



ARBITRATION IN CIS COUNTRIES: CURRENT ISSUES

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ARBITRATION IN CIS COUNTRIES: THE SAME AS EVERYWHERE?

Current (problematic) issues in arbitration in CIS countries

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Legislation Framework: New York Convention

State	Signature	Ratification, Accession or Succession	Entry into force
Armenia (a), (b)		29 December 1997 (a)	29 March 1998
Azerbaijan		29 February 2000 (a)	29 May 2000
Belarus (e)	29 December 1958	15 November 1960	13 February 1961
Georgia		2 June 1994 (a)	31 August 1994
Kazakhstan		20 November 1995 (a)	18 February 1996
Kyrgyzstan		18 December 1996 (a)	18 March 1997
Moldova (a), (f)		18 September 1998 (a)	17 December 1998
Russian Federation (e)	29 December 1958	24 August 1960	22 November 1960
Ukraine (e)	29 December 1958	10 October 1960	8 January 1961
Uzbekistan		7 February 1996 (a)	7 May 1996
Turkmenistan			
Tajikistan			

Legislation Framework: European Convention On International Commercial Arbitration

State	Signature
Belarus	14 October 1963
Kazakhstan	20 November 1995
Republic of Moldova	5 March 1998
Russian Federation	27 June 1962
Ukraine	18 March 1963

Legislation Framework: ICSID

State	Signature	Ratification, Accession or Succession	Entry into force
Armenia	16 September 1992	16 September 1992	16 October 1992
Azerbaijan	18 September 1992	18 September 1992	18 October 1992
Belarus	10 July 1992	10 July 1992	9 August 1992
Georgia	7 August 1992	7 August 1992	6 September 1992
Kazakhstan	23 July 1992	21 September 2000	21 October 2000
Moldova	12 August 1992	5 May 2011	4 June 2011
Turkmenistan	26 September 1992	26 September 1992	26 October 1992
Ukraine	3 April 1998	7 June 2000	7 June 2000
Uzbekistan	17 March 1994	26 July 1995	25 August 1995

Legislation Framework: Energy Charter Treaty

State	Signature
Armenia	19 January 1998
Belarus	applies the Treaty provisionally
Georgia	12 July 1995
Kazakhstan	6 August 1996
Kyrgyzstan	7 July 1997
Moldova	22 June 1996
Russian Federation	applies the Treaty provisionally until 18 October 2009 inclusive
Tajikistan	25 June 1997
Turkmenistan	17 July 1997
Ukraine	29 October 1998
Uzbekistan	12 March 1996

