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INTERNATIONAL LEGAL REGULATION OF INTERNATIONAL COMMERCIAL ARBITRATION (MULTILATERAL AND BILATERAL AGREEMENTS IN THE FIELD OF COMMERCIAL ARBITRATION)

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Abstract:

This article delves into the international legal regulation of international commercial arbitration and the various multilateral and bilateral agreements that govern this field. The paper examines the enforcement and recognition of arbitral awards, the selection of arbitrators, and the role of international organizations in promoting international commercial arbitration. It also discusses the challenges faced in implementing these agreements and the potential for future developments in this area, in addition provides a succinct analysis of the crucial role of international legal regulation in facilitating international trade and commerce through commercial arbitration.

Keywords: international, regulation, convention, sources, rights, commercial, arbitration, agreement, law, dispute, arbitrator, decision

Currently, it is impossible to imagine the development of countries without foreign economic relations, since this is what allows them to join the world community and raise their economy to a new level. However, it is worth noting that the progress of the integration of countries, as well as the increase in international trade and economic relations have led to the emergence of disputes in this area.

At the moment, the most effective tool for resolving disputes of this kind is international commercial arbitration. International commercial arbitration is one of the types of alternative dispute resolution and represents a special structure of non-state dispute settlement, the parties to which are persons with different state affiliation.

The relevance of the legal regulation of international commercial arbitration on the one hand, and the significant differences in the national law governing the activities of international commercial arbitration, on the other, creates the need to streamline these activities and achieve uniformity[1].

International commercial arbitration is governed by several international treaties and conventions, that establish general principles and rules that the parties must follow in arbitration proceedings.

Currently, in the settlement of this, the international community pays considerable attention to the unification of arbitration procedural law. There are a number of international acts in this area. They differ both in content, in legal force, and in the method of

[1] Rustambekov I.R. International Commercial Arbitration. Textbook. – T.: TSUL, 2018. p. 62.

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application. Many of them were prepared within the framework of the UN. First of all, we can mention the 1961 European Convention on Foreign Trade Arbitration. It was developed under the auspices of the UN Economic Commission for Europe adopted in Geneva on April 21, 1961 and entered into force on January 7, 1964. The Convention has gone beyond the regional framework as a result of the accession of non - European States[2].

This Convention contains rules that establish the procedure for the formation of arbitration, the consideration of the case, the making of decisions, as well as the conditions and consequences of the recognition of an arbitration award as invalid. Article 1 states that the application of this Convention in both institutional and isolated arbitration (ad hoc) is appropriate if the parties submitting their dispute to arbitration are located in the territory of different Contracting States.

Despite the fact that the procedure for dispute resolution is regulated in some detail here, the rules that the participants must adhere to are indicated, this Convention has not been so widely applied that even in Europe it is not generally applicable (for example, the UK has not yet joined).

The international legal regulation of international commercial arbitration not only ensures the unity of the regulation of the dispute resolution procedure, but also creates a basis for the recognition and enforcement of a foreign arbitral award rendered in the territory of a State other than the country where its recognition and enforcement is sought. Such a fundamental universal international treaty is the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards of June 10, 1958. This Convention is truly universal. It is attended by more than 146 states, in particular the Russian Federation and the CIS countries[3].

This Convention establishes the obligation of the participating States to enforce foreign arbitral awards. However, it is important to note that in the New York and European Conventions, the reference mostly goes to national law, since they do not affect international agreements concluded between other participating States on the recognition and enforcement of arbitral awards.

The unwillingness of States to bind themselves with legal obligations under the international arbitration process, as the practice of the existence of the European Convention has shown, has led to the use of another form of convergence of arbitration procedural law - the creation of the UNCITRAL Model Law on International Commercial Arbitration[4]. It was developed by the UN Commission on International Trade Law approved by the UN General Assembly on December 11, 1985 and recommended to States as a model of the relevant national law.

It should be emphasized that the Model Law is not an international treaty and, accordingly, it is not binding on States. Nevertheless, it is able to bring arbitration procedural law closer together. The UNCITRAL Rules are also widely used. In international practice, this document has such a high professional level that even permanent arbitrations apply it in addition to their own arbitration rules.

