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Harmonization of the Legal Framework for Online Arbitration

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Abstract

Developed to resolve disputes worldwide in a digital environment, the program works only online. Unlike other court software that provides an online interface for discrete tasks, such as filling out documents online, and conducting online hearings, users of Alternative Dispute Resolution (ADR) do not go to court for traditional requests. The program is not a technological platform designed for making court decisions, but a tool to assist the court in resolving the disputes or cases of the applicants. Dispute resolution in a digital environment allows parties to resolve disputes confidentially, quickly, at their own discretion, and impartially, and to ensure worldwide enforcement of the decision. In this regard, special attention is paid to the wide introduction of information technologies in this field.

Keywords: ADR, COVID-19 Pandemic, Online Dispute Resolution, Tashkent International Arbitration Center (TIAC), Electronic Commerce, Unilateral, Bilateral, Versatile, Model Law

International trade relations and investment activities are developing rapidly in the world. At the same time, there are many disputes related to them. In the current fast-paced world, one of the most important concerns that the global community must address is the resolution of international trade and investment disputes. Due to this demand, several types of dispute resolution are being developed. After the COVID-19 pandemic, online dispute resolution was rated as the most convenient system in the digital environment as the most demanding method of dispute resolution. Statistics and centers specializing in online dispute resolution. According to their end-2021 reports, 46.72% (78,440) of online dispute resolution cases were classified as cross-border disputes and 53.28% (89,446) were domestic disputes. Among them, the sectors that caused the most disputes are airlines (aviation sector (15.9%), online clothing store (9.87%), trading of goods related to information technologies (6.69%), hotel services (3.99%), etc. [1].

The largest number of appeals for online dispute resolution is in the Federal Republic of Germany (1456), Austria (486), Hungary (190), the Netherlands (142) and other countries contributed. These indicators are a clear example of the importance of effective dispute resolution in a digital environment. It is essential to distinctly describe the organizational

foundation of its activity and regulatory mechanisms. It should be noted that today there is no research of significant scientific and practical importance to the issues of reviewing the dispute, determining the right and authority to resolve it, canceling the review of the dispute on the online platform, or recognizing and enforcing its decision. special attention is paid as a complaint [2].

In our republic, the field of ensuring the rule of law is actively working in a systematic manner, judicial system and alternative dispute resolution mechanisms, and improving the investment environment, effectively regulating foreign trade activities and guaranteeing the rights of subjects in the direction of rapid business development. One of the top priorities for the growth of the economic and social sphere has been determined to be the active attraction of foreign investments to sectors and areas of our country's economy through enhancing the investment environment. In this direction, further improvement of law enforcement practice is of urgent importance [3].

The Civil Code of the Republic of Uzbekistan, the Economic Procedure Code, "On Arbitration Courts", "On Electronic Commerce", "On Investments and Investment Activities", "On International Commercial Arbitration", Decree of the President of the Republic of Uzbekistan No.5087 of June 19, 2017 "Regarding steps to radically enhance the system of governmental protection of lawful business interests and advance entrepreneurial development", Decision No.4001 dated November 5, 2018 "On the establishment of the Tashkent International Arbitration Center (TIAC) under the Chamber of Commerce and Industry of Uzbekistan", No.4300 dated April 29, 2019 Resolution "Concerning steps to further enhance the systems for luring foreign direct investment to the Republic's economy", No.4754 of June 17, 2020 "Regarding further developing the methods for alternative dispute resolution". This dissertation research serves to a certain extent in the implementation of the tasks defined in the Resolutions of "On improvement measures" and other legal documents [4].

Decision No.4300 of April 29, 2019 "Regarding steps to further enhance the systems for luring foreign direct investment to the Republic's economy", June 17, 2020, In some ways, the research for this thesis helps carry out the objectives in the Decision No. 4754 "On measures to further improve the mechanisms of alternative dispute resolution" and other legal documents related to the topic. Decision No.4300 of April 29, 2019 "On measures to further improve the mechanisms of attracting foreign direct investment to the economy of the Republic", June 17, 2020 This thesis research serves to a certain extent in the implementation of the tasks defined in the Decision No. 4754 "On measures to further improve the mechanisms

of alternative dispute resolution" and other legal documents related to the topic [5].

