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Event notes:

Project:	Technical Assistance to RA Ministry of Justice and Special Working Group Monitoring Implementation of “Support to Justice Reform in Armenia – Phase II” and the Justice Reform Progress
Title	I. Discussion of the Draft Amendments and Supplements to the RA Law “On Arbitration” II. Discussion of the Draft Package of Amendments to the Armenian Civil Procedure Code, the Civil Code, the Family Code, the Labour Code, the Law on State Duty, the Law on Enforcement of Court Acts (Mediation Package)
Date:	March 7 and 8, 2015
Location:	Aghveran, Kotayk Marz, Armenia.
Attended:	First Deputy Minister of Justice, MOJ Staff, representatives of the Armenian Office of the Financial Mediator, representatives from NGOs and business associations, representatives from the Union of Banks, Arbitrators, ADR experts, Lawyers and EU Experts

A G E N D A

March 7, 2015.

Aghveran.

- 11:00-11:10 *Welcoming speech*
Mr. Arsen Mkrtchyan, First Deputy Minister of Justice of Armenia
- 11:10-12:15 Defining the Specific Matters of Interpretation in the Law in View of the Cases Arbitrated by the International Commercial Arbitration; Conditions to Enforcing Interim Measures by the Arbitral Tribunal.
- 12:45-14:00 Lunch Break
- 14:00-15:00 *Presentation*
Launching the Institute of Interim Measures; Defining the Interim Measures and the

	Preliminary Order; Amending the Definitions of the Interim Measures and of the Preliminary Order; Suspension and Termination of Motions; Granting the Motion of the Interim Measures and of the Preliminary Order; Providing Information and etc.
15:00-15:30	Questions and answers
15:30-15:45	Break
15:45-16:45	<i>Presentation</i> Procedures on Recognizing and Enforcement of Decisions on Preliminary Order; the Code of Conduct of Arbitrator.
16:45-17:15	Questions and answers
17:15-17:30	Break
17:30-18:00	Closing remarks Mr. Arsen Mkrtchyan, First Deputy Minister of Justice of Armenia.

Topics Discussed

I. The Purpose for Developing Arbitration in Armenia

- Mr. Arsen Mkrtchyan, the first Deputy Minister of Justice of Armenia welcomed the participants and stressed the importance of having the public consultations on the Draft Law on Making Amendments and Supplements to the Law on Commercial Arbitration (the Law). He informed the participants that the legal experts worked to develop the package of amendments to the Law and the event served another opportunity to discuss the package, as well as Alternative Dispute Resolution (ADR) matters with the public and to get their feedback on the package of draft amendments. The Deputy Minister emphasized the value of the event, as he mentioned that the discussion event was represented by experts, specialists in ADR and the NGO representatives active in ADR and their feedback and recommendations on respective provisions and matters were particularly important in the process of finalizing the draft amendments. According to the Deputy Minister, the official circulation of the draft amendments was put off in order to have the chance of discussing and consulting the draft package with the public, which in his opinion served as an essential tool for finalizing the draft package.
- The Deputy Minister announced that the really important reason beyond taking the efforts to develop the ADR in Armenia was being mainly twofold: (i) to improve business environment and (ii) to lessen the caseload of the courts.
- The Deputy Minister further requested the participants to actively engage in the discussions and propose their recommended approaches with respect to various matters under consideration.

II. Defining the Specifics to Interpretation of the Law in View of the Cases Arbitrated by the International Commercial Arbitration; Conditions to Enforcing Interim Measures by the Arbitration Tribunal

- Mr. Aram Orbelyan and Mr. Yeghishe Kirakosyan, as experts having worked on drafting the amendments to the Law presented draft package. When doing the presentation they went through the issues article by article. The respective provisions of each draft article under the discussion were being amended and improved by both experts right during the course of the sessions as the result of the lengthily discussions and recommendations proposed by the participants.
- Mr. Aram Orbelyan took the opportunity to stress the importance of developing the institution of ADR in Armenia. According to the expert, it would lessen the caseload of the courts and would promote improving of the doing business climate in Armenia.
- After introductory remarks, Mr. Orbelyan went on to present the specific amendments drafted. The first issue he presented was to define the scope of arbitration, in other words the types of cases which should be subject to arbitration. The wording as drafted by the experts suggested to provide the type of cases, which were out of the scope of the arbitration, mainly cases subject to the jurisdiction of the administrative court, the bankruptcy cases and the divorce. Following lengthily discussions and based on the recommendations proposed by the participants it was decided to keep the present wording of the Law, which provides the scope of commercial arbitration. It was further suggested by the participants and accepted by the experts that the amendment should be done in the respective article of the current Law, which defines the types of cases subject to arbitration.
- The next issue that was discussed was whether the arbitral tribunals would be free to apply the well-known practices of the international commercial arbitration in respect to matters not specifically defined by the domestic legislation. It was deliberated among the participants and an agreement reached among the participants and the experts that introducing of such a notion would create uncertainty among the courts/tribunals in respect to uniformity of application of such practices. The experts proposed that in cases when expressly missing stipulations the procedural law of the seat of arbitration might be applied.

