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PROSPECTS OF IMPROVING ARBITRATION COURTS AS ONE OF THE METHODS OF ALTERNATIVE DISPUTE RESOLUTION IN UZBEKISTAN

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Abstract
To ensure the rule of law in our country, to effectively regulate foreign trade activities in order to improve the investment environment, to develop alternative mechanisms for the resolution of economic and civil disputes and to guarantee the rights of subjects, the reforms that are being implemented in the sphere of law and justice, first of all, human rights, freedoms and is aimed at comprehensive protection of legal interests. To this country giving the role of the chief reformer, ensuring the rule of law, implementing a strong social policy, gradual and progressive reforms. At this point, it should be noted that today in Uzbekistan, various problems are encountered in the consideration of several cases of civil and economic disputes during the formation of prospects for improving arbitration courts as one of the methods of alternative dispute resolution . In this article The issue of prospects for improvement of arbitration courts in alternative dispute resolution is considered.

Keywords: arbitration court, arbitration court, decision, writ of execution, judge, law, code.

Аннотация:
Мамлакатимизда қонун устуворлигини таъминлаш, инвестициявий муҳитни яхшилаш борасида ташқи савдо фаолиятини самарали тартибга солиш, иқтисодий ва фуқаролик низоларни ҳал қилишнинг муқобил механизмларини ривожлантириш ҳамда субъектлар ҳуқуқларини кафолатлаш, ҳуқуқни мухофаза қилувчи ва суд-ҳуқуқ соҳасида амалга оширилаётган ислоҳотлар, аввало инсон ҳуқуқлари, эркинликлари ва қонуний манфаатларини ҳар томонлама ҳимоя қилишга қаратилгандир. Бу давлатга бош ислоҳотчининг ролини бериш, қонун устуворлигини таъминлаш, кучли ижтимоий сиёсатни амалга ошириш, босқичма-босқич ва аста-секинлик билан давом этаётган ислоҳотлардир. Шу ўринда таъкидлаб ўтиш жоизки, бугунги кунда Ўзбекистонда низоларни муқобил тартибда ҳал қилиш усулларидан бири сифатида ҳакамлик судларини такомиллаштириш истиқболларини

шакиллаштириш давомида фуқаролик ва иқтисодий низолар бўйича бир қанча ишлар кўриб чиқилишида турли муаммолар учраб турибди. Мазкур мақолада низоларни муқобил тартибда ҳал қилишда ҳакамлик судларини такомиллаштириш истиқболлари масаласи кўриб чиқилади.

Калит сўзлар: ҳакамлик суди, арбитраж суди, ҳал қилув қарор, ижро варақаси, судья, қонун, кодекс.

Аннотация:
Обеспечение законности в нашей стране, эффективное регулирование внешнеэкономической деятельности в целях улучшения инвестиционной среды, развитие альтернативных механизмов разрешения экономических и гражданских споров и гарантирование прав субъектов предпринимательства, реформы в сфере права и правосудия, в первую очередь направлены на всестороннюю защиту прав, свобод и законных интересов человека. Это представляет собой поэтапные и постепенные реформы, отводящие государству роль главного реформатора, обеспечивающие верховенство закона, осуществляющие сильную социальную политику. На данный момент стоит отметить, что на сегодняшний день в Узбекистане встречаются различные проблемы в рассмотрении дел по гражданско-экономическим спорам при формировании перспективы по совершенствованию третейских судов как одного из способов альтернативного разрешения споров. В данной статье исследуется вопрос о перспективах по совершенствованию третейских судов при разрешении споров в альтернативном порядке.

Ключевые слова: третейский суд, арбитражные суд, решение, исполнительный лист, судья, закон, кодекс.

The rapid development of international trade relations and investment activity in the world causes the number of disputes related to them to increase. According to statistics and reports of centers specializing in alternative dispute resolution for the year 2020-2021, 945,000 in 2020 and 1,182,143 in 2021 (Latin America and the Caribbean, Central and West Asia, South and East Asia and the Pacific, Northern and Western Europe, Central and Eastern Europe) disputes are resolved in an alternative manner. In this regard, it is impossible to create and strengthen a society based on an efficient economy without the formation of legal mechanisms that ensure the quick,

fair and legal resolution of economic disputes between subjects of civil transactions, including between business subjects.