We now have a relatively unified worldwide legal framework for international economic arbitration thanks to the Model Law. This harmonisation has brought considerable benefits to parties involved in business disputes by providing some clarity regarding the rules that would apply if their conflicts are submitted to arbitration.In our opinion, by providing a uniform legal framework, the ambiguities of the changes in the regulatory legal documents of the legal entity established in different jurisdictions will be eliminated. The parties to the contract can choose the law applicable to the entire contract or some of its parts. In this case, the right to be applied both during the conclusion of the contract and later is chosen. Also, the parties to the contract decide on the issue of changing the law applicable to contract [6].

It should be emphasized that many internet arbitration conflicts emerge as a result of overseas transactions. As a result, we feel it would be advantageous to adopt a specific universal set of rules that would allow us to have a full, specific, efficient, and modern regulation for online arbitration. Harmonization in a specific area can be achieved mainly through: I) an international agreement or convention or II) model laws. Each has its own advantages and disadvantages. Professor Dr. R.Roziyev believes that contracts occupy a special place among legal instruments that regulate social relations. Contracts have been used by mankind for thousands of years as a flexible legal tool to regulate various social relations. Another such legal instrument is the law. Of course, the contract regulates the course of work within the framework of the law, defines the range of their possibilities, and directs their actions. It also determines the consequences in case of violation of the requirements of the contract [7].

An international treaty can be useful for achieving a high level of harmonization, as it is a binding document that requires all signatories to include provisions set out in their domestic law. Associate Professor V. Topildiyev: "Formed between two or more parties general rules on contracts are also applied to contracts if such contracts do not conflict with the multilateral nature of contracts. The contract serves as the basis for establishing, changing, or canceling legal relations. But the action of the contract is not limited to this. If other legal facts are completed by creating, changing or canceling a legal relationship according to the general rule, the contract differs from these legal facts and, in addition to establishing, changing or canceling the legal relationship, it is also a legal relationship within the framework defined by legal norms [8].

However, this also creates certain problems: the discussion, development, and approval of an international convention on this issue can take a long time,

since international conventions involve the creation of obligations for signatories. States may be unwilling to sign an instrument requiring them to fulfill treaty obligations. Signatory governments, for example, must amend their legislation within a certain time frame; if they do not comply with these duties, they will be in violation of the convention and hence liable to international responsibility. Furthermore, it is possible that parties will take a long time to arrange a convention. Given the enormous number of nations involved and the variations in legal systems, it is logical that debates and negotiations will take several years to conclude. Additionally, given the rapid pace of innovation in electronic communications, conventions may be more difficult to modify or update [9].

In today's fast-paced information and technology era, speedy adoption of documents and legislation is required. It takes less time to create a regional treaty or convention than any other type of international agreement. But the fact that it covers a relatively small area, that is, it applies only to a certain region, leads to an unfavorable situation compared to other regions. As a result, mutual ideological unity is not formed. When concluding contracts, the harmony of interests of different parties is important. The rights and obligations of the parties signing it are stated in any contract. Contracts are divided into several types according to how the rights and obligations of the parties are distributed in them. They are as follows:

- Unilateral
- Bilateral
- Versatile

The fact that one of the participating parties has only the right and no obligation, and the other party has only the obligation, indicates that the contract is one-sided. For example, under a gift contract, one party undertakes to transfer any property to the other party on a condition of non-repossession, and the other party receives it and has the right to use it as he wishes. Double-sided and in the contract, both parties have independent rights and obligations. Such an agreement can be cited as an example of a payment-contract agreement concluded between a student and a higher education institution, and agreements related to the sale of private property. According to the payment-contract agreement, the student has a number of rights, such as obtaining a quality education, using the university building, equipment, and library, as well as observing the internal procedures of the university, and paying the amount specified in the contract on time. Obligations such as It should be mentioned here that for the second party, that is, for the university, the student's obligation serves as a right and his right as an obligation [10].

