton has advised and represented clients in court, in resolving commercial, corporate and labour disputes, and also in out-of-court settlement. Anton represents clients in Russian state courts, at all levels including the RF Supreme Court, as well as in international commercial arbitration under ICC, LCIA, SCC and ICAC Rules. Anton is admitted to practise in Russia and is a member of the Moscow Bar Chambers.

**Aram Orbelyan**, PhD in Law (MGIMO University, Russia), is a senior partner at Concern Dialog Law Firm (Armenia). He served as Deputy Minister of Justice of Armenia from 2011 to 2014, where he was responsible for promotion of mediation and development of arbitration, civil and civil procedure legislation, as well as the implementation of e-gov systems in Armenia. He lectures at the French University of Armenia, the School of Advocates and the Justice Academy, and is consulting a number of international organizations and state agencies on reform issues (mostly justice sector, human rights, good governance issues). He has been included in *The Legal 500 CIS and Caucasus Arbitration Powerlist*, *Chambers*, and *WWL Arbitration Future Leaders*. Aram Orbelyan is the President of the Association of Arbitrators of Republic of Armenia, arbitrator at Yerevan Arbitration Institute, panel member of ICSID and ad hoc arbitrator.

**Ardak Idayatova** is a partner and Head of infrastructure & PPP practice in AEQUITAS Law Firm (Kazakhstan). She represents and renders expert assistance to clients in foreign commercial arbitrations mainly in connection with construction disputes arising out of different contracts based on FIDIC models. She participated in arbitrations seated in Stockholm, Paris and London under ICC, UNCITRAL, LCIA and SCC rules, and domestic arbitrations. For several years, Ardak has been ranked by *The Legal 500* as a 'rising star' and the 'next generation lawyer' in dispute resolution.

**Asiyat Kurbanova** is a managing director at State Development Corporation VEB.RF, legal department (Russia). Asiyat has considerable experience in handling a wide range of complex cross-border disputes in various areas of law (commercial, corporate, bankruptcy and restructuring, land and construction) including the disputes concerning the enforcement of arbitral awards and foreign judgments. Asiyat has graduated from the Russian State University of Justice.

**Asko Pohla** is a partner at Pohla & Hallmägi Law Firm (Estonia). He is specialized in domestic and international arbitration, maritime law, transport law, contract law, property law, law on obligations. Mr Pohla is an expert in domestic and international arbitration law. He is Chairman of the Arbitration Court of Estonian Chamber of Commerce and Industry from 1997, Member of ICSID Panels of Conciliators and Arbitrators from 2013 and Member of ICC Commission on Arbitration and ADR from 2018. He was Member of ICC International Court of Arbitration from 2012 to 2018. He has acted as arbitrator in cases under ICC, ICAC RF, ICAC UCC, Court of Arbitration of Latvian CCI, Arbitration Court of Estonian CCI.

**Aykhan Asadov** is a partner at BM Morrison Partners (Azerbaijan). Aykhan has been practising law for more than 20 years, having started at one of the Big Four accountancy firms in Baku. In 1997, he joined one of the international law firms at its Almaty office prior to transferring to the newly opened Baku office in April 1998. In 2009, Aykhan became the first Azerbaijani partner in the same firm and, as of 2013, joined BM Morrison Partners as a managing partner. Aykhan advises on taxation and customs law as well as on specific industry aspects of oil and gas, infrastructure, and mining projects.

**Cristina Martin** is a founding partner of ACI Partners (Moldova). Cristina has advised international clients in relation to opening and managing their businesses in Moldova. She extensively assists clients on such matters as incorporation, legal structuring and arrangement of mergers & acquisitions, corporate governance and restructuring. Cristina is involved in significant foreign investment projects and corporate acquisitions, advising clients on commercial contracts. Cristina is also actively involved in legal reform initiatives of the Moldovan Government. In particular, she consulted on drafting Moldovan laws and regulations, with a special contribution to mortgage and leasing operation reforms in Moldova. Cristina is an active contributor to World Bank, IFC, EBRD researches related to the Moldovan regulatory, doing business and judiciary reforms.

**Daria Kuznetsova** is an associate of dispute resolution at international law firm Freshfields Bruckhaus Deringer LLP (Russia).

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**Dmitry Malukevich** is a partner at Aitkulov & Partners (Russia). Before that, he was a senior associate at Clifford Chance, Moscow. He specializes in Russian and cross-border litigation, administrative cases and arbitration. His sector experience includes real estate, construction, industrials, oil and gas and banking disputes.

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**Dmitry Samigullin** is a managing partner at RBL Law Firm (Russia). Dmitry's specialization includes arbitration and litigation, tax law, insolvency and corporate law. Dmitry is recognized by *Best Lawyers* and *Chambers and Partners* in 2019 and 2020. Dmitry's clients include both Russian and international companies in construction, oil production, agriculture, energy, consumer goods manufacturing, catering. Dmitry regularly participates at round-table discussions and conferences on legal issues as a moderator and expert and appears in media as an expert on issues related to corporate law, tax law, insolvency and litigation.

**Diora Ziyaeva** is a senior associate at Dentons (USA) and an experienced international arbitration specialist. She has spent over a decade representing clients in investor-state and commercial arbitration proceedings, successfully handling cases ranging in value from USD 10 million to USD 20 billion. Licensed in New York and Uzbekistan and fluent in seven languages, she advises clients in international litigations and has represented parties before US Supreme Court. Ziyaeva serves as an adjunct professor at Fordham Law School. She was recognized as one of the American Bar Association's On the Rise – Top 40 Young Lawyers and named a Future Leader by GAR's *Who's Who Legal 2021*.

