

Results of the 2019 Amendment to the Arbitration Act

Effective from 15th April 2019, the Arbitration Act B.E. 2545 (A. D. 2002) was amended by the Arbitration Act (No. 2) B.E. 2562 (A. D. 2019) to help foreign arbitrators obtain a work permit based on a certification letter issued by government authorities or institutions established for the purpose of dispute resolution by arbitration. The ultimate purpose of the amendment is to make Thailand a venue more friendly to international arbitration and foreign arbitrators.

However, the results of the amendment have not yet been significant. The 2019 Annual Report of the Thai Arbitration Institute (TAI) shows that TAI handled 23 new international cases in 2019 compared to 21 cases in 2018. This small growth in new international cases in 2019 could be due to several reasons, including the fees paid by the arbitration centers in Thailand, i.e. TAI and Thailand Arbitration Center (THAC), to foreign arbitrators are much lower than those paid by the Singapore International Arbitration Centre (SIAC) or Hong Kong International Arbitration Centre (HKIAC).

For 2020 and years to come, the 2019 amendment of the Arbitration Act should encourage TAI and THAC to work more actively with the Thailand Immigration Bureau and the Thailand foreign employment administration authority (the Department of Employment at the Ministry of Labour and Social Welfares) to ensure that foreign arbitrators can get their certification letters and work permits easily. If enforcement of foreign arbitration awards can also be made easier and faster by Thai courts, then more parties to arbitration agreements and international disputes should agree to choose Thailand as their arbitration venue and more foreign arbitrators should be interested in working in Thailand. This could also apply to foreign representatives appointed by parties to a dispute to represent them in arbitration proceedings in Thailand. We will monitor the development of the situation and keep our readers updated.



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