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# ARBITRATION COURT: SOME ISSUES OF LAW PROTECTION

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**Abstract:**

In the context of modernization and reform of the country, law enforcement and judicial reforms are aimed primarily at the comprehensive protection of human rights, freedoms and legitimate interests. It is the gradual and gradual ongoing reforms that give the state the role of chief reformer, ensure the rule of law, implement strong social policies. It should be noted that today, in addition to the competent courts, arbitration courts also face various problems in the consideration of a number of cases on civil and economic disputes in the field of law enforcement. This article discusses the role of arbitration courts in law enforcement issues.

**Keywords:** Arbitration Court, Arbitration Proceedings, Competent Court, Decision, Writ Of Execution, Law, Code.

## INTRODUCTION

The fact that disputes arising from civil and economic legal relations are also resolved by arbitration courts is important for the further deepening of market relations and the development of entrepreneurship in our country. The Decree of the President of the Republic of Uzbekistan "On additional measures to ensure the rapid development of entrepreneurial activity, comprehensive protection of private property and improving the quality of the business environment" was one of the important steps in this direction. [1]

The question of the subject structure of law enforcement relations is relevant and controversial at the same time. There is no clear idea of this in modern legal science. In particular, the position is expressed that law enforcement activities can also be carried out by non-governmental systems. N.I. Matuzov writes that in recent years, along with government agencies, there are many private organizations (notaries, lawyers, all kinds of firms, service bureaus), which create objectively healthy competition and limit the former monopoly in these areas. [2]

VN Kartashov also believes that non-governmental non-profit organizations have played an important role in the implementation of law enforcement practices. [3] We are talking about self-governing bodies and various business entities. For example, local authorities are directly authorized by the state to perform these functions. Therefore, in the opinion of the scientist, it is more accurate to say that law enforcement is not the state power, but the power of the competent authorities. V.N. Kartashov enumerates the features of law enforcement documents, noting that they are not the actions of any participant, but only the strictly defined (within the jurisdiction) subjects of law enforcement, which issue these documents on matters within their direct competence. [4] These include government agencies and non-governmental organizations.

In a number of his works, Yu.A. Tikhomirov argues the need to clarify the doctrine of law enforcement agencies in relation to the subject, including the structures that perform public functions, the reality. [5] Subjects of law are authorized only as structures of power. These include structures that provide public services. Their status is determined by laws, other regulations, as well as the list of services and the nature of the relationship with customers. The idea of carrying out law enforcement activities by non-governmental organizations is not new. In particular, individual legal scholars have studied the law enforcement activities of public organizations. At the same time, he stressed that the law enforcement activities of public organizations are based on the same fundamental principles as government agencies, on the basis of integrity. [6]

The above can be linked to the activities of the arbitral tribunal, which is a law enforcement body. The combination of public litigation with alternative forms of consideration is a promising area for the development of a system for resolving legal disputes, both nationally and internationally. [7] Participants in civil and economic disputes are increasingly turning to arbitration, which is positively compared to competent litigation with low cost, choice of arbitration courts, efficiency, confidentiality, simplified procedures.

Arbitration occurs in a procedural relationship only between two unequal subjects, one of which is always the arbitral tribunal (compulsory subject), which has the character of authority and subordination. [8] The equal status of the subjects cannot be considered as a reliable basis for resolving a legal dispute. Only the ability to require the parties to perform their procedural obligations and to ensure that their procedural rights are respected can serve to consider and resolve the dispute between the parties.

One of the hallmarks of law enforcement is its imperative nature, the fact that the legislation is

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adopted in strict accordance with the law enforcement documents, which are binding on all persons to whom they apply; if necessary, provide law enforcement documents with state coercion, and sometimes transfer them to state coercive actions. [9] In the legal science of Uzbekistan and foreign countries, the doctrinal position of scholars has been formed, which justifies the possibility of considering subjective law in relation to another law as a manifestation of one subjective state power, allowing legal protection of the interests of the person who has this right.

The application of the law is mandatory, as evidenced by the implementation of law enforcement activities to express the unilateral will of the competent authorities; law enforcement documents adopted in strict accordance with the law, which is mandatory for all applicants; if necessary, to provide law enforcement documents with state coercion, and sometimes to transfer them to state coercive actions.

A direct influence on the actions of legal entities occurs in the consideration of specific cases and the issuance of specific legal instructions on them.

The powers of the arbitral tribunal shall be determined by its role in the application of the law and shall be such as to ensure the proper consideration and resolution of the dispute and to guarantee the rights of the parties and other participants in the arbitration proceedings. Thus, arbitration is a relationship of power, such as a procedural relationship, a civil procedural relationship, and an economic procedural relationship, the subjects of which are the relationship of power and subordination.