**Egor Chilikov** is a founding partner of Petrol Chilikov Law Firm (Russia). His practice is focused on cross-border disputes, both before state courts and in arbitration. Egor regularly acts as counsel in commercial and investment arbitration matters. He also counsels commercial and bankruptcy cases in Russian courts and has extensive experience in the strategic management of complex disputes involving proceedings in many civil and common law jurisdictions. He teaches at the Lomonosov Moscow State University, does publications, and speaks at conferences on the topics of his expertise. He is entrusted by parties and institutions to serve as arbitrator in domestic and international cases.

**Egor Kosarev** is the Head of the Legal Department of a Russian construction company. Professional interests: dispute resolution, arbitration, bankruptcy, real estate and construction. He is an author of articles and comments on civil law and process. Egor is an arbitrator of the Arbitration Center at the Russian Union of Industrialists and Entrepreneurs.

**Evgeny Rashevsky** is a partner at Egorov Puginsky Afanasiev & Partners (Russia). Evgeny practises international commercial arbitration and litigation. He is experienced in the arbitration proceedings under ICAC RF (MKAS), ICC, LCIA, SCC, Swiss Rules and Indian Arbitration Law. His practice areas include energy & natural resources, insolvency regulation, commercial contracts, shipping, pharmaceutical regulation and life science. Evgeny is a member of MCI Arb, ICCA, KCAB International, vice president of IAC of Qingdao Arbitration Commission. Evgeny is a lecturer at the Moscow State University and has authored numerous articles and commentaries in Russian and international legal publications in his areas of practice.

**Farhad Mirzayev** is a senior partner at BM Morrison Partners international law firm (Azerbaijan) since 2011; graduate of the Baku State University; holds LLM from the University of Nottingham, MBA from the University of Cambridge and PhD in Law from the University of Leicester. He did an executive education at Harvard University. He is a practising international lawyer with over 20 years of experience in public and private international law in Azerbaijan, UK, Russia and the Middle East. He has an extensive experience in international arbitration. He is author of over a hundred articles and papers and ranked as one of the top leading lawyers in Azerbaijan by *Chambers*, *The Legal 500*, *IFLR1000*.

**Firuz Chorshanbieva** is a senior associate at Centil Law (Tajikistan). Her practice focuses on commercial litigation, mergers and acquisitions, complex commercial and corporate transactions, labour and employment matters. Firuz has graduated from Tajik National University, and also has studied Comparative Law at the University of Delaware. Before joining Centil Law, Firuz worked as an associate for one of the leading Dushanbe law firms, where she gained practical legal skills. Also, for a certain period, Firuz worked for a law firm in Russia, which means that she has experience in more than one jurisdiction.

**Inga Kačevska** is a partner of Law Office of Inga Kačevska (Latvia). She regularly acts as arbitrator, counsel and expert in international and domestic arbitrations. Dr Kačevska is acknowledged as the best arbitration practitioner in Latvia by *Who's Who Legal* in 2010-2019. In 2014, the Government of Latvia appointed Dr Kačevska to the Panel of Arbitrators at ICSID. She is also MCI Arb, a member of Latvian Sworn Advocates Collegium and of Women in Sports Law. She was elected in Special Committee attached to 1961 European Convention on International Commercial Arbitration. She is an associate professor at the University of Latvia and coaches Vis team for the past 18 years. She has graduated from University of Latvia (PhD, Master of Orientalistics, Lawyer's Diploma) and Chicago Kent College of Law (LLM).

**Irina Suspitsyna** is a senior lawyer at MIRATORG Group (Russia). Irina obtained her LLM in International Commercial Arbitration from Stockholm University. She also acts as a mediator. Irina also has a degree in Psychoanalysis and Psychoanalytical Business Consulting from Higher School of Economics (HSE).

**Islambek Rustambekov** is a professor of the Private International Law Department and Vice-Rector of the Tashkent State University of Law (Uzbekistan). In 2018-2019, he worked as the Head of the Department on legal protection of the interests of the Republic of Uzbekistan in international and foreign organizations of the Ministry of Justice of the Republic of Uzbekistan. He represented Uzbekistan in international arbitrations and foreign courts, and also participated in the sessions of UNCITRAL Working Group III. He is designated member of the arbitration panel of ICSID from Uzbekistan and listed as arbitrator in several international arbitration centres.

**Ksenia Khanseidova** is a deputy chief legal officer at a major Russian industrial group. She previously worked as an associate at Cleary Gottlieb from 2006 to 2018, where her

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practice focused on corporate and financial transactions, particularly securities offerings and M&A, as well as on international arbitration. Ms Khanseidova received a J.D. equivalent, *summa cum laude*, from Moscow State University Law School in 2005.

**Lilia Klochenko** is a partner at Klochenko & Kuznetsova Law Firm (Russia). Lilia Klochenko, PhD jur., FCIArb, holds a law and PhD degrees from Moscow State Institute of International Relations, is certified for international arbitration from ICC Advanced Arbitration Academy and qualified for IMI. She focuses her practice on dispute resolution, including international and domestic arbitrations and litigations where she acted as a party representative and arbitrator under DIS, ICC, LCIA, VIAC, ICAC, MAC, UNCITRAL Rules and as mediator in corporate, civil law, labour and family multicultural and multi-jurisdiction cases.

**Lilit Karapetyan** is a senior associate at Concern Dialog (Armenia). Lilit is a part of Concern Dialog's team advising clients on complex M&A transactions, including due diligence of target companies, assistance in negotiations and drafting of commercial contracts. Prior to joining Concern Dialog, Lilit has undergone internships in a number of companies in Armenia. Prior to completing her LLB, Lilit has worked at Financial System Mediator's office as a lawyer (2013-2014), after successfully completing her internship therein. While at Exeter University, she has been an Associate Editor for Exeter Student Law Review (2015-2016).

**Marina Akchurina** is an associate at Cleary Gottlieb (Russia). Her practice focuses on litigation and arbitration, with an emphasis on international disputes, including those involving states and state-owned entities. She has taken part in a number of complex commercial and investment disputes before a variety of judicial and arbitral bodies, including international arbitrations before tribunals formed under ICC, LCIA, SCC and UNCITRAL Rules, and litigation matters before Russian state courts. She is a fellow at CIArb and an ICC Young Arbitrators Forum Representative for Europe and Russia.