A contract is an agreement between three or more parties. It can be cited

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as an example of a four-way contract between a university, a student, an employer, and the governor of the relevant district, which is concluded on the basis of certain rights and obligations. Model laws are suggested documents established by international bodies (such as UNCITRAL) with proposed legislation that governments may adopt if they so want. Because they are not legally binding instruments, their use is more flexible, and governments may be hesitant to embrace them. As a result, they are more easily accepted than treaties, but the intended level of harmonisation may not be realised since governments can change the enacted law. Since the model laws are not binding documents, there is a possibility that the states will make changes to the previously adopted legal norms under the guise of ensuring their sovereignty [11].

There are examples of model laws that have been used in many countries in the past. For example, Model Law on Electronic Commerce, model laws on procurement of goods, facilities and services and model laws on various related fields. Such model laws promote uniformity in international commerce affairs, which frequently entail transnational transactions, and provide parties with some confidence regarding the relevant regulations. Model laws are very straightforward for many countries to implement since they do not constitute a set of duties for governments. Furthermore, because they were written in a short amount of time, we feel that they may be the most convenient approach to unifying online arbitration. We believe that having a model legislation for online arbitration might have several benefits. First, it is a start toward regulating online arbitration, presenting preliminary thoughts about the norms that would be required. Second, it enables some degree of global harmonization. Finally, new technological advances in electronic communication are flexible tools that can be easily modified in cases where existing legislation is outdated or incomplete [12].

Conclusion

Since the existence of an online arbitration stage encourages the parties to reach a (fairer) settlement and not all cases can be resolved amicably, ODR (online dispute resolution) providers should offer non-binding and mandatory ODR (online dispute resolution) solution) should have the right to apply the technique. Such flexibility is necessary to accommodate many types of low-denominator disputes, while ensuring that final, accurate decisions are made in all cases. The idea of expanding access to justice by integrating ADR/ODR (alternative dispute resolution/online dispute resolution) processes into the traditional court system dates back to F. Sander's 1976 speech at the Pound Conference, which is often referred to as the ADR (alternative dispute resolution) movement. is seen as birth.

In that speech, Sander emphasized the concept of a "many-doored courthouse," a metaphor for the proactive role he believes courts should play in directing litigants to the most appropriate process to resolve their disputes. So, setting up some kind of online panel or court is not an entirely new idea. In 2016, British Columbia, Canada received increasing attention due to the introduction of the Civil Resolution Board (CRT). Additionally, a similar proposal for the creation of an "Online Court" in the UK was made by Lord Justice Briggs in his Civil Courts Framework Review (CCSR). Since the latter proposal is more substantive in nature, the following discussion will focus almost exclusively on CCSR. The CCSR (Civil Courts Framework) is in line with a comprehensive reform program expected to be implemented by the UK judiciary by April 2020. This report Lord Chief Justice and submitted and subsequently approved by the Master of the Rolls. Online Court is the most important recommendation of CCSR (Civil Courts Framework). It builds on an earlier proposal by the newly formed ODR (Online Dispute Resolution) Advisory Group. It specifically asked whether ODR (online dispute resolution) could play an important role in the future of civil justice.

In short, the CCSR (Civil Courts Framework) suggests the creation of a completely new online court, distinct from the county court's local divisions, authorized by main law, and regulated by its own procedural rules. It would have had mandatory jurisdiction over all claims up to and including £25,000, including indeterminate claims. However, there are several exceptions. The online court, like the Canadian counterpart, uses a tiered procedural architecture comparable to the three consecutive stages recommended by UNCITRAL (United Nations Commission on International Trade Law) technical notes. However, it takes the shape of a system tailored to a more formal public. It is known that the EU (European Union) and UNCITRAL (United Nations Commission on International Trade Law) are promoting several initiatives to regulate the field of ODR (online dispute resolution) in cooperation. Consideration of these initiatives first requires identifying who the key stakeholders are and what their needs are for developing an ODR (online dispute resolution) framework.

