

REGIONS



Credit: Ilham / AdobeStock

In Search of 'Neutral' Arbitration Centers, Russian Dispute Cases Move to Asia and the Middle East

Hong Kong and Dubai have seen an influx of Russian dispute cases as the West continues to impose sanctions.

November 12, 2024 at 09:21 PM

🕒 4 minute read



By Natasha Teja

Hong Kong and Dubai have seen an influx of Russian dispute cases following the onset of the war in Ukraine.

Ever since countries in the West imposed sanctions on Russia following the invasion of Ukraine, the two financial centers have become the preferred arbitration jurisdictions for Russian parties in disputes.

Many Russians no longer perceive other popular arbitration jurisdictions in the U.S., the U.K. and Europe to be neutral, lawyers say.

In 2023, Russia was the seventh most popular country of origin among all dispute parties at the Hong Kong International Arbitration Center (HKIAC). A year earlier, it didn't even make the center's top-10 list.

“In recent years, we observed what has been labeled as a 'turn to the East' among Russian clients,” said Denis Almakaev, a partner and head of international disputes at LEVEL Legal Services, a Russia-based law firm established in 2022 by former Hogan Lovells partners after Hogan Lovells shuttered its Moscow office following the Russian invasion of Ukraine.

“Russian companies are increasingly choosing Hong Kong, Singapore and Dubai, partly due to the perceived neutrality of these jurisdictions,” Almakaev said.

Favorable arbitration law, a strong pro-arbitration judiciary and convenience of travel are also key factors in driving dispute cases to these jurisdictions, he added.

In 2023, Russia-related cases accounted for HK\$18 billion (US\$2.3 billion)

—19% of the total amount the HKIAC saw last year. The increased caseload also coincides with increased trade between Hong Kong and Russia.

Since the onset of the war in Ukraine, Russian or sanction-related work in Hong Kong has at least doubled, said Dantes Leung, a partner at Hong Kong independent law firm Oldham, Li & Nie, during a panel discussion at Hong Kong Arbitration Week in October.

Similarly, Dubai has emerged as a popular destination for Russia-related disputes due to its perceived neutrality. According to a poll conducted by the Russian law firm LEVEL Legal Services, Russian clients in Moscow, when asked which jurisdiction they believe to be the most neutral, ranked the UAE and Dubai as top contenders.

The UAE has yet to place sanctions on Russia despite pressure from the West. In May, Hamad Buamim, chair of the Dubai Multi Commodities Centre, a leading United Arab Emirates free trade zone, said that Russian sanctions have been ineffective in stifling trade.

Finding Neutral Arbitrators

While Hong Kong and Dubai have become popular destinations for Russia-related disputes, lawyers say it is still a challenge to find neutral arbitrators, as they can be constrained by their home country's regulations, the legal community, and political leanings.

“Sanctions are pretty new to arbitration but the usual mechanism still exists,” Leung said.

Parties can include a clause in a contract that says no arbitrator should be appointed from countries or jurisdictions that impose any kind of sanctions on any of their policies, he said.

Even if not legally prevented from acting in a Russia-related dispute, many arbitrators coming from jurisdictions that have imposed sanctions are still reluctant to take on Russian dispute cases for fear of professional repercussions back home, said Ali Al Zarouni, managing partner of the Dubai-headquartered law firm Horizons & Co.

The Use of Injunctions in Sanctions Disputes

Meanwhile, Russian parties to a dispute, fearing they may not get fair treatment in certain jurisdictions, have also been using injunction measures that exist in international dispute resolution to prevent arbitration from going forward in a foreign jurisdiction, lawyers say.

“So oftentimes, even though the parties have agreed to an arbitration clause, the Russian party, thinking that he may not get fair treatment in the arbitration, may prefer to have a dispute resolved by litigation in Russia,” Leung said.

Often that doesn't sit well with the other party in the dispute.

Leung said that sanctions, geopolitics, and the difficulty of finding neutral legal representation have complicated Russia-related cases, creating novel challenges for international disputes lawyers

"They are navigating new territory," he said.

NOT FOR REPRINT

© 2024 ALM Global, LLC, All Rights Reserved. Request academic re-use from www.copyright.com. All other uses, submit a request to asset-and-logo-licensing@alm.com. For more information visit [Asset & Logo Licensing](#).

You Might Like