

INTERNATIONAL COMMERCIAL ARBITRATION AND NATIONAL COURTS: THE ROLE OF THE NEW YORK CONVENTION IN THE ENFORCEMENT OF ARBITRAL AWARDS

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ABSTRACT

In the context of globalization and the rapid expansion of international trade, disputes arising from cross-border commercial relations have become increasingly complex. Traditional state courts are often unable to provide efficient and neutral mechanisms for resolving international commercial disputes. Consequently, international commercial arbitration has emerged as one of the most preferred methods of dispute resolution. This article examines the fundamental differences between international arbitration and national courts, with particular attention to the enforcement of arbitral awards under the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. The article also analyzes the legal framework of arbitration in Uzbekistan and evaluates the country's efforts to align its arbitration legislation with international standards. The study concludes that the New York Convention plays a decisive role in ensuring the effectiveness and global acceptance of arbitration as a reliable dispute resolution mechanism.

Keywords: *international arbitration, national courts, arbitral awards, New York Convention, enforcement, commercial disputes, Uzbekistan, international commercial law.*

INTRODUCTION

The growth of international trade and foreign investment has significantly increased the number of disputes involving parties from different jurisdictions. In such disputes, the choice of an effective dispute resolution mechanism becomes critically important. Traditionally, national courts have served as the primary institutions for dispute resolution. However, due to issues such as lengthy procedures, lack of neutrality, jurisdictional limitations, and difficulties in enforcing foreign judgments, parties increasingly prefer international commercial arbitration.

International arbitration offers several advantages over national courts, including flexibility, confidentiality, neutrality, and easier enforcement of decisions across borders. One of the most significant legal instruments supporting the effectiveness of

arbitration is the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, commonly known as the New York Convention of 1958.

The Convention established a unified international legal framework for the recognition and enforcement of arbitral awards among contracting states. Today, it is considered the cornerstone of international commercial arbitration. Uzbekistan, as a participant in international economic relations, has also undertaken important legal reforms aimed at improving arbitration mechanisms and attracting foreign investment.

This article explores the differences between international arbitration and state courts, analyzes the importance of the New York Convention, and evaluates the development of arbitration legislation in Uzbekistan.

International Commercial Arbitration: Concept and Characteristics

International commercial arbitration is a private method of dispute resolution whereby parties agree to submit their disputes to independent arbitrators rather than national courts. Arbitration is based on party autonomy, meaning that the parties are free to choose the applicable law, arbitration rules, place of arbitration, and arbitrators.

One of the main characteristics of arbitration is neutrality. In disputes involving parties from different countries, neither side may wish to submit the dispute to the courts of the opposing party's state. Arbitration provides a neutral forum that reduces concerns regarding bias and political influence.

Another important feature is confidentiality. Unlike court proceedings, which are generally public, arbitration proceedings are usually private. This is especially important for commercial entities seeking to protect trade secrets and business reputations.

Arbitration is also known for procedural flexibility. Parties may adapt procedures according to the nature of the dispute, which often leads to faster dispute resolution compared to national courts. Furthermore, arbitrators are usually experts in specialized areas of law or commerce, increasing the quality of legal analysis in technically complex disputes.

Despite these advantages, arbitration also has certain disadvantages. Arbitration proceedings may involve substantial costs, particularly in disputes administered by major arbitration institutions such as the International Chamber of Commerce (ICC) or the London Court of International Arbitration (LCIA). In addition, the possibilities for appealing arbitral awards are limited.

National Courts and Judicial Proceedings

National courts remain an essential mechanism for dispute resolution within domestic legal systems. Courts possess sovereign authority and their decisions are

legally binding within the jurisdiction of the state. Judicial proceedings are generally governed by strict procedural rules established by national legislation.

One advantage of national courts is the availability of appellate review. Parties dissatisfied with a court decision may challenge the judgment before higher judicial authorities. Courts also possess stronger coercive powers in relation to evidence collection and interim measures.

However, state courts face several limitations in international disputes. First, court proceedings are often time-consuming and expensive. Second, domestic courts may be perceived as biased in favor of local parties. Third, enforcing foreign court judgments in another jurisdiction may be difficult due to the absence of international enforcement mechanisms comparable to the New York Convention.