- The next issue of the discussion was the struggle to define the scope of the term “arbitration” used in the Law. According to the experts and participants, the proper definition of the term would help much to determine the scope of application of the Law. The experts recommended to try to scrutinize and understand the term “commercial”. In the given matter, it was the recommendation of Mr. Yeghishe Kirakosyan that the stipulation in the Model Law on International Commercial Arbitration should be adopted and the matters beyond its scope should be eliminated from the scope of application of the Law. The recommendation was acceptable to the participants.
- It was the understanding and opinion of both the professional in the field and the drafting experts that the existing Law does not make any distinction as to the matters entailing international commercial arbitration and the domestic matters of arbitration. According to them, this causes many uncertainties in terms of de facto application of the Law. It was proposed by a number of participants and was well accepted by the drafting experts, as well as the MOJ representatives that the Law should establish distinction between the regimes applicable to the international matters on the one hand and the domestic regime on the other.
- There was consensus reached among the participants and the experts regarding a number of other technical matters which should be reflected in the draft package of amendments to the Law. In fact, consensus was reached among the participants, the experts engaged in the drafting process and the MOJ representatives in regard to most of the matters discussed.

Next Steps

- It was agreed at the public discussion event that the drafting experts would finalize the draft package;
- The MOJ would officially circulate among the stakeholders the improved draft package for opinion.

A G E N D A

March 8, 2015.

Aghveran.

- 9:30-9:40 *Opening speech*
Mr. Arsen Mkrtchyan, First Deputy Minister of Justice of Armenia
- Presentation*
- 9:40-10:40 Notion of Mediation, the Need of the Institution and its Role as an Efficient Resort for Alternative Dispute Resolution. Comparative Analysis of Other Alternative Dispute Resolution Institutions (Commercial Arbitration, Financial Mediator); Revealing the Positive and the Negative Sides.
- 10:40-11:00 Questions and answers
- 11:00-11:15 Break
- 11:15-12:00 *Presentation*
Requirements to the Mediation Agreement; the Feasibility and the Procedure for Engagement of the Mediator in Various Stages of the Disputed Relationships (Court Annexed, Out-of-the Court); Defining the Timeframes of Mediation.
- 12:00-12:30 Questions and answers
- 12:30-13:30 Lunch Break
- 13:30-14:30 *Presentation*
Requirements to the Mediator, the Rights and Obligations of the Mediator; Principles of Mediation; the Beginning and the End of the Mediation Process
- 14:30-15:00 Questions and answers
- 15:00-15:15 Break
- 15:15-16:00 *Presentation*
Compulsory Enforcement of the Mediation Agreements; Issues on Paying Back the State Duty in Cases the Parties Submit Themselves to the Court But End Up Settling the Dispute Through Mediation
- 16:00-16:30 Questions and answers
- 16:30-16:45 Break
- 16:45-17:00 Closing remarks
Mr. Arsen Mkrtchyan, First Deputy Minister of Justice of Armenia

I. The Purpose of Developing Mediation in Armenia

- Mr. Mkrtchyan, the first Deputy Minister of Justice opened the session devoted to Mediation and he announced that the Armenian Government aims to support development of the mediation institutions in Armenia. To that end, the group of experts worked under the auspices of the Ministry of Justice to develop the package of amendments to a number of legal act. According to the Deputy Minister the legal reform efforts would have their input for the development of the alternative dispute resolution mechanism, as well as will promote the launching of the mediation institution in Armenia. The Deputy Minister further referred to the Action Plan of 2012-2016 Legal and Judicial Reforms adopted by the President Decree and stated that development of the ADR institution is envisaged in the said Program. He mentioned that the present situation is that the mediation, being as an alternative dispute resolution mechanism and also being as a legal institution, does not function properly in Armenia. The reason being the absence of the legal framework to properly regulate the mediation sector. Mr. Mkrtchyan summarized his presentation by saying that introducing of such an institution will enable the alternative dispute resolution in Armenia.

II. Notion of Mediation, the Need of the Institution and its Role as an Efficient Resort for Alternative Dispute Resolution. Comparative Analysis of Other Alternative Dispute Resolution Institutions (Commercial Arbitration, Financial Mediator); Revealing the Positive and the Negative Sides

- Mr. Mushegh Manukyan acted as an expert who was engaged in the work of the drafting team. He began his presentation by mentioning that amendments were drafted to a number of legal acts to enable the mediation in Armenia. Such legal acts addressed by the amendments included the Armenian Civil Procedure Code, the Judicial Code, the Civil Code, the Family Code and the Law on State Duty.

- Mr. Mushegh Manukyan presented the details by going through the provisions of the draft amendments. He explained that the purpose of the reforms was being to have two types of mediation, including the mediation taking place at the decision and choice of the parties and the court-annexed mediation.
- As regards establishing of requirements to the mediators, the details of the matter were discussed with the participants and it was agreed that certain requirements, including those of age and professional background of the mediator among others, would be established for the mediators engaged in the court-annexed system. In addition, requirements will be established for such mediators to be licensed and be well trained. Whereas, in case of voluntarily choosing by the parties the mediation not related to the court, the parties would be free to appoint a mediator even if the person is not a licensed mediator.
- The notion of a court-annexed mediation is new to Armenia and Mr. Mushegh Manukyan explained the details of such a mediation. Within the framework of such a mediation, free legal aid will be provided to the parties having filed their case to the court. It is stipulated in the draft amendments that the free legal aid to the parties will be conducted for four hours. During such period one hour will be devoted to the case management and understanding the details of the case by the mediator and during the next three hours the mediator will perform the mediation. Following this, it will be up to the parties to decide whether to continue settlement of their dispute through the mediation or to go continue litigating the matter at the court.

Next Steps

- The drafting team will finalize the mediation package in consideration of the remarks and comments made by the participants;
- The MOJ will circulate among the stakeholders the final package for official opinion.