**Marina Zenkova** is a senior associate in the White & Case Dispute Resolution Practice (Russia) focusing on commercial litigation and international arbitration. She has represented clients in contractual, corporate, financial and other commercial disputes, often complex and multi-jurisdictional, as well as in insolvency proceedings – another area where Marina has solid experience and expertise. Marina is a member of YSIAC Committee and SIAC Users Council.

**Maryana Batalova** is an associate at Dechert (Moscow) and focuses on litigation and arbitration in RF. She advises clients on various types of disputes, including multijurisdictional disputes. She holds a PhD and is a senior lecturer at the 'National Research University – Higher School of Economics', teaching the course 'International Civil Procedure' at the Master's programme 'Private International Law' of the Law Faculty. *The Legal 500 EMEA 2020* recognizes her experience in arbitration, mediation and litigation. Since 2020 she has also been listed in *Best Lawyers* for her litigation focus.

**Maxim Pyrkov** is a senior associate at Freshfields Bruckhaus Deringer (Moscow). Maxim specializes in domestic and cross-border litigation, and international commer

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Before joining Freshfields, Maxim worked in major US and UK law firms in Moscow.

**Mikhail Samoylov** is Head of a litigation department at a Russian bank. He has vast experience both as an in-house lawyer and as a counsel. He holds a Russian law degree and was awarded a Master of Advanced Studies (LLM) in International Dispute Settlement from University of Geneva and the Graduate Institute of International and Development Studies. Since 2016, Mikhail has been contributing to ICCA Yearbook Commercial Arbitration.

**Nata Ghibradze** is a senior associate at Hogan Lovells' International Arbitration practice group (Germany). Using the experience she gained while working at the Ministry of Justice of Georgia, Nata focuses on international arbitration with particular attention to disputes in the Eastern European and CIS regions. She regularly represents clients in the energy (oil & gas, renewables), construction, infrastructure, and engineering industries in complex arbitration disputes. Nata has experience in handling arbitrations under the major sets of arbitration rules seated in various jurisdictions. Nata also serves as Member of the Arbitration Council of the Georgian International Arbitration Centre.

**Natalia Andreeva** is an associate in Egorov Puginsky Afanasiev & Partners arbitration practice (Russia). During her career, she has participated in several arbitrations under ICC, SCC, ICSID Additional Facility and ICAC at RF CCI arbitration rules as a counsel. Apart from international disputes, Natalia is experienced in advising on Russian litigation projects. In 2017, Natalia graduated with honours from the National Research University Higher School of Economics. During her studies, Natalia received awards from prestigious international student competitions in international commercial arbitration.

**Natalia Dvenadtsatova** is Managing Partner and a co-founder of VLawyers Law Firm (Russia). For more than 15 years, Natalia has successfully represented Russian and international clients in complex commercial disputes both in the state courts and in arbitration. Natalia has extensive experience in supporting complex bankruptcy proceedings both on the side of the debtor and on the side of creditors. Natalia was included in the 12th Edition of *The Best Lawyers 2021* in Russia in the field of litigation.

**Natalia Kisliakova** is a senior associate in KIAP Law Firm (Russia). Natalia specializes in international arbitration, commercial litigation and private international law. Natalia's arbitration and litigation practical experience spans over a variety of sectors,

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including real estate, oil and gas, banking, sports, construction, foreign trade. Previously Natalia was actively involved in public law interstate disputes. Natalia teaches Arbitration and Sports Law at MGIMO University; she also has the experience of being appointed as an arbitrator.

**Natalia Kuznetsova** is a partner at Klochenko & Kuznetsova Law Firm (Russia). Natalia is a Russian-qualified advocate practising in the field of international private law, international commercial arbitration. She has over a 20-year professional experience in international projects in various spheres with complex cross-border implications, advising multinational companies on various questions of Russian law, representing clients in Russian state commercial and criminal courts of all levels, including the Russian Supreme Court. *The Best Lawyers* has named her in Arbitration and Mediation in 2015-2020.

**Nodir Yuldashev** is a partner at GRATA International (Uzbekistan). Before joining GRATA Nodir Yuldashev worked at Uzbekistan Chamber of Commerce and Industry and at Insolvency Committee. During the last 12 years with GRATA Nodir advised clients on a wide array of Uzbekistan investment, construction and general commercial and business law matters. Nodir is an active arbitrator at Arbitration Court under Chamber of Commerce and Industry of Uzbekistan. Nodir has significant experience in representing clients before international commercial arbitration centres, including in European, Middle Eastern and South-East Asian arbitration tribunals in cases arising from construction, investment, financing projects as well as hiring top football players by local sports clubs.

**Nurbek Sabirov** is a partner at Kalikova & Associates Law Firm (Kyrgyzstan). He received his law degree in Kyrgyzstan and his LLM in US under the Fulbright programme. He has practised law in Kyrgyzstan for more than 15 years, where he successfully advocated in hundreds of cases in all court instances. Three times he challenged the Kyrgyz laws for compliance with the Constitution, took part in drafting more than five bills aimed at creating positive change in the country. I have considered, as an arbitrator, more than 30 cases, of which 2 cases were international commercial disputes.

**Oleg Todua** is a partner in the White & Case Dispute Resolution Practice (Russia), admitted in England & Wales and Russia. He focuses on investment and commercial arbitration and litigation. Oleg has had experience in arbitrations conducted under the auspices of leading arbitration institutions. He currently serves as a co-chair of RAA 40 and RAA's working group on amicus curiae briefs. Oleg also features in *Who's Who Legal: Arbitration – Future Leaders* list.

