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PROCEDURE FOR ORGANIZATION, TYPES AND ACTIVITIES OF ARBITRATION COURTS

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Abstract

This article covers concepts such as "Issues of cooperation between arbitration courts and state courts «, "Interrelationship between arbitration courts and state courts", "The role of arbitration courts and its importance today", "Prospects for the use of arbitration in problematic situations facing state courts".

Keywords: Arbitration courts, state courts, alternative dispute resolution, judicial reform, arbitration agreement, judicial cooperation, legal framework of arbitration, Uzbekistan judicial system.

Introduction

As society develops, the number of disputes, issues and relationships related to it increases. This, in turn, increases the demand for resolving these issues. Until 2007, only state courts operated in the Republic of Uzbekistan, and since 2007, a new system of alternative dispute resolution has been established, namely arbitration courts.

The Action Strategy for 2017-2021, aimed at reforming, democratizing, ensuring the true independence of the judiciary and raising it to a new level, ¹are aimed at ensuring the independence of the judicial system and authorities, increasing the importance and role of the courts in protecting the rights, freedoms and legitimate interests of citizens, and as a literal continuation of this, we can see the adoption

¹“ On the Strategy of Actions for the Further Development of the Republic of Uzbekistan ”. <https://lex.uz/acts/-3107036>



of the Decree of the President of the Republic of Uzbekistan No. PF-60 dated February 28, 2022 “On the Development Strategy of a New Uzbekistan for 2022-2026” . It is in Goal 15 of the development strategy ²that a number of tasks were set not only in terms of regulating the judicial process, but also in terms of creating the necessary organizational and legal conditions for the widespread use of alternative dispute resolution methods, and further expanding the scope of application of the institution of reconciliation, which in turn means expanding alternative dispute resolution methods and accelerating their bringing to an equal level with the judicial system.

According to the register of the Ministry of Justice of the Republic of Uzbekistan as of January 2022 ³, a total of more than 255 permanently operating 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 more than 80 permanently operating arbitration courts registered under other names, and a total of about 1,200 arbitration court judges. State judicial system, arbitration courts have a long history as a method of resolving disputes and were in use before the emergence of the state , that is, if we look at the information that has reached our time, in ancient times , judges under the tsarist and khanate governments , people with special authority and respect compared to others , were called "judges" and resolved disputes and disagreements between the population regarding inheritance, family, neighbors, relatives, and mutual acquaintances. Currently, arbitration courts operating in more than 140 developed countries have significantly and effectively contributed to the development of a very favorable investment climate in many countries and the increase in the flow of foreign investments, while also ensuring the protection of the established rights and interests of local business entities.⁴

Arbitration, we should understand not the consideration of disputes in state courts, but the method of resolving disputes in arbitration courts independent of state courts. It is also called differently in different countries, for example; in

²for 2022-2026 ”. <https://lex.uz/docs/-5841063>

³Register of permanently operating arbitration courts <https://data.egov.uz/data/6107d5772a2e256d868e8704?page=1>

⁴Khakberdiyev Abdumurad Abdusaidovich. The Activities of Arbitration Courts in Uzbekistan. Popular scientific treatise. Tashkent – 2022.: <https://legalcity.uz/archives/3894>



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Russia - the Arbitration Court, in many foreign countries - the Arbitration Court, in Uzbekistan it is called Arbitration and Arbitration Courts, which is considered a voluntary method of litigation, and it means the settlement of disputes and disagreements between the parties, that is, between individuals and legal entities, through arbitration, and the settlement of disputes by reaching an agreement between the parties in the form of an arbitration agreement or contract.

As we have said above, Arbitration and arbitral courts are called differently in different countries, but it is these courts that consider and resolve 90-95% of disputes related to debt between citizens and economic entities in a given country. The adoption of the Law of the Republic of Uzbekistan "On Arbitration Courts" of October 16, 2006 and its entry into force on January 1, 2007, was considered a new stage and continuation of the reforms in the judicial system being implemented in our. In particular, today, more than 250 regularly operating arbitration and arbitral courts are developing and forming very rapidly, in accordance with the Law of the Republic of Uzbekistan "On Arbitration Courts", which is actively promoting the socio-economic and social activity of people, increasing their legal culture and legal awareness, and, most importantly, ensuring the balance of interests in society, in protecting democratic values, human rights and freedoms, and the interests established by law. These institutions, which are operating among several civil society and non-governmental and non-profit organizations, and which are supported by broad strata of our intelligent citizens, are actively promoting the development and formation of more than 250 regularly operating arbitration and arbitral courts.

The reasons for the need for arbitration courts and, in general, alternative dispute resolution methods in the Republic of Uzbekistan can be understood from the following figures: in Germany, 90%, in the USA, 95%, and in the UK, 90-95% of disputes are resolved before a court hearing. Disputes through mediation and arbitration courts almost never reach state courts. For example, in the economic and civil courts of the German state, there is a separate "mediator-judge" The category has been formed, and it is determined that in any case, whether it is a civil or an economic claim, a mediator-judge will deal with it in the prescribed manner from the moment it is received. In practice, this experience

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has justified itself by preventing unnecessary hassle and resolving the dispute in pre-trial proceedings.⁵

The "Concept for Further Deepening Democratic Reforms and Developing Civil Society in Our Country" adopted by the Supreme Council of the Republic of Uzbekistan, large-scale work has been carried out ⁶to further reform the judicial system, guarantee the freedom and independence of the courts as a key component of the democratization and development of society, and ensure the rule of law, reliable protection of human freedoms and.