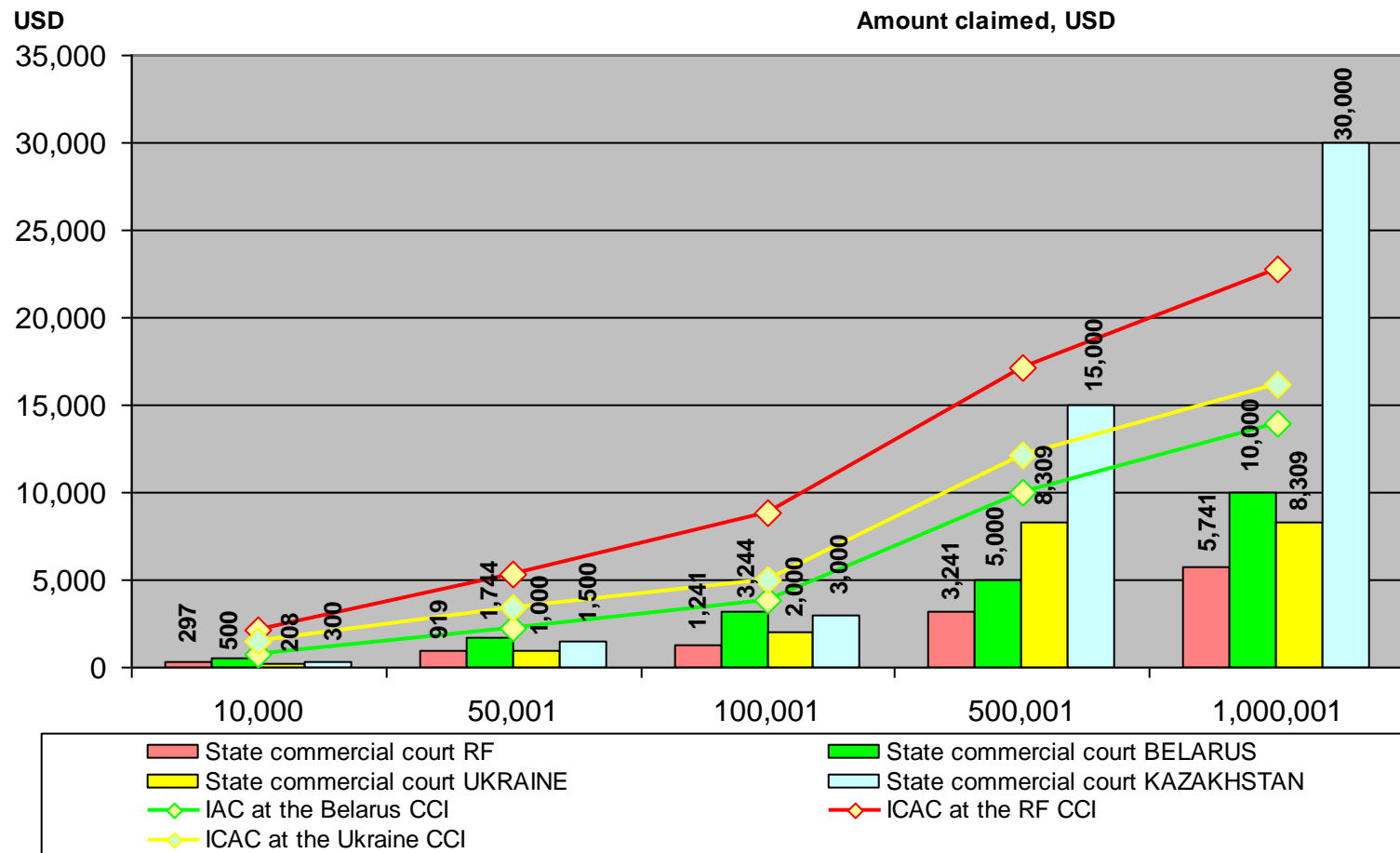
Legislation Framework

Country	Law	Date	UNCITRAL Model Law
Belarus	On International Arbitration Court	1999	Principles
Kazakhstan	On International Commercial Arbitration	2004	Principles
Russia	On International Commercial Arbitration	1993	Yes
Ukraine	On International Commercial Arbitration	1994	Yes

