

F. Executive Enforcement Bodies

In addition to the procuracy's broad powers, there are a number of executive bodies which are empowered to directly enforce the law in a particular sphere. Examples of such bodies include the tax service, the customs authorities, and the Ministry for Antimonopoly Policy. The structure and general powers of bodies of this type are defined by the statute on the relevant body. Additional detail on the powers and authority of the relevant body are provided by the substantive legislation which the body enforces, which defines the range of penalties, types of orders issuable, amounts of fines, and the subjects against which they may be issued for each individual type of violation that is within the jurisdiction of the relevant body. In most cases, additional regulations or instructions are issued by the body itself which define the procedure for its enforcement activities and forms in which it issues official acts and decisions.

The various bodies may become involved in commercial activity and commercial disputes in several ways. Those bodies which enforce statutes on the basis of complaints may serve as a type of alternative dispute resolution forum for complaints under the relevant law. An example of this type of body is the Ministry for Antimonopoly Policy, which enforces the competition law, the advertising law, and some aspects of the consumer protection laws. Upon receipt of a complaint under these laws the Ministry makes an initial determination concerning whether there is basis to open a case investigation. If it finds that there is such basis, the Ministry continues through a process of investigation and consideration that includes a hearing at which all parties may be represented and present their evidence and arguments. A decision is issued on the basis of the investigation and hearing, which may include mandatory orders requiring specific action and also the compensation of damages. Thus, the Ministry may serve to resolve the dispute between the complaining and respondent entities.

Not all executive bodies which enforce particular statutes serve in the capacity of dispute resolution fora or employ the kind of quasi-judicial procedures just described.

³⁵ Procurators below the level of deputy may bring protests only concerning those cases in which they participated.

³⁶ See Chapter 4 for an explanation of review in supervisory proceedings in the arbitrazh courts.

Those bodies which do not rely on complaint and whose laws do not involve questions of balancing the interests of several entities or the conduct of complex analysis may have more simplified procedures through which they conduct investigations and notify subjects of the existence of a violation and the imposition of a penalty. Decisions of state bodies, whether imposed through a simplified or a quasi-judicial procedure, may be appealed on the grounds that the relevant body violated or misapplied the substantive or procedural legislation which is applicable to the action taken. Thus, all of the executive bodies empowered to act in relation to commercial conduct may become involved in disputes concerning appeals of their actions.

Finally, it should be noted that **some of the executive bodies concerned have the right to intervene as a third party in court cases which concern matters within their jurisdiction or sphere of expertise, even if the original case is between private parties and was not initiated by the state body.** This may occur, for example, where the substantive laws which are enforced by the relevant body allow both state enforcement action against a violation and private court action by those injured by the violation to recover damages from the violator. While the enforcement authority may not have a direct interest in the recovery of the private plaintiff in such actions, it may have concerns about court recognition of particular behavior as a violation, about evidentiary matters, and so forth. Unlike the procuracy, however, which has a general capacity to intervene in court cases to protect state and public interests, executive enforcement bodies have rights to intervene in court cases only where this is specifically envisioned in the legislation concerning the particular court body.

WHAT INSTITUTIONS MIGHT PLAY A ROLE IN YOUR DISPUTE?

Dispute Resolution Institutions

Arbitrazh Courts - cases that are (1) related to economic activity where (2) the parties are legal entities or individual entrepreneurs, including appeals of specific state actions; other cases if assigned by legislation, even if conditions (1) and (2) are not met (e.g. all bankruptcy cases)

Courts of

General Jurisdiction - all matters that may be heard by a court and are not assigned to either the arbitrazh courts or the Constitutional Court

Constitutional Court - questions of constitutionality of statutes, regulations and other acts, as well as treaties and disputes among some state bodies. Strict standing requirements apply

Arbitration Tribunals - binding resolution of disputes submitted to them by agreement of the parties, with jurisdiction limited by each tribunal's charter and rules and by the general legislation on arbitration tribunals

Other Important Bodies to Know About

Procuracy - the public prosecutor, with authority to bring cases or intervene in cases to represent the interests of the public or the state, and to appeal some court judgments and arbitral awards whether or not a procurator participated in the case

Specialized Bodies - executive bodies responsible for the enforcement of the law in a particular area (e.g. tax, customs, competition policy) using specialized procedures; may have powers to issue mandatory orders, impose fines, and/or intervene in cases concerning their areas of responsibility