**Olena Perepelynska** is a partner and Head of CIS Arbitration at INTEGRITES (Ukraine). She serves as the President of the Ukrainian Arbitration Association, Member of ICC International Court of Arbitration, Member of TIAC Court of Arbitration, Member of the Global Steering Committee of ERA-PLEDGE. Olena is a fellow of the Chartered Institute of Arbitrators and Member of CI Arb Approved Faculty List. She

has participated as counsel and arbitrator in over 130 arbitrations in various jurisdictions.

**Pavel Boulatov** is a counsel at White & Case (Russia). He focuses on international arbitration (both commercial and investment) involving Russia and other CIS countries, litigation before Russian commercial courts in various regions and at all levels and insolvency proceedings. He represents global corporations in a wide range of construction, finance, corporate and other business-related often multijurisdictional disputes. He advises on conflicts of laws, jurisdictional and enforcement issues, and acts as an expert on Russian law in non-Russian court proceedings. He is frequently published in legal journals and is a sought after speaker at many landmark conferences.

**Ramūnas Audzevičius** has been a partner and the co-head of dispute resolution practice at Motieka & Audzevičius (Lithuania) since 2003. Ramūnas is highly experienced in business, commercial and regulatory disputes. His practice involves representation of the clients under ICSID, UNCITRAL, ICC, SCC, LCIA, MKAS, GAFTA, FOSFA, Vilnius Court of Commercial Arbitration rules and others. Ramūnas also frequently sits as an arbitrator or acts as expert in international arbitrations. Ramūnas studied at Harvard Business School, Said Business School, University of Oxford, Queen Mary University of London, King's College London, Vilnius University as well as Moscow School of Social and Economic Sciences.

**Rustam Akramov** is a senior associate at GRATA International (Uzbekistan) with the primary focus on commercial and corporate law matters, including commercial contracts, import-export activities, customs, establishing, reorganization, liquidation of legal entities, and other matters. Prior to joining GRATA International in 2015, Rustam worked as Head of the legal department of the Foreign Trade Activities Department under the Ministry for Foreign Economic Relations, Investments and Trade of Uzbekistan. Rustam has graduated from Durham University with an LLM in 2010. Rustam has been in practice since 2010.

**Sergey Lysov** is a senior associate in KK&P Law firm (Russia). His domestic and international practice focuses on defending multinational corporations in complex civil litigation and regulatory matters, with a particular focus on construction, sales of goods, corporate cases and bankruptcy.

His experience includes international arbitration proceedings under ICC, SCC and ICAC RF Rules. Sergey is recognized by *Best Lawyers* in international arbitration and litigation categories.

**Sergey Petrachkov** is a partner at ALRUD Law Firm (Russia), heading its dispute resolution and restructuring/insolvency groups. Sergey has a considerable experience in representing clients in complex business and corporate disputes, before state courts. He often acts in arbitration proceedings, under the rules of the leading Russian and foreign arbitration institutions (ICC, LCIA, SCC). Sergey also has an extensive practical knowledge learned in his participation in arbitration-related matters and matters

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involving the recognition and enforcement of court judgments (including bankruptcy judgments).

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## Contributors

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## 4.1

# Azerbaijan: Recognition and Enforcement of Foreign Arbitral Awards

*Farhad Mirzayev & Aykhan Asadov*

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After becoming an independent state, the Republic of Azerbaijan implemented substantial reforms, including in international commercial arbitration. This was dictated by the large inflow of foreign investment requiring efficient protection within the post-Soviet legal system still remaining in the process of formation and absent necessary experience of considering commercial disputes by local courts.

Law No. 757-IQ, On International Arbitration,<sup>1</sup> drafted based on the UNCITRAL Model Law on International Commercial Arbitration (1985)<sup>2</sup> was passed on 18 November 1999. Following that, the Republic of Azerbaijan acceded on 29 February 2000 to the New York Convention by means of ratifying it, which came into force vis-à-vis Azerbaijan on 29 May 2000.<sup>3</sup> Azerbaijan's accession to the Convention was without any reservations.<sup>4</sup> Undeniably, this has become a landmark event enabling enforcement of foreign commercial arbitral awards in the territory of the Republic. Acceding to the Convention was accompanied by drafting and passing the new civil code and code of civil procedure. While previous codes inherited from the Soviet times did not consider in detail the procedure and rules of recognition and enforcement of decisions of foreign courts and arbitrations, the new codes govern these issues in detail.

In 1992, Azerbaijan acceded without reservations to the Convention on the Settlement of Investment Disputes between States and Foreign Investors, Washington,

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1. Law No 757-IQ, dated 18 November 1999 of the Republic of Azerbaijan, On International Arbitration, Azerbaijan, dated 15 February 2000.

2. UNCITRAL Model Law on International Commercial Arbitration (1985).

3. Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958). New York, United Nations Treaty Series. Vol. 330, p. 38.

4. See formal statistics for the Convention. URL: <http://www.newyorkconvention.org/countries>.

1965.<sup>5</sup> In 2005, Azerbaijan also acceded to the European Convention on International Commercial Arbitration of 1961 with the notification regarding the powers of the court to discharging its functions determined in Article X(6) of the Convention.<sup>6</sup>

Azerbaijan also participates in a number of multilateral agreements within the CIS, such as the Kyiv Treaty of 1992 on Settling Disputes Related to Economic Activity<sup>7</sup> and the Agreement on Mutual Enforcement of Decisions of Arbitration, Commercial, and Economic Courts in Territories on the CIS Contracting States.<sup>8</sup> Azerbaijan acceded to the Kyiv Treaty, which is substantively broader than the Convention, which means the applicability of wider grounds for recognition and enforcement of arbitral awards made in the Member States, without any reservations. Apart from these, availability of dozens of bilateral agreements with various countries, including the Russian Federation, enables applying to the Supreme Court of the Republic of Azerbaijan for recognition and enforcement of arbitral awards taken in the territory of Contracting States.