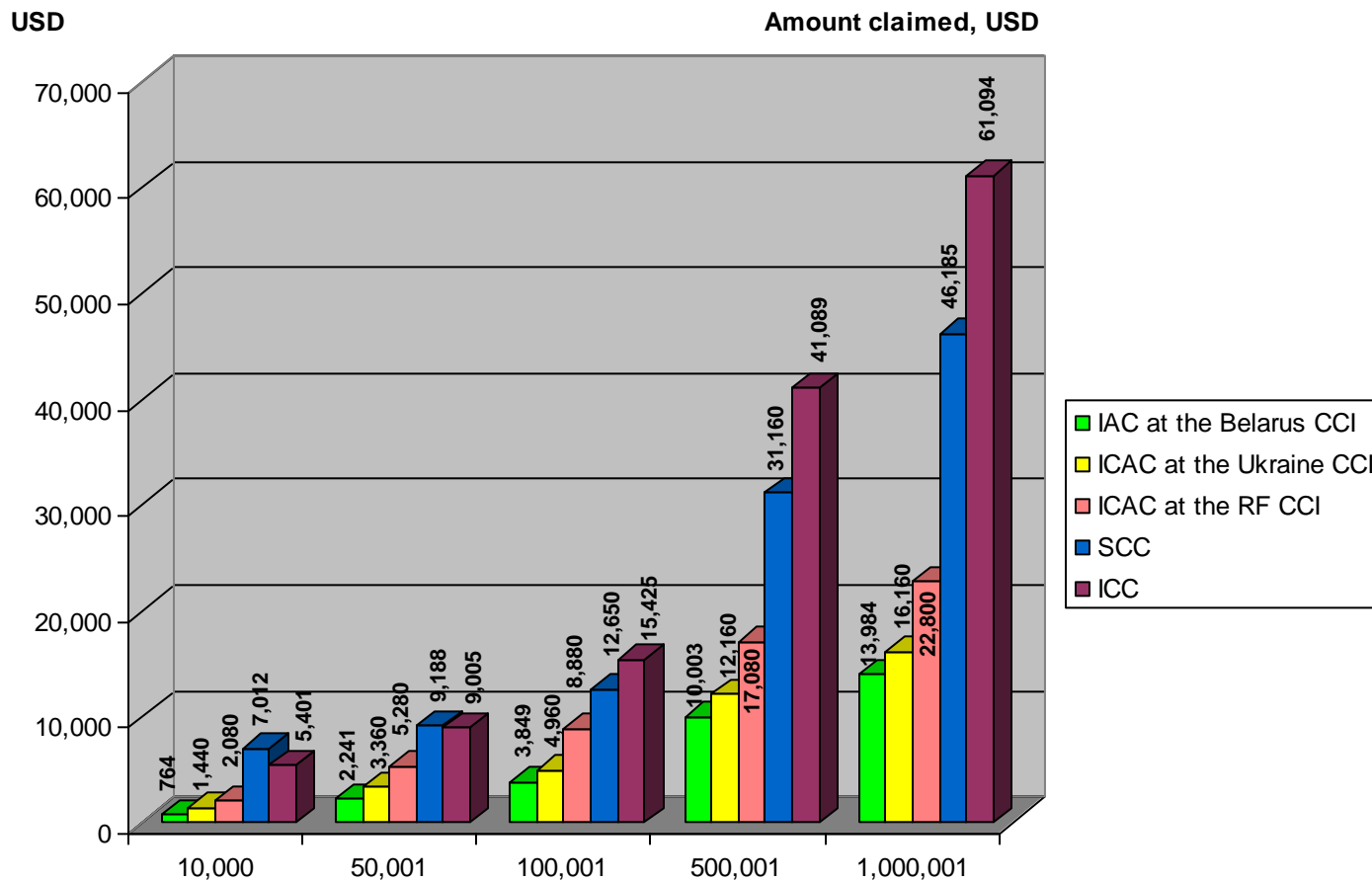
Russia: Arbitration vs. State Courts (caseload)

	Applications for challenging arbitral awards and applications for issuing writs of execution to enforce arbitral awards	Commercial disputes submitted to state arbitrazh courts
2009	3,770	804,820
2010	4,054	818,713

Ratios of arbitration costs to state court fees in CIS countries



Ratios of arbitration costs in the CIS compared with those in Stockholm (SCC) and Paris (ICC)





Procedural traditions in CIS arbitration

- (i) Reducing a number of parties' submissions
- (ii) Submission of detailed statement of claim and detailed statement of defense at the beginning of the proceedings
- (iii) Full payment of arbitration costs by the claimant
- (iv) Squeezing proceedings into one hearing limited by time
- (v) Resolving disputes mainly on the basis of documentary evidence

Arbitrators

- (i) Remuneration of arbitrators
- (ii) List of arbitrators
- (iii) Principal and reserve arbitrators
- (iv) Appointment of presiding arbitrator by the arbitration institution
- (v) Presiding arbitrator or sole arbitrator is not required to be of a nationality other than those of the parties
- (vi) Russian as prevailing language of proceedings
- (vii) Reporter (dokladchik)

Other procedural traditions in CIS countries

(i) Inquisitorial approach in CIS Courts:

- the court is obliged to establish facts related to the case
- relevant evidence may be requested not only by a party, but also by the court itself
- witnesses are not automatically brought by a party, but are summoned by the court (upon a motion from a party or on the court's own initiative)

Other procedural traditions in CIS countries

(i) Inquisitorial approach in CIS Courts:

