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LinkedIn, 18.04.2017

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5 Reasons To Invest in Armenia: A Perspective From an Arbitration / Mediation Lawyer

The appointment of the new Prime Minister in September 2016 presumably promised a new era for the investment growth in Armenia. Within few months there has been a noticeable progress in terms of attracting new—foreign- and local-source—investments. 2017-18 promise over US\$3.2 bln new investments, from which nearly US\$1 bln is already secured in 2017.

It bears noting that continuous high-level governmental actions/statements to openly invite investors to enter into the reforming Armenian market, backed up with a promise to ensure that “rules for businesses will be the same for everyone”, in the long run may create certain risks for Armenia from the perspective of generating investor-state arbitration disputes. Investments may be made in reliance to this “promise”. In the event the promise turns to be ineffective, the investor may invoke “legitimate expectations” doctrine—in addition to other protections. Yet now the incentives of the Armenian government are truthfully geared toward creating fresh investments. This post aims to focus on **5 main reasons** that may further incentivize investors to invest in Armenia.

1. 42 Bilateral Investment Treaties (BIT) and over 20 Multilateral Treaties

Armenia has signed 42 BITs, from which 35 are currently in force. Furthermore, Armenia is a signatory to Washington Convention (ICSID), Energy Charter Treaty, and several other multilateral treaties with investment provisions. This extensive legal framework provides for a firm basis for investors’ rights protection. For example, protection can be sought within **an international investment arbitration system** that is included in those treaties. It allows an investor to sue the host government under applicable BIT or multilateral investment treaty. Thus if an investor has “lost” its investments because of the government’s actions Armenia’s robust investment treaty regime will allow the investor to sue the government in an arbitration bypassing the Armenian court system.

2. Investment Hospitality

Pursuant to its historic traditions, Armenia has been quite a welcoming host. It has tried to encourage foreign investments by various legal instruments, including by its **law “on foreign investments”**, which grants an investor a right within five years from the moment of making the investments to choose to be subject to the legislation, which was effective at that moment. Furthermore, Armenia has been careful with managing any potential investor-state claims so far having recorded only 2 publically known investment cases—both in 2007 (*Global Gold Mining v. Armenia* was settled and *TS Investment v. Armenia* was decided in favor of Armenia).

3. Modern Arbitration Laws

Armenia’s current arbitration law entered into force in 2007 and was updated in

2015. The law generally mimics the UNCITRAL model law, which is largely adopted by over 70 countries. By recognizing arbitration as a dispute resolution mechanism the Armenian law allows investors to freely incorporate arbitration agreements into their contracts with local partners and avoid Armenian courts in case of a dispute. By means of an arbitration disputing parties can design their *own dispute resolution procedure* (typically under confidentiality regime), choose the arbitrators who will hear their case, as well as set any reasonable timeframes for such adjudication. Most importantly, the decision of these private arbitrators will be enforceable by Armenian courts and beyond.

4. The New York Convention

Armenia is also a signatory to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (Convention). This entails that an arbitration decision rendered in Armenia pursuant to the Convention can be enforced in other member states of the Convention—over 150 countries worldwide. Similarly, an arbitration decision of a foreign arbitral tribunal rendered in a Convention member state can be *easily enforced in Armenia*. The procedure of enforcement is straightforward and Armenian courts are usually inclined toward issuing an enforcement decision. Furthermore, a recent Supreme Court decision prescribes that there are no time limits for the enforcement of foreign arbitral awards in Armenia.

5. Mediation

In September 2015, the first ever legislation on mediation came into force in Armenia. It provides for a possibility for the disputing parties to choose a certified mediator, who shall conduct 4 hours of mediation without any charges. Furthermore, an agreement to mediate will be respected by Armenian courts, which will not be able to entertain the case until it is mediated according to the new legislation.

Certified mediators enjoy the possibility to verify settlement agreements reached in out-of-court mediations that they have conducted. Within a 6-month period such settlement agreements can be submitted to a competent court for approval (no breach is necessary), and upon court's approval they will bear *the same force as a court judgment*. Furthermore, 50% of the state fees will be returned if the dispute that was pending in the first instance court (and 40% in the appellate court) is settled via mediation.