The activities of the arbitral tribunal are subject to jurisdiction.

Jurisprudence is traditionally defined in science as the activity of the competent (authorized by law) bodies in the prescribed manner to consider legal issues and make decisions on them that have legal force. In resolving legal disputes, arbitration courts shall carry out law enforcement activities aimed at the unconditional exercise of substantive law within the framework of protective legal relations. Therefore, the activity of the arbitral tribunal in the consideration of legal disputes and the issuance of binding decisions on them (ie the resolution of court cases) is a jurisdiction.

Although justice has traditionally been understood as a form of exercise of power by the judiciary, which is unique to the courts, they end up with judicial decisions that are binding on all persons against whom they are issued. For example, in the opinion of E.A Sukhanov, an arbitration court is a body that protects civil rights by a court, such as a state court of general jurisdiction or a state (competent) court, which administers justice in this position. At the same time, not to mention arbitration courts is explained by the fact that in the legislation on the judicial system they are not state courts and in this sense are not part of the judicial system (hierarchy of state courts). [10] M.V Nemytina also argues that arbitration courts are the most common form of justice, an alternative to the state. [11]

Undoubtedly, the powers to consider and resolve disputes are given to arbitration courts by the state (through the inclusion of relevant norms in the legislation and the formation of the legal regime of their activities), as well as by the parties to the dispute. According to the law, the state delegates some of its powers to the arbitral tribunals to conduct law enforcement activities in the field of dispute resolution, as well as sets the limits and minimum standards for compliance with the issued documents. are recognized on an equal footing with the documents. The arbitral tribunal is not part of the judicial system of the republic. However, they cannot carry out their activities without interaction with the state courts. In order to define a clear procedural and legal relationship between arbitration courts and state courts, the Law on Arbitration Courts, adopted on 8 February 2006, introduced the concept of "competent court". Copies of documents issued by arbitration courts must be sent to the competent court. It is necessary to take temporary measures, to consider the issue of appeal against the decision of the arbitral tribunal, to obtain a writ of execution to enforce the decision made as a result of the arbitration proceedings, and to apply to the competent court for such cases. Although the system of arbitration is similar in its direction to the system of state courts, it cannot be included in this system because arbitration is still based on slightly different principles. Therefore, in arbitration proceedings, unlike in the justice system, dispute resolution may be based on principles that are inconsistent with the principles of justice (e.g., confidentiality, confidentiality of arbitration proceedings). The principle of confidentiality is the institutional principle of arbitration. On the one hand, it is manifested in the lack of transparency in the procedure for consideration of the case in the arbitral tribunal, as well as in the fact that the decision is made only in the presence of the parties and announced by him. On the one hand, this is manifested in the fact that the procedure for consideration of the case in the arbitral tribunal is not disclosed, as well as in the issuance and publication of its decision only in the presence of a court decision. Therefore,

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according to Article 28 of the Law on Arbitration, an arbitrator has no right to disclose information that became known to him during the arbitration without the consent of the parties to the arbitration or their legal successors, or to question the arbitrator as a witness. cannot be done. Unfortunately, the law quietly ignores the consequences of non-compliance by arbitration courts with the obligation not to disclose information. It should be noted that although the law states that arbitration courts may not be questioned as witnesses, in practice judges of arbitration courts are questioned as witnesses by competent courts. In order to eliminate this discrepancy, it would be expedient to amend Article 56 (3) of the Code of Civil Procedure and Article 53 (3) of the Code of Economic Procedure to prohibit arbitral tribunals as witnesses.

Given the illegality of the disclosure of information by the arbitral tribunal without the consent of the parties and the possibility of negative property and reputation consequences of the offense, it can be said that the absence of sanctions in the Law on Arbitration Courts and does not preclude compensation for moral damage. Article 14 of the law sets out the requirements for an arbitrator. One of the necessary conditions for the performance of the duties of an arbitrator is related to the fact that the conviction for the crime committed has not been completed or the conviction has not been expunged. The law allows the parties to agree or set additional requirements for the qualifications of an arbitrator. For example, it may seem appropriate to require an arbitrator to have the legal expertise needed to resolve complex legal issues and to interpret legal documents correctly.

The rules of arbitration shall be established by the formalized rules (charters, regulations) of the permanent arbitration court. In addition, in accordance with Article 25 of the Law "On Arbitration Courts", the rules of arbitration by the parties may not contradict the mandatory rules and

Article 10 sets out the system of norms to be applied by the arbitral tribunal in resolving disputes and in making decisions. However, the issue of determining the decisions of the Plenums of the Supreme Court of the Republic of Uzbekistan remains controversial, but their use will assist the arbitral tribunal in interpreting and applying the law.