A. A. Akhberdiyev expressed the following thoughts in his scientific and popular treatise on the activities of arbitration courts in Uzbekistan. He wanted to recognize that the regularly operating arbitration courts operating in the Republic of Uzbekistan are making a worthy contribution to reducing the volume of state courts and further increasing their quality by providing alternative solutions to economic disputes arising between business entities, as well as disputes arising from civil legal relations. The arbitration court in the Republic of Uzbekistan is a completely new judicial system, and to this day, the work of the lower courts is based on no other documents than the Law "On Arbitration Courts", the comments to this Law, the regulations applicable to the arbitration court operating in Uzbekistan, and the Regulation "On the fees, expenses and costs of the parties in the consideration of arbitration cases."⁷

Agreeing with the above, I can say that the methods of dispute resolution introduced in Uzbekistan are a new system and significant work has been done in this regard. In particular, the small volume of cases considered in arbitration courts is due to the fact that, in accordance with Article 9 of the Law "On Arbitration Courts", arbitration courts are legally obliged to resolve economic disputes between business entities and disputes arising from civil legal relations, and arbitration courts are not obliged to resolve disputes arising from labor, administrative and family legal relations, as well as other disputes established by law. Sh.M. Asiyonov, in his commentary to the Law "On Arbitration Courts",

⁵Shuhrat Cho'liyev. Mediation: has it become a conflict-solving institution? Xalq so'zi online. Tashkent-2020. More - <https://xs.uz/uz/post/mediatsiya-nizolarni-hal-qiluvchi-institutga-ajlana-oldimi>

⁶"Concept for further deepening democratic reforms and developing civil society in our country." <https://lex.uz/docs/-2947919>

⁷Khakberdiyev Abdumurad Abdusaidovich. The activities of arbitration courts in Uzbekistan. Popular scientific treatise. Tashkent - 2022.: <https://legalcity.uz/archives/3894>

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comments on Article 9 of the Law on Arbitration Courts, says the following; Of course, the arbitration court does not have the right to consider cases that are exclusively within the jurisdiction of economic and civil courts or other bodies by the laws of the Republic of Uzbekistan , in particular:

- in child adoption;
- in determining a legal fact;
- in collecting alimony;
- when a citizen is forcibly admitted to a psychiatric hospital or inpatient facility;
- in labor disputes;
- insolvency cases (bankruptcy);
- in disputes arising in administrative and legal
- in disputes related to the administrative activities of state bodies and tax relations.⁸

Above is a list of cases that are not considered by arbitration courts, and in my opinion, the reason for the slow increase in the role of arbitration courts is that these disputes are considered only in state courts. Within the framework of cooperation between arbitration courts and state courts, we can include the consideration of cases on the collection of alimony in arbitration courts, where state courts issue a writ of execution, as well as the establishment of an enforcement order for the execution of the ruling. The confidentiality of arbitration proceedings gives the parties additional freedom, and confidentiality in civil legal relations, namely, the award, adoption of a child, the collection of alimony, also contributes significantly to the prevention of possible disputes in the future.

Highly educated people, including lawyers and legal experts with varying degrees of experience among arbitration judges, are not fully aware of the activities of the arbitration court and its general functions in the state, and some do not even know what an arbitration court is.

⁸ Commentary on the Law of the Republic of Uzbekistan “On Arbitration Courts”. Sh.M. Asiyonov https://nrm.uz/contentf?doc=0428849_hakamlilik_sudlarit_o%E2%80%A0%98g%hE2%80%98rudi_qonunga_%240sharh&products=1_vse_zakodnodatelstvo_uzbekistana#print

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If we talk about the types of arbitration courts, then, as noted above, according to the analysis of Uzbek legislation.

There are two types of arbitration courts in our country:

- Temporary (temporary)
- Permanent arbitration courts operate.

Permanent arbitration courts are established by voluntary orders of the heads of the founding organizations and are organized under their supervision. According to Article 6 of the Law "On Arbitration Courts", permanent arbitration courts are established by legal entities or their associations (associations, unions) and operate under these organizations⁹. It is absolutely impossible for state authorities and management bodies to be parties to an arbitration agreement and organize arbitration courts. The current domestic legislation does not provide for other restrictions on the procedure for organizing permanent arbitration courts. Thus, permanent arbitration courts cannot be organized and registered as independent legal entities in accordance with the current legislation.¹⁰

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⁹More: A. Khakberdiyev Arbitration courts and their types in alternative dispute resolution // Newsletter of Legal Sciences. 2022. Issue 2.

¹⁰Law of the Republic of Uzbekistan "On Arbitration Courts" of 2006 <https://lex.uz/docs/1072079>