

## LEGAL PROTECTION OF FOREIGN INVESTMENTS IN THE REPUBLIC OF UZBEKISTAN

Legal protection of foreign investors in the Republic of Uzbekistan is performed in accordance with the Civil Procedural and the Economic Procedural Codes, the Law of the Republic of Uzbekistan "On arbitration tribunals" as well as international agreements on promotion and mutual support of foreign investments.

The following litigation institutions operate in Uzbekistan:

### A. National litigation institutions

#### 1. Civil Courts

The civil courts have the following jurisdiction:

- a) disputes with participation of individuals not engaged in the entrepreneurial activity; and
- b) cases of special legal proceedings:
  - ascertainment of legal facts,
  - recognition of a person as missing,
  - declaration of a person as dead,
  - recognition of a person with limited capacity or incapacity,
  - declaration of a property as ownerless,
  - re-establishment of rights on forfeited (lost) documents (the bearer type documents).

#### 2. Economic Court

The Economic Court has the following jurisdiction:

- a) economic disputes arising from civil, administrative and other legal relationship of legal entities, individuals involved in the entrepreneurial activity (sole entrepreneurs);
- b) economic disputes concerning ascertainment of facts which may cause attainment, amendment and termination of rights of legal entities and individuals; and
- c) disputes on bankruptcy of legal entities and individuals are heard by the economic courts.

Other categories of disputes may also be attributed to the jurisdiction of civil and economic courts. In case if part of the related claims falls to the jurisdiction of economic court and the other part to the jurisdiction of civil court, the claim shall be adjudicated by the civil court.

#### 3. Arbitration Tribunals

Arbitration tribunals resolve involving civil disputes legal relationship, including disputes involving entrepreneurs, except administrative, family and labour legal relationship disputes, if the parties (individuals and legal entities) have concluded an

agreement, according to which all the disputes arising between them should be resolved in the arbitration tribunals.

Foreign individuals and legal entities as well as enterprises with foreign investments can appeal to the state courts and arbitration tribunals of Uzbekistan equally with individuals and legal entities of the Republic of Uzbekistan and shall enjoy same rights and bear same procedural obligations.

## B. International Legal Protection

### 1. Foreign Courts

The Civil Code and the Economic Procedural Code of RU envisage that the parties can choose foreign jurisdiction for contractual dispute resolution. However such dispute must contain a foreign element, i.e. one of the parties must be a resident of a foreign country (say, where parties are individuals and/or legal entities with residency in different countries), or an object of relationship must be foreign (overseas property), or legal fact (legal fact which took place abroad).

### 2. International Arbitration

At present there is no law in the Republic of Uzbekistan regulating the activity of international commercial arbitration; thus there is no international commercial arbitration in the RU. However, the legislation does not prohibit foreign investors to refer their disputes to international commercial arbitration, provided such a relationship contains required foreign element.

Before submitting the dispute to the jurisdiction of international commercial arbitration, one has to examine founding documents and regulations of such arbitration tribunals, as well as provisions of international agreements on the promotion and protection of investments . For instance, while appealing to International Center on Resolving Investment Disputes one should bear in mind that, the state accepting foreign investments is entitled to request preliminary appeal in the national courts before the state permits to submit the dispute to the Center. Additionally, the state, where the foreign court is located, must be a signatory to the "Convention on recognition and enforcement of foreign arbitral awards" of 10.06.1958. Uzbekistan has joined this Convention.

### 3. Judicial Immunity

There is a doctrine of absolute immunity in relation to the immunity of foreign states in Uzbekistan; this means that a claim against foreign state, enforcement of awards and charge against foreign property located in the territory of Uzbekistan is allowed only upon authorization by competent body of the corresponding foreign state.

Diplomatic and international organizations shall enjoy judicial immunity in accordance with the laws and international agreements of the Republic of Uzbekistan (in economic matters) or within the scope determined by international treaties of the Republic of Uzbekistan or norms of international law (in civil matters).

The Republic of Uzbekistan is a member to the following international treaties:

1. "Convention on privileges and immunities of the United Nations Organization" (1946);
2. "Convention on privileges and immunities of specialized establishments" (1947);
3. "Vienna Convention on diplomatic relations" (1961);

4. "Vienna Convention on consular relations" (1963);
5. "Convention on privileges and immunities of the Eurasian Economic Community" (2001);
6. "Convention on privileges and immunities of Shanghai Organization on Cooperation" (2004).

Thus, the following remedies could be applied in the Republic of Uzbekistan:

1. Civil courts of the Republic of Uzbekistan (resolve all disputes with participation of individuals not involved in entrepreneurial activity, including labor disputes);
2. Economic Courts of the Republic of Uzbekistan (resolve all disputes originating from contractual relations and disputes of public character such as taxation, licensing etc.);
3. Arbitration tribunals established and functioning in accordance with the legislation of the Republic of Uzbekistan (resolve all disputes from contractual relationships, except the administrative, family and employment disputes );
4. International commercial arbitrations (resolve all disputes depending on dispute resolution clause of contract and competence of arbitration tribunal).