In many cases, international business entities avoid litigation before national courts precisely because of concerns regarding neutrality and enforceability.

Comparative Analysis of Arbitration and State Courts

International arbitration and national courts differ significantly in terms of procedure, enforceability, confidentiality, and neutrality.

Arbitration provides parties with greater autonomy and flexibility. The parties may select arbitrators with expertise in specific commercial sectors, whereas judges in national courts are assigned by the state. Arbitration proceedings are usually faster and more confidential than litigation.

In contrast, state courts offer stronger procedural safeguards, including appellate review and public accountability. Judicial proceedings may also be less expensive in certain domestic disputes.

The most significant distinction concerns enforcement. Arbitral awards benefit from the enforcement regime established by the New York Convention, which currently has more than 170 contracting states. Foreign court judgments, by comparison, are often subject to complicated bilateral treaties or domestic recognition procedures.

As a result, arbitration has become the preferred dispute resolution mechanism in international commerce.

The Role of the New York Convention in the Enforcement of Arbitral Awards

The Convention on the Recognition and Enforcement of Foreign Arbitral Awards was adopted in New York on 10 June 1958 under the auspices of the United Nations. The Convention entered into force on 7 June 1959 and is widely regarded as the most successful treaty in the field of international commercial arbitration.

The primary objective of the Convention is to facilitate the recognition and enforcement of foreign arbitral awards among contracting states. Article III of the Convention obliges contracting states to recognize arbitral awards as binding and enforce them in accordance with national procedural rules.

One of the Convention's most important achievements is the limitation of grounds upon which enforcement may be refused. Article V establishes an exhaustive list of exceptions, including invalid arbitration agreements, violations of due process, excess of arbitral authority, procedural irregularities, and public policy concerns.

The Convention significantly strengthened international confidence in arbitration because parties can expect arbitral awards to be enforceable across multiple jurisdictions. Without such an enforcement mechanism, arbitration would lose much of its practical value.

The success of the Convention is demonstrated by its widespread adoption. Today, it serves as the foundation of the global arbitration system and contributes substantially to the development of international trade and investment.

Arbitration Reforms and Legal Framework in Uzbekistan

Uzbekistan has undertaken substantial legal reforms aimed at improving the investment climate and integrating into the international economic system. One important step was Uzbekistan's accession to the New York Convention in 1996.

In recent years, Uzbekistan has adopted several legislative measures regulating arbitration activities. In particular, the Law of the Republic of Uzbekistan "On International Commercial Arbitration," adopted in 2021, established a modern legal framework for international arbitration based largely on the UNCITRAL Model Law.

The adoption of this legislation reflects Uzbekistan's commitment to creating favorable legal conditions for foreign investors and international businesses. The law recognizes the validity of arbitration agreements, regulates arbitral procedures, and establishes mechanisms for recognition and enforcement of arbitral awards.

Furthermore, Uzbekistan has shown increasing interest in developing alternative dispute resolution mechanisms in order to reduce the burden on state courts and improve legal certainty in commercial relations.

Nevertheless, certain challenges remain. These include the need for greater judicial experience in arbitration-related matters, consistent enforcement practices, and increased awareness among businesses regarding the advantages of arbitration.

Despite these challenges, Uzbekistan's legal reforms demonstrate positive progress toward harmonization with international arbitration standards.

CONCLUSION

International commercial arbitration has become one of the most effective mechanisms for resolving cross-border commercial disputes. Compared with national courts, arbitration offers neutrality, confidentiality, procedural flexibility, and, most importantly, an effective international enforcement system.

The New York Convention of 1958 plays a central role in the success of arbitration by ensuring the recognition and enforcement of arbitral awards across contracting states. The Convention established a reliable legal framework that significantly enhanced international confidence in arbitration.

Uzbekistan's accession to the New York Convention and the adoption of modern arbitration legislation indicate the country's willingness to integrate into the global legal and economic system. Although certain practical challenges remain, ongoing legal reforms are likely to strengthen Uzbekistan's position as a favorable jurisdiction for international commerce and investment.

Ultimately, the relationship between arbitration and national courts should not be viewed as purely competitive. Instead, both mechanisms complement each other in promoting justice, legal certainty, and the effective resolution of international commercial disputes.

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