

Arbitration regulation reform

The Parliament (Saeima) has passed legislative bills providing amendments to the Arbitration Act and the Civil Procedure Act in their first reading to reform arbitration regulation in line with the UNCITRAL Model Law on International Commercial Arbitration and internationally recognized standards and practice. The most important changes shall be mentioned an introduction of a mechanism to set aside arbitral awards and court support for arbitration in Latvia.

The purpose of these restated legislative acts is to introduce changes in the legal framework governing arbitration process and practice prescribing an option to set aside arbitral awards in a court when a case is adjudicated in Latvia, and for the parties to be able to exercise their rights to fair trial and prove their claims more comprehensively. For example, a mechanism will be introduced to request evidence and take witness statements at a court of general jurisdiction, so that such evidence could be used in arbitration proceedings to provide sufficient arguments or counterarguments and prove the claim. Currently witness statements were not allowed by the legal framework governing arbitration as evidence in Latvia, and it influences an opportunity to prove a claim and limits evidence that can be used by the parties.

Furthermore, a court of general jurisdiction will be entitled to decide on appointment of arbitrators and a few other important procedural aspects which ensure further adjudication of a case and an unbiased review thereof.

Considerable changes will be introduced in respect of securing of a claim and application of interim measures that will be available at all stages of arbitral proceedings. Moreover, the court will have discretion to decide on a longer period for bringing an action of up to 60 days instead of the current 30 days if the statement of claim shall be submitted to the foreign arbitral institution and the court has decided to secure the claim or apply interim measures prior to initiation of the claim in arbitration.

Introduction of the setting aside mechanism is established by the judgment of the Constitutional Court (Satversmes tiesa) in case No 2022-03-01, stipulating a deadline for effecting the modifications of the law until 1st March 2024. The Constitutional Court has acknowledged that Articles 534, 534.1, 535, 536 and 537 of the Civil Procedure Act, insofar not providing for a supervision of the arbitration proceedings in cases when the interested party has continuously failed to approach the court of general jurisdiction for enforcement of an arbitral award, when an arbitral award shall be recognized and enforced abroad, or when an enforcement of an arbitral award requires approaching the court of general jurisdiction with an application for issuance of a writ of execution, shall be recognized null and void as from 1st March 2024. These deficiencies will be remedied by the new amendments to the Arbitration Act and the Civil Procedure Act when they are promulgated and come into force.

The new legal framework will serve as grounds to introduce the globally recognized standards and practices of arbitration in Latvia and provide for wider options for businesses to solve their disagreements in arbitration. Arbitration has the following advantages – fast examination of cases (usually in three months), confidentiality and an opportunity for parties to agree on procedural issues and appointment of arbitrators with specific knowledge and experience needed for the case to evaluate and resolve it in a rational and business-oriented manner.

Modification of the arbitration law are made following recommendations of OECD and the Foreign Investors Council in Latvia (FICIL) to the Government either, in order to improve alternative dispute resolution processes in Latvia and facilitate introduction of self-regulatory and effective mechanisms in resolving conflict situation. The result is a speedier economic circulation benefiting for both the involved parties and the national economy in general.

Daiga Zivtiņa, Head of the Dispute Resolution Practice and Lead of the Court Efficiency and Digitalization Work Group at FICIL, has been actively involved in the working group administered by OECD and the Ministry of Justice of the Republic of Latvia for Developing an Effective Online Dispute Resolution Concept in Latvia, and the working group of the Ministry of Justice to implement the judgment of the Constitutional Court dated 23 February 2023 in case No 2022-03-01.

[Developing Effective Online Dispute Resolution in Latvia | OECD iLibrary \(oecd-ilibrary.org\)](https://oecd-ilibrary.org/titania.saeima.lv/LIVS14/SaeimaLIVS14.nsf/webAll?SearchView&Query=(Title=*Šķīrējties*)&SearchMax=0&SearchOrder=4)

[titania.saeima.lv/LIVS14/SaeimaLIVS14.nsf/webAll?SearchView&Query=\(Title=*Šķīrējties*\)&SearchMax=0&SearchOrder=4](https://titania.saeima.lv/LIVS14/SaeimaLIVS14.nsf/webAll?SearchView&Query=(Title=*Šķīrējties*)&SearchMax=0&SearchOrder=4)

A more detailed explanation and comments on the new legal framework governing arbitration and development trends will be provided after adoption of both legislative bills by Saeima (the Parliament) which is expected in spring of this year.



Daiga Zivtiņa

Partner, Head of Dispute Resolution practice.

Specializing in commercial disputes, including complex cross-border litigation, international and domestic arbitration, and negotiations in out-of-court settlements.

daiga.zivtina@ellex.legal