The legislation of the Republic of Uzbekistan does not contain norms providing for restrictions on the powers of arbitration courts related to the composition of the parties to the dispute. This is confirmed by the already established arbitration practice. For example, in the Syrdarya region, disputes over a contract between a government agency and a limited liability company were considered. During the consideration of this dispute, the judge of the arbitration court made a decision on the issue of recovery of a large amount of money from a state organization at the expense of a limited liability company.

The jurisdiction of cases in arbitration is broadly defined by law. Thus, Article 9 of the Law on Arbitration Courts stipulates that arbitration courts may resolve disputes arising from civil legal relations, including economic disputes between business entities, as well as disputes arising from administrative, family and labor relations, as well as the law. it is determined that it will not resolve other disputes.

Therefore, M.A. Rajkova notes that the arbitral tribunal is inherent in a civil dispute that meets a combination of two requirements:

- national legislation does not exclude the possibility of referring the dispute to arbitration;
- this dispute is included in the terms of the arbitration agreement or contract concluded by the parties. [12]

The law's provision that the arbitral tribunal must clearly resolve disputes indicates that the arbitral tribunals do not have the authority to hear cases to establish facts of legal significance, as in such cases there is no civil dispute.

The law rarely prohibits arbitration. This is particularly the case in bankruptcy cases, disputes arising from share-merging agreements, unless the parties have entered into an arbitration agreement after the grounds for filing a claim have reached the exclusive jurisdiction of the state courts. First, this applies to civil law disputes involving real property rights.

Currently, the process of gaining experience in the application of the legislation on arbitration by jurisdiction bodies (state courts and arbitration courts) is underway. Contradictions and shortcomings in the current legislation are clearly reflected in the practice of law enforcement agencies. The experience gained in law enforcement agencies should be the basis for the formation of an integral scientific concept of arbitration, on the one hand, and for new legislative initiatives to address shortcomings in the legal regulation of activities, on the other hand. At the same time, doctrinal developments serve as a primary source for law enforcement practice and lawmaking activities.

State courts in Uzbekistan should be interested in the active development of arbitration, as alternative dispute resolution methods not only provide the conditions for the preservation and development of business partners in the field of entrepreneurship, but also reduce the workload in the courts.

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In particular, the Permanent Arbitration Court under the Tashkent city branch of the Association of Arbitration Courts of Uzbekistan, in addition to the permanent arbitration courts in Tashkent city districts, in 2018-2020 considered a total of 1,248 cases (including 796 civil and 452 economic disputes). On the basis of the permanent Arbitration Court under the Tashkent city branch (at least 1-2 cases per week), cases are considered mainly on issues related to non-performance or improper performance of mutual loan agreements. The number of cases submitted to the arbitration court is growing every month.

Although the bulk of disputed and partially undisputed cases are decided by state courts, the state judicial form of jurisdiction (state jurisdiction) as a part of the state law enforcement body is not unique and should not be.

Today, the arbitral tribunal is the most appropriate jurisdiction for market relations because it covers most of what is deprived of the state court system. Arbitration allows for fair, impartial, and professional justice in business. The jurisdiction and importance of any arbitral tribunal depends on how competently and impartially the disputes are heard and how legally competent its decisions are.

In the practice of local law enforcement, the institution of alternative dispute resolution should be considered as a system of basic guarantees for the exercise of constitutional law on the state (court) and other protection (assistance). This allows a person to create real opportunities to use all means to ensure their rights and interests that are not prohibited by law (Part 2 of Article 3 of the Constitution of the Republic of Uzbekistan). All of this requires a step-by-step, consistent counteraction by the permanent arbitral tribunals and the interim arbitral tribunals.

It is no secret that today, as a result of the growing number of civil and economic disputes, the issue of enforcement of arbitration decisions by the parties by applying to the competent courts for an additional special state fee leads to distrust and confusion in arbitration courts. In this regard, it would be expedient to amend Article 50 of the Law "On Arbitration Courts" to address the issue of enforcement of decisions made by arbitration courts by the chairmen of permanent arbitration courts of regional and Tashkent city branches.

It is necessary to have a deeper understanding of the activities of non-governmental (private) entities in the context of the formation of civil society systems, the centralization of public administration, the growth of social, civic, legal activity. In the general structure of the modern methodology of law enforcement, the general theoretical level and the level of industrial sciences, complex branches of legislation in the formation of general legal education standards should be identified and subjected to scientific developments. The methodology of law enforcement is necessary, its task is to optimize it and increase its efficiency. This is largely due to the work of arbitration courts.

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