Law No. 57 of 15 January 1992, On Protection of Foreign Investment,<sup>9</sup> became the first significant legal act of the post-Soviet Azerbaijan governing issues of international commercial arbitration. To be precise, Article 42 (Consideration of Disputes) of this law provided for the first time that foreign investors in Azerbaijan have the right to settle disputes in international commercial arbitral tribunals. For the time, the law has been revolutionary and has not lost its significance even today despite having been adopted back in 1992. As noted above, shortly before Azerbaijan's accession to the Convention in 1999, the Law on International Arbitration was passed and fully replicated the provisions of the 1985 UNCITRAL Model Law on International Commercial Arbitration, which practically duplicates all provisions of the Convention, therefore, implementing the practice of 'reproducing verbatim' model law.<sup>10</sup>

Another significant source for international commercial arbitration is the CCP of Azerbaijan enacted in 2000.<sup>11</sup> Chapters 47 and 50 CCP refer to grounds for recognition and enforcement of awards of foreign commercial arbitral tribunals. The most notable are the provisions of Article 477 CCP providing that the relevant articles of the CCP as well as the Convention apply to recognise and enforce an award of a foreign commercial arbitration tribunal. Therefore, the CCP declares a direct application of the terms and provisions of the Convention. At the same time, the supreme law of the

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5. Convention on the Settlement of Investment Disputes between States and Nationals of Other States (1965). Washington, 4 International Law Materials. p. 524.
  6. European Convention on International Commercial Arbitration (1961).
  7. Treaty on Settling Disputes Related to Economic Activity (1992), Kyiv.
  8. Agreement on Mutual Enforcement of Decisions of Arbitration, Commercial, and Economic Courts in Territories on the CIS Contracting States (1998), Moscow.
  9. Law No 57, dated 15 January 1992, of the Republic of Azerbaijan, On Protection of Foreign Investment, // Gazette of the Supreme Soviet of the Republic of Azerbaijan. 1992. No 4. Art. 81.9.
  10. Gotti M. Adopting and Adapting an International Model Law in a Multilingual and Multicultural Context // De Gruyter Mouton (2014). No 201. pp. 35-58.
  11. Code of Civil Procedure of the Republic of Azerbaijan of 1 June 2000 (approved by Law No 780-IQ of 28 December 1999 of the Republic of Azerbaijan) // Code (collection of legislation) of the Republic of Azerbaijan. 2000. No 1.

Republic of Azerbaijan, the Constitution,<sup>12</sup> in paragraph II of Article 148, declares that international agreements, which the Republic of Azerbaijan is a party to, are inseparable part of the legislation. Article 151 of the Constitution solidifies supremacy of international agreements of the Republic of Azerbaijan over the national legislation (apart from the Constitution and acts adopted by a referendum) in the case of controversies between them.

### **Arbitration Agreement**

Part II of Article 7 of the Law on International Arbitration specifies a concept and for an agreement to arbitrate. In essence, this article duplicates provisions of paragraph 2 of Article II of the Convention. The law defines an agreement of the parties to submit to an arbitration all or some disputes that may arise between the parties in relation to any predefined legal relation regardless of whether it was contractual or not as an arbitration agreement.<sup>13</sup> Further in there, the law provides that an arbitration agreement can be made as an arbitration clause or as a separate agreement in writing. By doing so, the law lists out the requirements to make an arbitration agreement: it is considered to be made in writing if it is in a document signed by the parties or made by way of exchanging letters or through a teletype, telegraph or using other means of electronic communication, ensuring retention of such a message, and the other party does not object to it. To consider an arbitration clause as an arbitration agreement, the law as well requires that the agreement be made necessarily in writing.

Article 8 of the Law as well governs the issues of submitting to a court a claim on the merits of a dispute that is a subject of an agreement to arbitrate. As such, the article instructs the relevant courts that received claims on arbitrable matters to direct the parties to an arbitration. Article 9 of the same law governs matters of interim measures therefore allowing the relevant courts to pass decisions in relation to such measures as doing so does not contradict an arbitration agreement.

One of the high-profile cases related to a dispute between a subsidiary of Russian Lukoil and Ministry of Communication of the Republic of Azerbaijan in 2003 where an agreement of a joint venture included an arbitration clause, pursuant to which all disputes must have been considered at an arbitration tribunal in Geneva according to the rules of the Geneva Arbitration Centre.<sup>14</sup> Nevertheless, representatives of Lukoil have already managed to prove in this case at an appellate court the necessity of staying the court proceedings in Azerbaijani courts and referring it to the Geneva arbitration. In many ways, lawyers of Lukoil were proceeding in their arguing based on the provisions of Azerbaijani law as well as the Convention.

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12. The Constitution of the Republic of Azerbaijan adopted at a public referendum of 12 November 1995 // Code of the Republic of Azerbaijan. 1995. No 3.

13. Article 7 of the Law of the Republic of Azerbaijan on International Arbitration.

14. Archive of BM Morrison Partners law firm. Case No3387/LKL.

### **Arbitrability**

Arbitrability as an ability of a case to be considered at an arbitration according to applicable law clarifies which disputes can be considered at such arbitrations based on a state's public policy considerations.<sup>15</sup> The Law of the Republic of Azerbaijan clearly distinguishes between international commercial arbitration and domestic arbitration (arbitration tribunals). The Law on International Arbitration (Article 1) refers to international commercial arbitration cases with a foreign element. At the same time, disputes and procedures that are subject to arbitration tribunals are governed by the CCP. An objective and subjective arbitrability<sup>16</sup> are clearly specified in the procedural law.