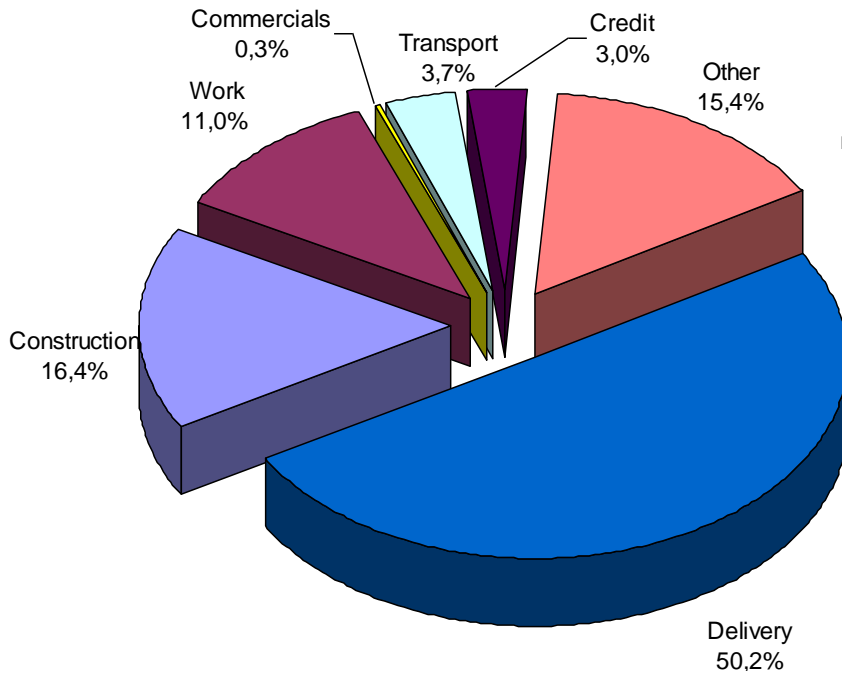
- experts are appointed by the court and not by a party
- principle *jura novit curia* applies, which means that the judge is obliged to find law applicable to the dispute, including provisions of foreign law
- failure by the respondent to appear does not result in default judgment.

Other procedural traditions in CIS countries

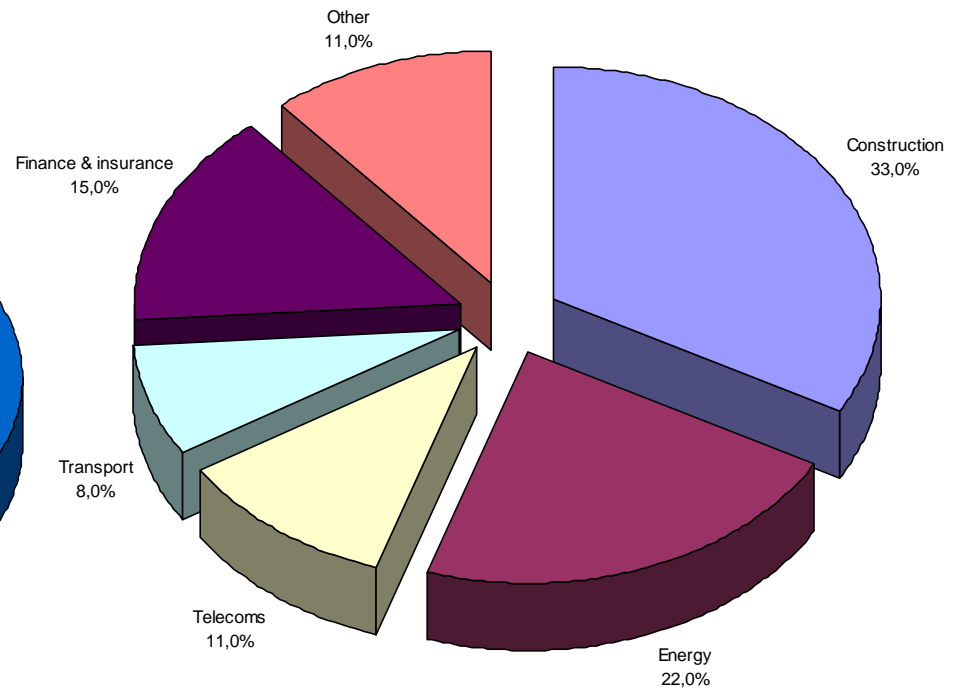
- (ii) Formal authority of party representative
- (iii) Special requirements for written evidence
- (iv) Examination of witnesses
- (v) Declaring award at the end of the hearing

Subject of disputes

ICAC (2010)



