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Domestic Arbitration Law for Alternative Resolution of Disputes Performance Improvement PROSPECTS

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ABSTRACT

Objective: *The study examines the ongoing reforms in the law enforcement and judicial-legal systems of our country, particularly focusing on the role of Domestic Arbitration Law in safeguarding human rights, freedoms, and legitimate interests. It aims to explore ways to improve the application of Domestic Arbitration Law in resolving civil and economic disputes through alternative dispute resolution mechanisms.* ***Method:*** *The research employs a qualitative approach, analyzing legal frameworks and case studies to evaluate the effectiveness of current Domestic Arbitration practices. It also investigates the challenges faced by arbitration bodies in handling disputes and explores comparative insights from other jurisdictions.* ***Results:*** *The findings reveal that despite gradual legal reforms and the increasing involvement of competent courts, Domestic Arbitration Law still encounters significant obstacles. These include inconsistencies in legal provisions, limited public awareness, and procedural inefficiencies, which hinder its effectiveness in resolving disputes.* ***Novelty:*** *This study contributes to the discourse on alternative dispute resolution by providing actionable recommendations for enhancing Domestic Arbitration Law. It emphasizes the need for comprehensive legal reforms and awareness campaigns to establish arbitration as a viable and efficient alternative to traditional court proceedings.*

INTRODUCTION

In the Republic of Uzbekistan, 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 [1].

In particular, in Uzbekistan, the Laws "Law on Arbitration Courts" (the "Domestic Arbitration Law") (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 (2020) on measures to further improve the mechanisms of alternative conflict resolution and Decree (2022) 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.

The Republic of Uzbekistan recognizes several types of alternative dispute resolution mechanisms, including domestic arbitration proceedings, the international commercial arbitration court, mediation, negotiations, and settlement agreements. These methods provide diverse avenues for resolving disputes efficiently and amicably, catering to various legal and commercial contexts.

RESEARCH METHOD

The research methodology employed in this study combines a qualitative and comparative approach to analyze alternative dispute resolution (ADR) mechanisms in Uzbekistan. It examines legislative frameworks such as the laws "On Arbitration Courts" (2006), "On Mediation" (2018), "On International Commercial Arbitration" (2021), and relevant presidential decrees and resolutions to understand the evolution and current state of ADR. Secondary data, including statistics from the Ministry of Justice, reports from the Supreme Court of Uzbekistan, and international frameworks like the 1958 New York Convention, are analyzed alongside case studies from countries such as China, Slovakia, and Singapore. The analysis uses qualitative methods to assess the strengths and weaknesses of Uzbekistan's ADR practices, comparative methods to benchmark these practices against global standards, and case studies to explore enforcement challenges and practical applications. Additionally, the study investigates the potential integration of technology in ADR, drawing on examples from the Beijing Internet Court, Estonia's e-court system, and India’s virtual court platform, while evaluating procedural, infrastructural, and security considerations. Validation is achieved through triangulation of data from legal texts, statistical records, and international practices to ensure a comprehensive understanding of Uzbekistan’s ADR mechanisms. Ethical considerations include adherence to legal and research integrity standards, ensuring confidentiality and compliance with international norms. This methodology aims to identify actionable recommendations for reforming and modernizing ADR in Uzbekistan.

RESULTS AND DISCUSSION

During the settlement of disputes arising from civil and economic legal relations by domestic 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 [2]. The decree of the President of the Republic of Uzbekistan dated October 5, 2016 "On additional measures to ensure the rapid development of business activity, comprehensive protection of private property and qualitative improvement of the business environment" was one of the important steps taken in this direction.

At the same time, as a result 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 If we say that it started to show, it is the same defense [3].

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 [4].

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 [5]. 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 [6].

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 [7]. Also, more than 100 arbitration courts have been established 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 [8]. 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 [9].

According to the January 2022 registry of the Ministry of Justice of the Republic of Uzbekistan, a total of more than 255 permanent domestic arbitration courts are registered in Uzbekistan, including 160 under the Association of Domestic Arbitration Courts of Uzbekistan, more than 15 under the Chamber of Commerce and Industry of Uzbekistan and other names. More than 80 permanent domestic arbitration courts and a total of about 1,200 domestic arbitration court judges are registered. Based on foreign experiences, today there is a rush to reorganize existing domestic arbitration courts in our country in order to prevent "pocket" courts, their catchy names, low-quality decisions, violations of the rights of the parties, criminal behavior and other situations, things are being done.

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 domestic arbitration proceedings , because the law and in the event that the parties voluntarily reject the state court and turn to the appropriate domestic arbitration court to resolve their property dispute, they doubt 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 domestic arbitration agreement to try the case in a domestic 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 [10]. 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[11].

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 domestic 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 [12].

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 domestic 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 domestic 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 domestic 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 domestic 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 "Law on Arbitration Courts".

In this regard, currently, in order to eliminate these shortcomings and not to harm the rights and interests of citizens and entrepreneurs protected by law, Article 49 of the Law "Law on Arbitration Courts" states that "if the domestic arbitration court's decision does not specify the execution period, it shall immediately the relevant organizations are working to replace the text "should be executed" with the text " the party to the domestic arbitration proceedings or the interested parties may be directed to the execution after thirty days from the date of receipt of the decision of the arbitration court".