In particular, the Geneva Convention "On Foreign Commercial Arbitration", the New York **Convention** "On the Recognition and Enforcement of Foreign Arbitral Awards", UNISITRAL Model Law on International Commercial Arbitration, American Federal Arbitration Act, Canadian Model Law, Slovak Republic Arbitration Act, United States Congressional Fairness of Arbitration Act Law, the Swedish Arbitration Act, the Brazilian Arbitration Act, the Indian Arbitration and Conciliation Act, the laws of Germany, France, Austria, Slovenia, Greece, the Netherlands, Ukraine and Switzerland on alternative dispute resolution. no matter how highly valued its role is, in today's time when the trend of alternative resolution of legal disputes is rapidly developing, in- depth study of the theoretical and practical issues of resolving disputes in the arbitration court is one of the urgent issues facing the world community.

In our country, systematic work is being carried out in the field of ensuring the rule of law, improving the investment environment, effectively regulating foreign trade, developing alternative mechanisms for resolving economic and civil disputes, and guaranteeing the rights of subjects. At the same time, based on the 15th goal of the new Development Strategy put forward by the President of the Republic of Uzbekistan Sh.M. Mirziyoev, creating the necessary organizational and legal conditions for the wide use of alternative methods of conflict resolution, further expanding the scope of the institution of conciliation, establishing arbitration courts turning it into an effective alternative institution for resolving disputes that will gain the trust of citizens and entrepreneurs, and further improving the practice of law enforcement in this direction is of urgent importance.

In particular, in Uzbekistan, the Law "On Arbitration Courts" (2006), "On Mediation" (2018), "On International Commercial Arbitration" (2021), the President of the Republic of Uzbekistan "A measure to further improve the mechanisms of attracting foreign direct investment to the economy of the Republic –measures" (2019), Resolutions on measures to further improve the mechanisms of alternative conflict resolution and **Decree on the new development strategy of Uzbekistan for** 2022-2026. It is not an exaggeration to say that systematic work is being carried out in the field of effective regulation of foreign trade activities, development of alternative mechanisms for solving economic and civil disputes, and guaranteeing the rights of subjects in order to improve the direct investment environment.

Alternative Dispute Resolution (ADR) is the procedures, methods and mechanisms established by law, agreement of the parties or internal local documents aimed at resolving disputes arising out of court. Alternative dispute resolution refers to the procedures by which disputes are brought to a unanimous settlement (decision) out of court with or without the participation of a third party.

In world practice, there are many alternative types of dispute resolution, among which the following procedures can be distinguished:

- negotiations;
- reconciliation;
- mediation;
- arbitration;
- independent decision;
- arbitration court;
- short process;
- dispute resolution commissions;
- pre-trial conference on dispute resolution;
- simplified jury trial;
- mediation.

The following types of alternative dispute resolution apply in the Republic of Uzbekistan:

- arbitration proceedings;
- arbitration;
- mediation;
- negotiations;
- settlement agreement.

In this scientific article, we found it necessary to dwell on arbitration courts as one of the methods of alternative dispute resolution. The first stage of study of the concept and legal nature of arbitration courts in independent Uzbekistan began mainly after the judicial reform in 1993.

Indeed, in contrast to the courts, arbitration courts do not administer justice. It is human nature to see disputes in the arbitration court, because according to human psychology, the parties to any dispute tend to turn to an authoritative, independent person who values his opinion. According to the laws of Uzbekistan on courts, arbitration courts do not belong to the system of state courts, they are not elements of the judicial system of Uzbekistan. Arbitration courts are a unique institution with a special function, and although its focus reflects the need to protect civil rights, at the

same time, it is characterized by the peculiarities of rule-making and dispute resolution carried out by non-state bodies.

