

LEGAL ALERT

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The Amended Law on Economic Dispute Resolution

On 22 June 2018, the National Assembly passed the amended Law on Economic Dispute Resolution No. 51/NA (“[Amended Law on Economic Dispute Resolution](#)”), which came into force on 5 December 2018. The Amended Law on Economic Dispute Resolution marks the second amendment of the law since its introduction in 2005. The provisions and structure of the Amended Law on Economic Dispute Resolution are relatively similar to the first amendment in 2010, however, there are notable changes demonstrating the attempt to streamline and internationalise the process of alternative dispute resolutions in Laos through this amendment. This article offers an overview on developments contained in the Amended Law on Economic Dispute Resolution and suggestions for future development.

Developments in the Amended Law on Economic Dispute Resolution

While most contracting states to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 (“[New York Convention](#)”) focus their efforts into developing commercial arbitration law as an independent instrument, the development of law on alternative dispute resolution in Laos continually exhibits the attempt to regulate not only arbitration but also mediation. These two different methods of dispute resolution are intertwined due to the requirement that parties shall mediate before having the right to arbitrate in Laos. The Amended Law on Economic Dispute Resolution also continues to endorse this approach.

The Amended Law on Economic Dispute Resolution reflects the intention of regulators to promote mediation and arbitration as an alternative to dispute resolution through the increase of transparency and reduction of procedural timeframes. Examples include introduction of the concept of fair proceedings, requirement for mediator and arbitral tribunal to make a procedural plan, requirement for arbitral tribunal to issue a decision in three months, introduction of the process to determine the mediator and arbitrator fees by the Ministry of Justice and Government of Lao PDR, and decrease of the timeline for several procedures, including the selection of mediator and arbitrator.

It is clear that Lao regulators recognised that a number of problematic features existed in the previous version of the law. For instance, it was previously stipulated that in order for parties to apply to resolve a dispute by way of alternative dispute resolution, mediation or arbitration agreement may be submitted as a supporting document. This, particularly for arbitration, is contrary to the general principle under the New York Convention where express consent by the parties to arbitration shall strictly be provided. The Amended Law on Economic Dispute Resolution addresses this issue by requiring an agreement to resolve a dispute in the Centre or Office of Economic Dispute Resolution as a compulsory supporting document.

Previously, the number of arbitrators was strictly set to three. Although this requirement is not contrary to international practice, it excludes the right of the parties to tailor the arbitration process as well as the possibility to save cost by appointing a sole arbitrator to conduct arbitration proceedings. The Amended Law on Economic Dispute Resolution partially tackles this defect by allowing the parties to choose the number of arbitrators between one and three arbitrators.

The Amended Law on Economic Dispute Resolution further abandons the conservative provision on the recognition of foreign award, which requires a court to take the nationality of the parties, broad compliance with national laws, and value and location of the parties’ assets into consideration in the enforcement of foreign arbitration award. It now merely subjects the enforcement of foreign arbitral award to general civil procedure law. With the current civil procedure law and the Amended Law on Economic Dispute Resolution limiting the scope of court intervention in the enforcement of domestic arbitration awards to the consideration of compliance with Lao law, it is to be expected that such limitation may also be applied to the