The following cases are, according to Article 444 CCP, within the exclusive competence of Azerbaijani courts:

- related to real estate located in Azerbaijan;
- related to termination of Azerbaijani entities and legality of their decisions;
- concerning patents, trademarks and other related rights registered in the territory of the Republic of Azerbaijan;
- related to decisions of measures of enforcement taken in court proceedings having taken place in the Republic of Azerbaijan;
- based on claims to cargo carriers arising out of agreements of cargo transportation; and
- of termination of a marriage between citizens of the Republic of Azerbaijan and foreign and stateless persons if each of the spouses has an abode in the Republic of Azerbaijan.

### **General Provisions of Recognition and Enforcement of Foreign Arbitral Awards**

Article 35 of the Law on International Arbitration and Article 475 duplicate the provisions of Article IV of the Convention establishing for recognition and enforcement of foreign arbitral awards the same requirements: submission to the Supreme Court of an original and a certified copy of an arbitral award as well as an original arbitration agreement and a certified copy of such. The relevant documents must be accompanied by a certified translation into the Azerbaijani.<sup>17</sup>

Under Article 486 CCP, foreign court decisions are enforced based on an order of the Supreme Court of the Republic of Azerbaijan that issues an execution writ of mandatory execution of the order along with sending an additional writ at the place of

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15. Avtonomov A.S. & Zenking I.V. Range of International Arbitration Tribunals Resolving Disputes of Investors with States, Arbitrability of Such Disputes and Territorial Limits of Jurisdiction in Relation to Such Disputes under Energy Charter Treaty // *Mezhdunarodnoye Pravosudiye* (2013). No 4b. pp. 107-120.

16. Belohlavek A. The Law Applicable to the Arbitration Agreement and the Arbitrability of a Dispute // *Yearbook of International Arbitration*, M. Roth and M. Giestlinger (eds.). Intersentia / DIKE / NWV (2013), pp. 27-57.

17. Article 35 of the Law of the Republic of Azerbaijan on International Arbitration; Art. 475 CCP.

execution. Actions of mandatory execution of a foreign court judgment are taken by the bodies of the Ministry of Justice of the Republic of Azerbaijan.

Article 462 CCP provides for a possibility to recognise foreign commercial arbitral awards where such do not contradict law, rule of law, and are guaranteed by a mutual recognition. Article 463 CCP empowers the Supreme Court of the Republic of Azerbaijan with an authority to consider appeals in relation to recognition and enforcement of foreign commercial arbitral awards.

#### **Grounds for Refusal to Recognise and Enforce Arbitral Awards**

Article 36 of the Law on International Arbitration lists grounds for refusal to recognise and enforce. The grounds for refusal to recognise and enforce foreign commercial arbitral awards are where:

- a party, against which an award is issued, submits to a court evidence of the party's being to any extent legally incapable;
- an agreement to arbitrate is invalid under the law that the parties chose to govern it and, absent such a choice, under the law of the jurisdiction where the award was issued;
- a party, against which an award was issued, was not duly notified of an appointment of an arbitrator or of arbitral proceedings or, for other reasons, could not submit its explanations;
- an award is issued over a dispute not listed by the arbitration agreement or not covered by the terms of the arbitration agreement, or covers matters beyond the arbitration agreement (that part of the award regarding matters covered by the arbitration agreement can be separated from the present award, recognised, or enforced);
- composition of an arbitral tribunal, or the arbitration procedure, did not comply with an agreement of the parties or, absent such, did not comply with the law of the jurisdiction where the arbitration took place;
- the award has not yet become final for the parties, or was revoked, or its enforcement was stayed by the court of the jurisdiction where, or according to whose laws, the award was rendered;
- a subject of the dispute cannot be a subject of arbitral proceedings under the law of this jurisdiction; and
- recognition and enforcement of this arbitral award contradict law of the Republic of Azerbaijan.

Articles 34 and 36 of the Law provide as well that where a motion of revocation or stay of enforcing of an arbitral award has been filed, the Supreme Court of the Republic of Azerbaijan may postpone rendering its decision and may as well, at the motion of the party that requests the recognition and enforcement of the arbitral award, obligate the other party to provide necessary security to enforce the award. A motion of revoking the award cannot be filed upon expiration of three months from the date of receipt of the award by the party filing the motion. The Supreme Court of the Republic of Azerbaijan, as a competent court considering a motion to revoke an arbitral award,

may, if it considers appropriate or, at the request of one of the parties, stay for a defined term of proceedings over the matter to enable the arbitral tribunal to resume arbitration proceedings or take other measures, which, in the opinion of the arbitral tribunal, will remove obstacles to revocation of the arbitral award.

Similar to the provisions of Article V of the Convention, Article 36 of the Law on International Arbitration imposes a burden of proving the existence of grounds for refusal of recognition and enforcement on a party objecting such recognition and enforcement.

Article 456 CCP almost restates the provisions of Article 36 of the Law on International Arbitration; however, there are slight differences. According to this Article CCP, the following are considered the grounds for refusal to recognise and enforce awards of foreign commercial arbitral tribunals:

- a case is referred to the exclusive jurisdiction of Azerbaijani courts;
- a person participating in the case was not timely and duly served a notice of consideration of the case and, as a result, the person was deprived of a possibility to participate in the proceedings;
- there is a legally binding decision of the courts of the Republic of Azerbaijan on the case of disputes between the same parties over the same subject and grounds or, before the case was admitted in a court of another jurisdiction, there is already a case under the proceedings of the courts of the Republic of Azerbaijan between the same parties, over the same subject and grounds;
- the award has not taken a legal effect under the law of the jurisdiction where the award was taken;
- enforcement of the award contradicts key principles of law and sovereignty of the Republic of Azerbaijan;
- enforcement of the award is not secured by mutual recognition by a foreign state.

According to the requirements of Sub-Article 465.2 CCP, the Supreme Court of the Republic of Azerbaijan stays the consideration of the application of recognition and enforcement of awards of foreign commercial arbitral tribunals where a competent court of the Republic of Azerbaijan already hears a case over disputes between the same parties and over the same subject and grounds. However, should an order recognising and enforcing an award of a foreign commercial arbitral tribunal be issued, the competent court of the Republic of Azerbaijan terminates proceedings over the matter and, if the application is turned down, then rules over the merits of the dispute.