During the settlement of disputes arising from civil and economic legal relations by arbitration courts, it is important to resolve the rights of citizens in the way they want, deepen market relations and develop entrepreneurship in our country. The decree of the President of the Republic of Uzbekistan dated October 5, 2016 "On additional measures to ensure the rapid development of business activities, comprehensive protection of private property and qualitative improvement of the business environment" was one of the important steps taken in this direction.

of the adoption of the Law of the Republic of Uzbekistan " On Judicial Courts" **in 2006 and its** entry into force on January 1, 2007 , a new phase of judicial reform along with the competent court It started slowly . A new special non-state type of judicial activity recognized by more than 120 countries of the world that signed the 1958 New York **Convention "On** the Recognition and Enforcement of Foreign Arbitration Decisions" , including our Republic, which joined in 1995 It's the same thing if we say that he started to show.

In many foreign countries, disputes are heard in several large arbitration centers. In particular, there are the largest arbitrations in Great Britain: London Court of International Arbitration (LCIA), London Maritime Arbitrators Association (LMAA), International Grain and Feed Trade Association (GAFTA) and more than 40 professional organizations and chambers.

Three main arbitration centers can be distinguished in France. These include the International Court of Arbitration at the International Chamber of Commerce in Paris (founded in 1923), the Center for Arbitration and Mediation in Paris, and the French Arbitration Association.

In Singapore: Singapore International Arbitration Center (SIAC) and Singapore Maritime Arbitration Chamber (SIAC). Other world-class dispute resolution institutions located in Singapore include Asia's first Permanent Court of Arbitration, the Singapore International Center for Dispute Resolution and the Dispute Resolution Services Center of the Singapore International Chamber of Commerce. Arbitration in Japan is not very developed. The largest arbitration court is the Association of Arbitration Courts under the Japan Chamber of Commerce and Industry.

However, China has established more than 200 arbitration commissions, which is related to the population and the development of the country's economy. The largest of them is the Chinese International Economic and Commercial Arbitration Commission (CIETAC) - in 2016, its divisions were established in 9 regions. Also, there are more than 100 arbitration courts in Brazil, and more than 35 in India.

It should be noted here that more than 130 arbitration courts were established in the Slovak Republic from 2002 to 2016 . However, among these courts in the Slovak Republic, there has been an increase in “pocket” courts, their catchy names, low-quality decisions, violation of the rights of the parties, and other situations. As a result, there was a negative attitude among entrepreneurs and citizens towards arbitration courts in the Slovak Republic. Then the legal system introduced in this country was not adapted to the arbitration court. These cases have damaged the reputation of the arbitral tribunal due to legal deficiencies that should be corrected in the future. According to Article 12 of the Law of the Slovak Republic “On Arbitration Courts” in 2016, the Slovak Olympic Committee, the National Sports Association and the chamber established by law (for example, the Slovak Bar Association or the Slovak Chamber of Commerce) can establish permanent arbitration courts was set.

As for the analysis of the legislation of Uzbekistan regarding the types of arbitration courts, as noted above, two types of arbitration courts operate in our country: temporary and permanent arbitration courts. Most of the permanent arbitration courts are established by the voluntary orders of the heads of the founding organizations and are on their balance sheet. According to Article 6 of the Law “On Arbitration Courts”, permanently operating arbitration courts are established by legal entities or their associations (association, association) and operate under these organizations. A permanent arbitration court is considered established when a legal entity decides to establish a permanent arbitration court, approves the rules of the permanent arbitration court and the list of arbitrators. A legal entity that has established a permanent arbitration court shall send copies of the documents on its establishment to the judicial body in the place where the arbitration court is located. State authorities and administrative bodies may not establish arbitration courts and be parties to an arbitration agreement. Current domestic legislation does not provide for other restrictions on the procedure for establishing permanent arbitration courts. Thus, permanently operating arbitration courts cannot be established and registered as independent legal entities in accordance with the current legislation.

According to the January 2022 registry of the Ministry of Justice of the Republic of Uzbekistan, a total of more than 255 permanent arbitration courts are registered in Uzbekistan, including 160 under the Association of Arbitration Courts of Uzbekistan, more than 15 under the Chamber of Commerce and Industry of Uzbekistan and other names. More than 80 permanent arbitration courts and a total of about 1,200 arbitration court judges are registered.

