

Kluwer Arbitration Blog

New Arbitration Law in the Republic of Georgia

Michael Wietzorek (Taylor Wessing) · Wednesday, September 1st, 2010 · YIAG

In an analysis published last year, the Georgian authors *Mgalobishvili* and *Kiknavelidze* concluded that “there is no doubt that Georgia needs a lot of time and efforts in order to be finally established as a country friendly towards arbitration [...]”

¹⁾ They identified measures which, in their opinion, should be taken by Georgia in order to accomplish this goal. Among these measures, they listed the adoption of legislation based on the 1985 UNCITRAL Model Law.

Less than a year later, it can be announced that Georgia has successfully taken this step: On 19 June 2009, the Parliament of the Republic of Georgia passed a new law “On Arbitration“, which came into force on 1 January 2010 (Official Journal of the Republic of Georgia, 1280-Is). So far, this law - as well as a detailed analysis by a Georgian author ²⁾ - is publicly only available in the Georgian language. It is expected that there will be an official translation of the Law on Arbitration into English on the official internet site of the Parliament soon. ³⁾ Recently, UNCITRAL included Georgia in its list of countries which enacted legislation based on the Model Law. ⁴⁾

The previous Georgian legislation, contained in the 1997 Private Arbitration Act and the 1997 Civil Procedure Code, had been criticized for having “quite serious gaps” and for not meeting contemporary requirements. In particular, it was repeatedly stated by Georgian as well as foreign authors that the old legislation seemed to apply only to domestic arbitration, there was no express right of the tribunals to rule on their own jurisdiction, and the provisions on the recognition and enforcement of foreign arbitral awards were uncommon, at best.

The new Law on Arbitration consists of 48 articles, divided into ten chapters, which in their general structure and content follow the Model Law. It covers both domestic and international arbitration. The rules about the composition of the arbitral tribunal at large correspond to the Model Law; the appointing authority is the Rayon Court (Court of First Instance). The parties may be represented by lawyers. The arbitral tribunal may rule on its own jurisdiction. Unless otherwise agreed by the parties, the languages of the proceedings as well as the seat of the tribunal will be determined by the tribunal. Hearings may be held at a place different from the seat. The arbitral tribunal may request evidence from the parties at any stage of the proceedings; it can call witnesses, nominate experts, and request the parties to produce documents.

Probably the most important change from the view of the international arbitration community is that there are now clear provisions on setting aside domestic arbitral awards and on recognition and enforcement of foreign arbitral awards. The reasons why an arbitral award can be set aside and why recognition and enforcement can be refused have been brought into accordance with the Model Law and the New York Convention. Under the old law, the Supreme Court of Georgia examined the issues of recognition and enforcement of foreign arbitral awards, without a provision in any of the laws of Georgia establishing its jurisdiction.⁵⁾ The 2010 Law on Arbitration now establishes, in its Art. 2 Sec. 1 a) in conjunction with Artt. 42, 43, Artt. 44, 45 respectively, that the jurisdiction for the setting aside of domestic awards lies with the Courts of Appeal, and for the recognition and enforcement of foreign arbitral awards with the Supreme Court of Georgia.

The new Law on Arbitration is a contemporary legislation which reflects international standards, and a significant step for the further development and promotion of international commercial arbitration within the Republic of Georgia and the entire Caucasus region.⁶⁾

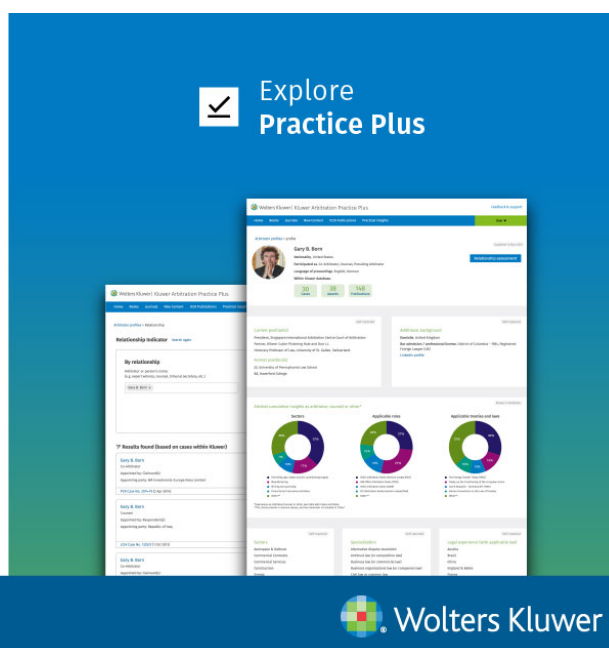
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