

## VIAC now competent to administer domestic arbitrations

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**Arbitration analysis: Dr Michael Nueber, Counsel with Gasser Partner Attorneys at Law, considers a recent development which has enabled the Vienna International Arbitral Centre (VIAC) to administer domestic arbitration proceedings in addition to international arbitration work.**

### Original news

*VIAC obtains right to administer purely domestic cases, [LNB News 08/06/2017 59](#).*

### What is the background to this development?

Since its establishment in 1975, VIAC has held a strong presence in Europe for assisting the resolution of disputes involving Eastern European parties. During the cold war, this standing could be explained by Vienna's character as a neutral venue for disputes between parties from the Eastern and Western hemispheres. However, that trend continued after the dissolution of the Soviet Union and its satellite states as well.

Furthermore, the centre's recent case statistics demonstrate that in addition to parties from Central or Eastern European countries, American and Asian parties use the services of VIAC. As such, it is clear that VIAC constitutes one of the most popular international arbitration institutions in Europe.

However, until June 2017 one restriction hindered VIAC's ability to register a significant increase in its case load: it was not able to administer purely domestic cases. These disputes could only be dealt with by the arbitral institutions established at the regional chambers of commerce in each of Austria's nine federal provinces.

### How has VIAC dealt with this restriction in the past?

In the past, VIAC tried to mitigate the negative effects of this limitation by providing the centre with broad jurisdiction pursuant to the Vienna Rules of Arbitration. Accordingly, the current wording of Article 1(1) of the Vienna Rules provides that VIAC tribunals may have jurisdiction over 'disputes of an international character', even where the parties have their place or business or usual residence in Austria. So far, this exception has been generously interpreted by the VIAC Secretariat.

Despite that provision, VIAC's desire to draw level with arbitral institutions such as the DIS (German Institution of Arbitration), which can also administer domestic arbitrations, was strong. In fact, the case load of the DIS predominantly comprises domestic arbitration and only a small amount of international cases. Thus, the recent amendments discussed in this article may give VIAC an advantage in this respect.

### What has changed?

After an intense period of negotiations, the Austrian legislator in May 2017 passed a law (BGBl I 2017/73) to, inter alia, amend section 139 of the [Austrian Federal Statute on the Economic Chambers](#). With the amend-

ment entering into force on 20 June 2017, VIAC is now competent to administer purely domestic arbitrations as well. The arbitral institutions at the regional chambers of commerce will continue to administer domestic arbitrations. It is therefore in the parties' discretion to decide whether to submit domestic disputes either to the VIAC or to one of the regional chambers of commerce.

In this context, it is noteworthy that to date the arbitral institutions at the regional chambers of commerce have only administered a small number of cases, led by the arbitral institution at the Vienna Chamber of Commerce with an average of 10 arbitrations per year. Given VIAC's long standing tradition and experience in administering arbitral proceedings, parties may wish to submit their domestic arbitrations to VIAC.

### **What's next?**

VIAC is currently in the process of adapting its arbitration rules in light of the recent legislative change. Most likely, the modified VIAC Rules will come into force at the beginning of 2018.

It can be expected that next to its activities in the area of international arbitration, VIAC will start a marketing offensive promoting domestic arbitration to Austrian undertakings. However, in this context it is anticipated to compete with Austrian state courts which enjoy an excellent reputation for dealing with commercial disputes. In my opinion, the latter competition has its limits where confidential or sensitive information is at issue in the proceedings, which is why arbitration is likely to be preferred in these kind of disputes.

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