For example, from temporary arbitration courts on the territory of the

2008	2009	2010	2011	2012	2013	2014
1	22	84	64	17	10	6

2015	2016	2017	2018	2019	2020	2021
4	6	4	4	6	5	4

Republic outside arbitration courts “pocket” courts, their catchy names, low-quality decisions, violations of the rights of the parties, criminal behavior and other situations do not occur among the existing arbitration courts in our country.

Professor F.Kh. Otakhanov stated that the inclusion of the following norms in the Law "On Arbitration Courts" will serve to increase the attractiveness of the activity of arbitration courts and increase the number of disputes heard in it;

a) “permanently operating arbitration courts are established by non-governmental non-profit organizations and operate under them”;

b) “If there are at least seven arbitrators in the list of permanent arbitration courts, they will be deregistered by judicial authorities”.

Taking into account the relevance of the proposals put forward by Professor F.Kh.Otakhonov today, we can say that the arbitration court is a non-state body and is not considered to have the status of a person. For this reason, the arbitration court is not engaged in business (entrepreneurial) activities, and for this purpose, we believe that it is appropriate to support its organization in the presence of non-governmental non-commercial organizations.

In our opinion, this view not only deserves the right to exist, but also requires legislative consolidation. Because only in this way (permanently operating arbitration (by giving its courts the status of a legal entity)) many of their organizational problems can be solved, and it is no exaggeration to say that this corresponds to the requirements of today's time. It would be desirable to establish an arbitral tribunal that would be a permanent legal entity . As a result, with such an approach, the arbitral tribunal would be independent from the influence of third parties in the implementation of its human rights function. Also, based on foreign experience, some “pockets” of today serves as a basis for termination of arbitration courts.

After these proposals are reflected in our legislation, if wide opportunities are opened to focus on the mandatory execution of their decisions, this in itself will be a great impetus for the development of arbitration courts.

In particular, the features of the execution of the decision of the Arbitration Court, according to the first part of Article 49 of the Law of the Republic of Uzbekistan “On

Arbitration Courts", the decision must be voluntarily executed in the manner and within the time limits specified in the decision of the Arbitration Court. The content of this norm has an important semantic meaning in understanding the execution of the decision of the arbitration court. First of all, the binding nature of the decision applies only to the parties to the dispute, and the legal force of the decision cannot be determined by its general bindingness. Secondly, the obligation to voluntarily enforce the decision is not a consequence of the dispute being resolved by an arbitration court, but a consequence of the existence of an agreement between the parties to choose an arbitration court as a form of protection (a contractual term that is part of an arbitration agreement or contract).

Article 357 of the Civil Procedural Code of the Republic of Uzbekistan and Article 231 of the Economic Procedural Code specify the grounds for refusing to issue a writ of execution for the compulsory execution of a judge's decision. All these rules of the law do not cast doubt on the jurisdictional nature of the arbitral proceedings , because the law and in the event that the parties voluntarily reject the state court and turn to the appropriate arbitration court to resolve their property dispute, it is doubtful that the arbitration court will actually conduct a fair trial to the extent of their desire does not take. The obligation of the parties to the arbitration agreement to try the case in an arbitration court does not mean that they are denied a fair trial or a waiver of their constitutional right to protect their property interests through the courts .

In particular, if we look at foreign countries, in particular, according to Article 60 of Indonesia's Alternative Dispute Resolution Law of 1999, the decision of the arbitral tribunal shall have final and permanent legal force, which shall be effective immediately and binding on the parties. Article 49, Part 3 of the Law of the Slovak Republic "On Arbitration Courts" provides for the possibility of recognition of the decision of the arbitration court without mandatory execution. In appropriate cases, there is no need to apply for the enforcement of such a decision. It is established that it is sufficient to submit a separate application for recognition of the decision of the arbitration court.