Chapter 50 CCP deals exclusively with enforcement and recognition of awards of foreign commercial arbitral tribunals. Article 475 CCP restates the provisions of the Convention and Law on International Arbitration and governs issues of filing an application for recognition or enforcement of a foreign arbitral award by applicants. Similar to the Law on International Arbitration, Article 475 CCP requires that the applicants submit the following documents:

- an original or a certified copy of an award of an arbitration tribunal;
- an original or a certified copy of the arbitration agreement.

According to Article 475 CCP, where these documents are prepared in a foreign language, the parties must submit certified copies of translations of these documents into the Azerbaijani language.

Similar to Article 36 of the Law on International Arbitration, Article 476 CCP lists grounds for a refusal to recognise awards of foreign commercial arbitral tribunals:

- upon legal incapacity of one of the parties to an arbitration agreement under the law binding on the parties under the arbitration agreement and, absent such provision in the agreement, the law of the jurisdiction where the award was issued;
- where a party, against which an award was issued, was not duly notified of an appointment and time of arbitral proceedings or, for other reasons, could not submit its explanations;
- where an award was issued over a dispute not subject to an arbitration agreement or does not correspond to the terms of the arbitration agreement, or there are items in the award over matters beyond the arbitration agreement;<sup>18</sup>
- where a composition of a foreign arbitral tribunal or rules of arbitration do not comply with the agreement of the parties or their absence contradicts law of the jurisdiction where the arbitration is held;
- where a foreign arbitral award is not yet subject to being enforced against the parties or it is dismissed, vacated, or its enforcement is stayed by the court of the jurisdiction under whose laws the award was issued;
- where a court considering the application of enforcement or recognition of a foreign arbitral award determines that, under the law of the Republic of Azerbaijan, a subject of the dispute cannot be a subject of arbitration proceedings or enforcing or recognising an arbitral award is contrary to the sovereignty of the Republic of Azerbaijan or key principles of law.

As is evident from the above Articles CCP and Law on International Arbitration, their provisions practically verbatim restate the provisions of Article V of the New York Convention.

The two significant cases over Article V of the Convention are where the Supreme Court of the Republic of Azerbaijan refused to recognise and enforce awards of a foreign commercial arbitration tribunal based on their contradicting Azerbaijani law. These are the cases *ZAO 'Energoprom – Novocherkasskiy Elektrodniy Zavod' v. JSC 'Azerbaijan Aluminium'* and a dispute between Baki-Alnas Servis LLC and LLC 'Shelfgaztekhnologiya' considered according to arbitral procedures of the International Commercial Arbitral Tribunal of the Russian Chamber of Commerce in the Russian Federation.<sup>19</sup>

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18. Nevertheless, the same Article also provides that, where items over matters covered by the arbitration agreement can be separated from the matters not so covered, a part of the award with items over matters covered by the arbitration agreement, may be recognised and directed for enforcement.

19. Karimov G., Alizada J. Azerbaijan: The Baker & McKenzie International Arbitration Yearbook (2011–2012).

### Practice of International Arbitration in Azerbaijan

In the majority of international contracts with the Government of Azerbaijan and large state enterprises and private companies alike, international commercial arbitration is selected as a forum to resolve disputes arising under the agreements made between them.

As an oil exporting country, it is most important for Azerbaijan to secure for the investors a necessary level of assurance in legal protection and guaranteeing their investments. A descriptive example of importance of foreign commercial arbitration to Azerbaijan is its contractual practice in exploration and production of oil deposits. The totality of PSAs also provide for international commercial arbitrations as a venue for resolution of disputes arising thereunder.<sup>20</sup>

The only significant arbitration case considered by an international commercial arbitration regarding a PSA is the dispute between Frontera Resources and the state oil company of Azerbaijan, SOCAR.<sup>21</sup> Frontera Resources has been awarded a concession to develop oil deposits Kursangi and Qarabagli under a PSA; however, relations between the parties have escalated and reached an arbitral consideration. In these arbitral proceedings,<sup>22</sup> run ad hoc by a commercial arbitration in Stockholm under the arbitration rules of UNCITRAL, Frontera Resources Azerbaijan issued a multimillion claim against SOCAR.<sup>23</sup> In this arbitration case in 2006, the arbitration awarded Frontera Resources Azerbaijan USD 1.2 million although the amount claimed by the claimant was several times higher. SOCAR has declared this outcome its victory, refused to pay the amount awarded by the arbitration and appealed to a competent Swedish court in Stockholm; however, the Swedish court dismissed the appeal of SOCAR.<sup>24</sup> In relation to SOCAR's refusal to pay the amount of the claim awarded to Frontera Resources Azerbaijan, the latter appealed to the US District Court for the Southern District of New York in 2006 for enforcing the arbitral award, which was dismissed by the American court because of jurisdiction.<sup>25</sup>

Until present, only four cases have been initiated against Azerbaijan at the ICSID.<sup>26</sup> The first arbitration case against Azerbaijan at ICSID was the claim of Azpetrol International Holdings B.V., Azpetrol Group B.V., and Azpetrol Oil Services Group B.V.