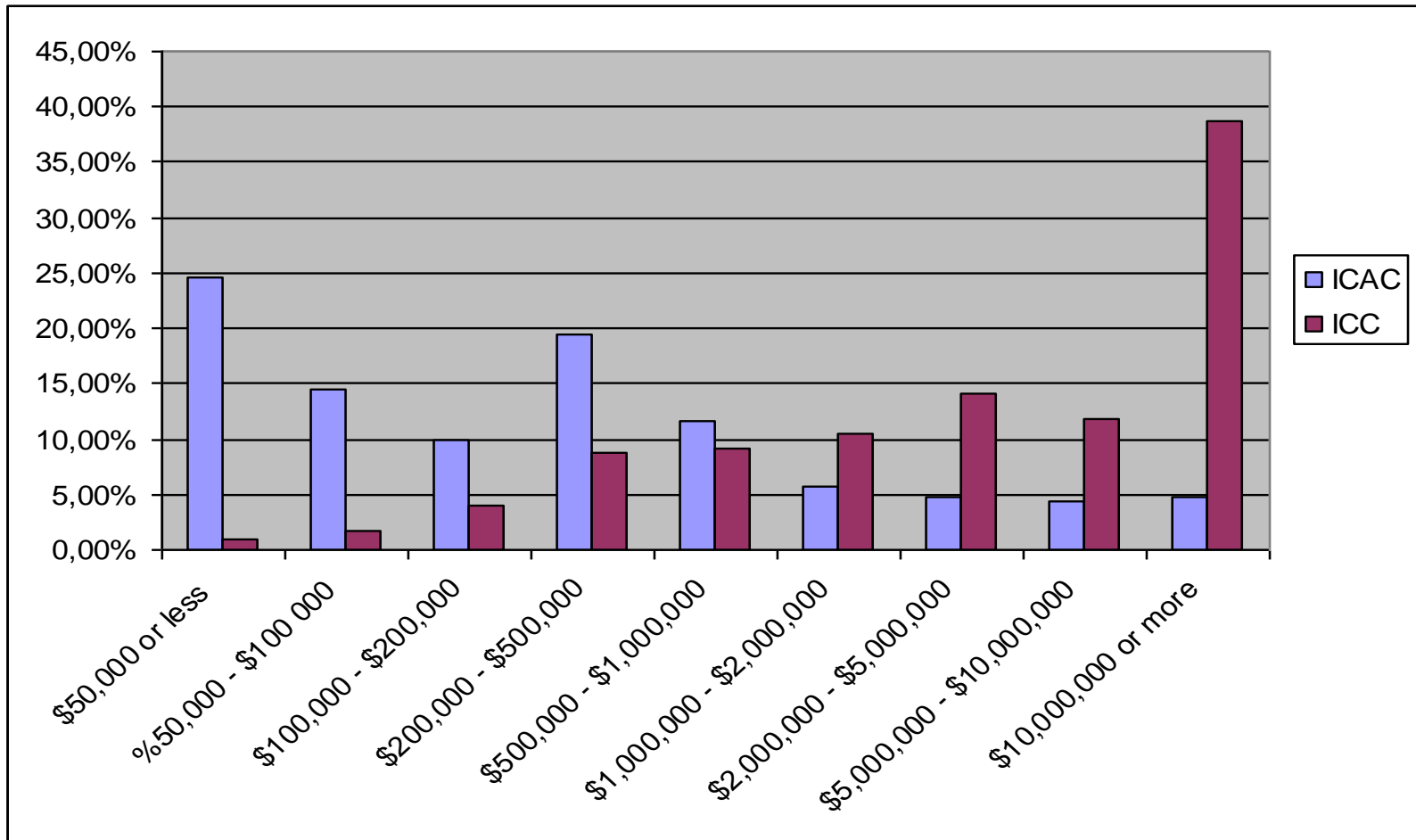
ICC (2010)



Amount in dispute (2010)

Sum in Dispute	ICAC	ICC
\$50,000 or less	24,60%	1%
>50,000 - \$100 000	14,40%	1,80%
\$100,000 - \$200,000	10,00%	4,00%
\$200,000 - \$500,000	19,40%	8,70%
\$500,000 - \$1,000,000	11,70%	9,20%
\$1,000,000 - \$2,000,000	5,70%	10,50%
\$2,000,000 - \$5,000,000	4,70%	14,20%
\$5,000,000 - \$10,000,000	4,30%	11,90%
\$10,000,000 or more	4,70%	38,70%

Amount in dispute (2010)



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Brussels, Belgium
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