In the current legislation, the practice of arbitration courts and legal literature, the optionality of the execution of the decision of the arbitration court, in turn, the obligation or the beginning of other stages is considered a necessary condition. Therefore, the decision of the arbitral tribunal should be referred to as a mandatory enforcement step or principle of arbitration. The voluntary implementation of the arbitral award as a stage of arbitration is overshadowed by the mandatory stage of enforcement, and belongs to the category of less discussed and almost unstudied topics of the civil law process. As an example of this, in paragraph 18 of the Resolution

No. 238 of the Plenum of the Supreme Economic Court of the Republic of Uzbekistan on June 16, 2012, "it should be explained to the courts that the decision of the arbitration court is executed voluntarily in the manner and within the time limits specified in this decision". If the execution period is not set in the decision, it should be executed immediately.

In any case, the sign of the voluntary execution of the decision of the arbitration court is stated in the regulations of the permanent arbitration court of Tashkent city that "at any stage of the arbitration proceedings, as well as at the stage of voluntary execution of the decision of the arbitration court, an agreement can be concluded by the parties". At the same time, only one type of dispute in the domestic documents of the arbitration courts may not be enough to make sure that the text "voluntary enforcement of the arbitration decision is the final stage of the arbitration (arbitration)" is very reasonable. This aspect is important in determining the causal relationship between the legal, effective protection of the rights violated in the arbitration process and the voluntary implementation of the arbitration court's decision. In fact, the voluntary enforcement of the arbitral award is the main starting point of arbitration (arbitration proceedings), and in fact serves as one of its main principles.

Today, as a result of the daily increase in the number of civil and economic disputes, the issue of enforcement of the decisions taken by the parties on the disputes considered in the arbitration courts by applying to the competent courts by paying an additional separate state duty or by applying to the competent court again has led to mistrust and confusion in the arbitration courts. it is not a secret to anyone that it is coming.

According to the statistics of the Supreme Court of the Republic of Uzbekistan from 2020 to the first half of 2022, 74 cases where decisions of arbitration courts were annulled by competent courts were returned, and the number of cases on issuing writs of execution for compulsory execution of decisions of arbitration courts was returned. It was 2,715. It would not be an exaggeration to say that the reason for such a big difference is the sentence "must be executed immediately" in the second paragraph of Article 49 of the Law "On Arbitration Courts".

In practice, the chairman of the permanent arbitration courts or the individual judge or the judge who presides over disputes in the arbitration hearing in a collegial manner must have a higher legal education. Because among the judges of the arbitration court there are also judges with knowledge in various fields. Based on the noted theoretical, practical and statistical data, it is worth noting that today the

following two positions can be put forward regarding the issue of focusing on the execution of the decisions of the arbitration court.

- to give the authority to issue a writ of execution for the mandatory execution of decisions of arbitration courts to the chairman of the arbitration court permanently operating in the territories;
- exemption from state duty when submitting applications for the issuance of a writ of execution for the compulsory execution of decisions of arbitration courts to the competent courts.

According to the thirty-sixth paragraph of the first part of Article 8 of the Law of the Republic of Uzbekistan "On State Duty" of 2020, business entities - if they apply for a writ of execution for the compulsory execution of decisions of the arbitration court, in civil courts , as well as Article 9 of the Law In accordance with the twenty-first paragraph of the first part of the article, business entities are exempted from paying the state duty in economic courts if they apply for a writ of execution for the compulsory execution of the decisions of the arbitration court . It is not an exaggeration to say that these established norms created a certain number of opportunities and conveniences for business entities. However, parties are not given this opportunity for disputes arising from civil legal relations. In accordance with the 15th goal of the Decree of the President of the Republic of Uzbekistan of 2022 "On the new development strategy of Uzbekistan for 2022-2026", establishing **effective judicial control over the activities of state bodies and officials and increasing the level of access to justice for citizens and business entities is set.** *Therefore, as the first way, to issue a writ of execution to the competent courts for the enforcement of decisions of arbitration courts made on disputes arising from civil legal relations, including economic disputes arising between business entities.*

We consider it expedient to issue the writ of execution to the chairman of the permanent arbitration court as a second option. Although it should be executed voluntarily by the parties, the implementation of the mechanism by which a writ of execution can be issued by the chairman of the permanently operating arbitration court in the territories due to the non-execution of the obligations specified in it in the appropriate manner and within the time limit will serve to reduce the workload of the courts.

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