The reason for this is that any of their proposals has the power to fundamentally change the content of the proposed initiatives, and accept or reject them. Governments, businesses, and consumer organizations are the main stakeholders in providing ADR (alternative dispute resolution) services. Although they have common interests in the development of ODR (online dispute resolution), differences can be observed in their views on their use and promotion. Of course, all governments support ODR (online dispute resolution) because it can offer a form of access to justice that courts cannot provide. However, governments also consider the need to reduce the cost of the judiciary

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and legal aid due to budget constraints. In addition, governments are seeking to support the further development of the e-commerce industry, its growth allows creating new jobs and creating an important source of tax revenues.

In particular, the institutional promotion of ODR (online dispute resolution) in the European Union is explained in such a way that it is closely related to the single market strategy of the European Union. Along with the proposals for the ADR (Alternative Dispute Resolution) Directive and the ODR (Online Dispute Resolution) Regulation, in the impact assessment, the Commission considered the availability of domestic and cross-border alternative dispute resolution as a means of strengthening consumer and business confidence in the internal market. and clearly stated that he wants to increase their efficiency. The Commission's basic premise is that consumers' reluctance to trade cross-border internet is due to a lack of appropriate redress procedures under consumer protection law in their respective jurisdictions. As a result, the justification for the institutional promotion of ODR (online dispute resolution) in the EU is to promote more effective compliance and enforcement of consumer legislation, not just to remedy individual infringements.

Refferences

1. Vilalta, A. E. (2010). Legal framework and harmonization of ADR/ODR methods. *Journal of Law and Conflict Resolution,* 2(7), 103-107. Retrieved from http://www.academicjournals.org/jlcr
2. European Commission. (2013). Statistics. European Commission - European Online Dispute Resolution. Retrieved February 23, 2023, from https://ec.europa.eu/consumers/odr/main/?event=main.statistics.show
3. Sorieul, R., Clift, J. R., & Estrella-Faria, J. A. (2001). Establishing a Legal Framework for Electronic Commerce: The Work of the United Nations Commission on International Trade Law (UNCITRAL). *The International Lawyer*, *35*(1), 107–122. http://www.jstor.org/stable/40707598
4. AllahRakha, N. (2024). Cybercrime and the Law: Addressing the Challenges of Digital Forensics in Criminal Investigations. *Mexican Law Review*, 16(2), 23–54. https://doi.org/10.22201/iij.24485306e.2024.2.18892
5. Rahmonkulov, H.R., et al. (2008). *International private law*. Textbook for higher educational institutions. TDYI Publishing House.
6. Kuner, C. (2009). An international legal framework for data protection: Issues and prospects. *Computer Law & Security Review*, 25(4), 311–315. https://doi.org/10.1016/j.clsr.2009.03.005
7. Ruziyev, R.D., & Topildiyev V.R. (2011). *Civil law*: [Study guide]. General part. Cholpon Publishing House.
8. UNCITRAL. (1966). Status: UNCITRAL model law on electronic commerce (1996). United Nations Commission on International Trade Law. Retrieved February 23, 2023, from http://www.uncitral.org/uncitral/en/uncitral_texts/electronic_commerce/1996Model_status.html
9. AllahRakha, Naeem, Modernizing Criminal and Evidence Laws to Facilitate Tourism in

Pakistan. Available at *SSRN*: https://ssrn.com/abstract=4707544 or http://dx.doi.org/10.2139/ssrn.4707544

10. Kuner, C. (2009). An international legal framework for data protection: Issues and prospects. *Computer Law & Security Review*, 25(4), 311–315. https://doi.org/10.1016/j.clsr.2009.03.005
11. Brazil-David, R. (2011). Harmonization and delocalization of international commercial arbitration. *Journal of International Arbitration*, 28(5), 445–466. https://doi.org/10.54648/joia2011036
12. Condlin, R. J. (2017). Online dispute resolution: Stinky, repugnant, or drab? *Faculty Scholarship*, 1576. Retrieved from https://digitalcommons.law.umaryland.edu/fac_pubs/1576