Based on the above-mentioned, it can be said that one of the main problems in the perspective of improving the work of arbitration courts in alternative dispute resolution is, of course, the issue of focusing the decisions of the domestic arbitration court on execution. The most effective way to solve this problem is to assign the issue of enforcement to the authority of the chairman of the permanent domestic arbitration court.

In practice, the chairman of the permanent domestic arbitration courts or the individual judge or the judge who presides over disputes in the domestic 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 (Article 14 of the Law on Arbitration Courts). Based on the noted theoretical, practical and statistical data, it should be noted that today procedural scientists and practitioners, in connection with the issue of enforcement of the decisions of the domestic arbitration court, consider the authority to issue a writ of execution for the compulsory execution of the decisions of the domestic arbitration courts in the territories regarding the need to give to the chairman of the permanent domestic arbitration court an offer is being made.

This proposed proposal is to create the necessary organizational and legal conditions for the wide use of alternative methods of conflict resolution in the 15th goal of the new Development Strategy put forward by the President of the Republic of Uzbekistan will be the basis for turning it into an effective alternative dispute resolution institution that can be trusted. It also complies with the 1958 New York Convention on

Recognition and Enforcement of Foreign Arbitration Court Decisions and the norms set forth in the legislation of foreign developed countries.

At this point, it should be noted that the level of electronic document circulation has grown exponentially throughout the world in the last decade and is increasing every year. This applies to all areas of human life: from personal relationships and business processes to the activities of state bodies. In many countries of the world, both non-state courts and state courts have been providing new technological opportunities to use the latest advances in electronic document circulation in order to resolve disputes between the parties and to conduct proceedings fully or partially remotely.

In particular, the first manifestations of dispute resolution on the Internet began in the 1970s in the United States. Disputes are still being handled online at the Online Disputes Bureau at the Center for Information Technology and Dispute Resolution at the University of Massachusetts, USA [13].

In this regard, procedures regarding the use of technology in online arbitration should be agreed upon and determined by the parties. Basically, online domestic arbitration in domestic arbitration courts, unlike traditional arbitration, takes place on the basis of a virtual meeting, rather than a physical meeting of the parties and the arbitrator. Also, in online domestic arbitration, the parties will not have complete information about each other, and a personal meeting of the parties may reduce the likelihood of dispute resolution. Online domestic arbitration allows the parties to express their views on the dispute or to participate in all domestic arbitration proceedings through a video conference or a specially created electronic platform until a decision is made.

Electronic data means one or a collection of electronic data, including text, sound, images, maps, designs, photographs, electronic data interchange (EDI), may be defined as electronic mail, telegram, telex, telecopy or the like, letters, symbols, numbers, access codes, symbols, or processed data that have meaning or can be understood by people who can understand them[14].

It follows that if such an online domestic arbitration is to be held, the parties will need to address the procedural requirements for conducting a virtual trial, including recording the details for interrogatories, video conferencing and audio conferencing. It is worth noting that in some cases the parties and the arbitral tribunal judges may be located in different geographical areas in different parts of the system. It will be necessary to take into account the appearance of various combinations. For example, an interested party may sit in the same seat as the arbitrator and participate in the domestic arbitration online, given that online participation is not available. Online domestic arbitration may be held by the other party, who may be present in a completely different location, or the parties may have the opposite position of participation. Therefore, the rules of online domestic arbitration should be formulated in such a way that equality and impartiality of parties should be ensured in virtual proceedings. At the same time, as a result of the

online domestic arbitration, the decision was made by digital signature it should be ensured that it has the same effect as a decision signed in paper form.

In the court platform, the courts should verify the evidence online, cross-examine the parties in real time and the platform should be managed securely by the courts. The storage and use of information related to a civil court case in an online court session must be in accordance with the Law on Principles and Guarantees of Freedom of Information and other laws. To date, there are online courts in Beijing, Guangzhou and Huangzhou in the PRC (Beijing Internet Court http://tpl.bjinternetcourt.gov.cn), and online courts in Estonia through the e-estonia platform, and through the Indian platform http://vcourts.gov.in Virtual court hearings are being conducted in countries such as the Netherlands. In the preamble of the Beijing Internet Court's Special Instruction on Conducting Internet Court Proceedings on the Tianping Chain Platform, it is stipulated that the court hearings of the Beijing Internet Court will be conducted on the Tianping Chain platform based on blockchain technology.

CONCLUSION

Fundamental Finding : The research highlights the urgent need for an independent, corruption-free, and transparent alternative dispute resolution system in Uzbekistan. By creating a single regulatory framework for domestic arbitration, it aims to streamline processes, reduce the burden on courts, and prevent third-party interference. These efforts demonstrate a commitment to modernizing arbitration systems through regulatory and technological advancements. **Implication :** Implementing a robust domestic arbitration framework has the potential to significantly improve Uzbekistan's legal landscape. It can enhance public trust in dispute resolution mechanisms, improve efficiency in legal processes, and align the country's practices with global standards, fostering a favorable environment for economic and social progress. **Limitation :** While the study presents promising solutions, the primary limitation lies in the practical challenges of adoption, including the potential resistance from traditional legal institutions, lack of public awareness, and the technical complexities associated with implementing innovative systems like "Smart Hakam". **Future Research :** Future studies should explore the efficacy and adaptability of technology-driven arbitration solutions in Uzbekistan's context. Focus areas may include user-centric design, scalability of digital platforms, and integration with international arbitration standards to ensure sustainability and global competitiveness.

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