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20. Bati A. The Legal Status of Production Sharing Agreements in Azerbaijan // *Journal of Energy & Natural Resources Law* (2003). Vol. 21(2), pp. 153–167.
  21. *Frontera Resources Azerbaijan Corporation v. State Oil Company of the Azerbaijan Republic* (2006), Swedish Arbitral Tribunal // 479 F. Supp. 2d 376 (S.D.N.Y. 2007).
  22. Specialists of our law firm participated in this arbitration case as Azerbaijani experts representing Frontera Resources.
  23. *Frontera Resources Azerbaijan Corporation v. State Oil Company of the Azerbaijan Republic* (2006).
  24. *State Oil Company of the Republic of Azerbaijan (SOCAR) v. Frontera Resources Azerbaijan Corporation* (4 May 2009), Svea Court of Appeal, Case No T908-06. <https://docplayer.net/21176893-Claimant-state-oil-company-of-the-republic-ofazerbaijan-socar-respondent-frontera-resources-azerbaijan-corporation-frontera.html>.
  25. *Frontera Resources Azerbaijan Corporation v. State Oil Company of the, No. 07-1815* (2d Cir. 2009).
  26. The World Bank. International Centre for Settlement of Investment Disputes. List of cases against the Republic of Azerbaijan. URL: <https://icsid.worldbank.org/en/Pages/cases/searchcases.aspx>.

in 2006 over a breach of the requirements of the International Energy Charter,<sup>27</sup> which was settled in 2009.<sup>28</sup> Another rather scandalous was the case of a claim of a Turkish company Barmek Holding A.S. against the Azerbaijani state where the company accused Azerbaijan of breaching terms of the Baku city electricity grid management concession.<sup>29</sup> This arbitration case was also settled. The third case at ICSID is the case of a Dutch company Fondel Metal Participations B.V. against Azerbaijan concerning a breach of the terms of a concession agreement regarding production and sale of aluminium in Azerbaijan.<sup>30</sup> Just like the two previous cases, this case ended with a settlement agreement between the parties. A relatively recent arbitration claim at ICSID against Azerbaijan is the claim submitted in March 2019 of a Turkish businessman Cem Ersoy regarding a breach and a failure to comply with the terms of construction of tunnels.<sup>31</sup>

### Statistics

Despite the absence of a single register of cases of recognition and enforcement of foreign arbitral awards at the Supreme Court of the Republic of Azerbaijan, mentions of some of the cases can be seen as a part of standalone practices law firms. Based on the information received from the Supreme Court of the Republic of Azerbaijan, recognition and enforcement of award of foreign commercial arbitral tribunals and decisions of foreign courts peaked in 2011-2012, during which 199 appeals were made and 130 of them were recognised and enforced.<sup>32</sup> According to the digest of the Supreme Court of the Republic of Azerbaijan, 139 appeals for recognition and enforcement of awards of foreign commercial arbitral tribunals and decisions of foreign courts were submitted to the Supreme Court during 2016, and 147 during 2017, which is 6% higher than in the previous year.<sup>33</sup>

Whereas in summary, there are no problems with the recognition of such awards by the Supreme Court and the process is relatively painless, at the state of enforcement, when the case passes to the bodies of execution under the Ministry of Justice of the Republic of Azerbaijan, which are not known for their high work efficiency, problems arise. Enforcement in Azerbaijan is distinguished by significant duration and serious bureaucratic obstacles. Also, there is no pertinent information on the number of refusals to recognise and enforce awards of foreign commercial arbitral tribunals over

27. *Azpetrol International Holdings B.V., Azpetrol Group B.V. and Azpetrol Oil Services Group B.V. v. Republic of Azerbaijan* (2006). ICSID Case No ARB/06/15.

28. *Ibid.* Final Award of 8 September 2009, p. 1.

29. *Barmek Holding A.S. v. Republic of Azerbaijan* (2006). ICSID Case No ARB/06/16.

30. *Fondel Metal Participations B.V. v. Republic of Azerbaijan* (2007). ICSID Case No ARB/07/1.

31. *Cem Selçuk Ersoy v. Republic of Azerbaijan* (2018). ICSID Case No ARB/18/6.

32. There is no official register of information of the Supreme Court over recognition and enforcement of foreign court and arbitral decisions, therefore, the relevant information was received verbally.

33. Digest of the Supreme Court of the Republic of Azerbaijan (2017), Baku. <http://supremecourt.gov.az/uploads/files/fealiyyet/kitab-2014.pdf>.

subjective grounds such as 'breach of public order'<sup>34</sup> as is the case in other jurisdictions.<sup>35</sup>

### **International Commercial Arbitration in Azerbaijan**

Despite the availability in Azerbaijan of a separate international commercial arbitration centre,<sup>36</sup> which is by itself a positive fact, its level and quality leave much to be desired and require significant work to improve the efficiency of operations and increase confidence of businesses and state bodies in this institute. Based on the information available at the site of the centre, it was established in 2000s and, primarily, its operations are sustained by the receipt of grants. While the centre has its own procedures, rules, and regulations, information regarding the cases heard here and due transparency of the activity of the centre are lacking.

As is seen from the above, Azerbaijani law governing international commercial arbitration has been improved considerably from the moment of the Republic's regaining independence. Even the small existing practice of international commercial arbitration and availability of laws governing these matters and fully complying with the Convention give investors and private business confidence in the possibility of a fair consideration of commercial disputes. However, as noted above, Azerbaijan still has a way to go to improve the process of enforcement. It is necessary to study a positive experience of advanced countries in this field.<sup>37</sup> Improving functionality of the only private international commercial arbitration centre or even creating new alternate centres by analogy with the leading international arbitration centres may as well contribute a great deal to strengthening the institute of international commercial arbitration in Azerbaijan.

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34. Article V New York Convention.

35. Junita F. 'Pro Enforcement Bias' under Article V of the New York Convention in International Commercial Arbitration: Comparative Overview // *Indonesia Law Review* (2015). Vol. 2, pp. 140-164.

36. The official website of the Azerbaijani centre for arbitration and mediation, <http://arbitr.az>.

37. Carbonneau T. Debating the Proper Role of National Law under the New York Convention // *Tulane Journal of International and Comparative Law* (1998). Vol. 6, pp. 277-290; Silberman L. The New York Convention after Fifty Years: Some Reflections on the Role of National Law // *Georgia Journal of International and Comparative Law* (2009). Vol. 38:25, pp. 25-46.