In international commercial practice, arbitration rules developed within the framework of the United Nations are quite often used: Arbitration Rules of the United Nations Economic Commission for Europe 1966, Rules of International Commercial Arbitration of the United Nations Economic Commission for Asia and the Far East 1966, Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL) 1976. All three documents are unified rules of arbitration procedure for ad hoc arbitration[5].

Arbitration agreements also play a huge role, without which all other elements do not matter much. Arbitration agreements are included in the list of direct sources of the ICA, which can be concluded both before and after the implementation of commercial proceedings. Agreements of this type are based on one of the most significant principles of private international law - the autonomy of the will of the parties. This principle implies that the participants have an almost unlimited right to choose all the important points of dispute resolution. This is exactly what distinguishes the ICA from the national state judicial system. In the national judicial system, the parties only have the opportunity to choose the applicable law.

Regional international agreements in the field of arbitration also include the Inter-American Convention on International Commercial Arbitration, concluded in Panama on January 30, 1975. The Arab Convention on International Commercial Arbitration of 1987. Thus, the considered international documents create tangible support for international commercial arbitration; their purpose is to create national arbitration legislation

[2] Rustambekov I.R. International Commercial Arbitration. Textbook. – T.: TSUL, 2018. p. 63.
[3] https://studme.org/
[4] https://studfile.net/preview/9759532/page:75/
[5] Rustambekov I.R. International Commercial Arbitration. Textbook. – T.: TSUL, 2018. p. 64.

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defining the jurisdiction of arbitration and the procedure of proceedings.

An important area of international legal regulation of commercial arbitration is the creation of a legal basis for the recognition and enforcement of decisions rendered by arbitration on the territory of one State, on the territory of another State (in other words, foreign arbitral awards). Enforcement of a foreign arbitration award in case of evasion by a party from its voluntary execution is of particular importance for participants in international economic turnover, but it faces great difficulties. This problem is largely solved with the help of international law. There is a special convention on this issue, but, in addition, almost any international legal act on international commercial arbitration has articles providing for the recognition and enforcement of foreign arbitral awards[6].

The cooperation of States in this area is also manifested in the creation of specialized international arbitration centers for the consideration of specific types of commercial disputes. On the basis of the Convention on the Settlement of Investment Disputes between States and Persons of Other States, the International Center for Settlement of Investment Disputes (ICSID) was established. The Convention was developed under the auspices of the International Bank for Reconstruction and Development, adopted on March 18, 1965 and entered into force on October 14, 1966 (it is usually called the Washington Convention). About 150 states participate in it.

This center regulates investment disputes that arise between the government and foreign private investors. The purpose of ICSID is to provide legal opportunities for arbitration procedures and for reconciliation of the parties. It is an authoritative international arbitration institution that is looking for ways to eliminate foreign economic obstacles to private investment.

And as for the Convention, it establishes certain conditions without which the ICSID jurisdiction cannot extend:

1) The dispute must necessarily be of an investment nature;

2) The parties must be a State party to the Washington Convention and an investor from another State that is also a member of this Convention;

3) The parties must have written consent to consider the dispute in ICSID.

The Republic of Uzbekistan is also a party to quite a large number of bilateral agreements concerning the mutual protection of foreign investments. This suggests that this area is developing in our state and, for this reason, it is necessary to take measures to solve problems that may arise in this area.

Based on the above, it can be concluded that there are currently quite a lot of sources regulating the ICA. This shows how important this institution is. However, we should also not forget about the national legal framework. The development of the national legal framework is necessary to improve the activities of international commercial arbitrations in the country, and a reference to international experience and existing international documents can help in this.

In general, the international legal regulation of international commercial arbitration is important to ensure the efficiency and reliability of the arbitration process. Conventions and treaties establishing the rules of international commercial arbitration provide the parties with flexibility in choosing procedures, arbitrators and the place of arbitration, as well as ensure the recognition and enforceability of arbitral awards in various countries.

In addition, the international legal regulation of international commercial arbitration also contributes to the development of arbitration law, as various countries and legal systems contribute to the creation and improvement of arbitration procedures and rules.

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