

THE LEGAL FRAMEWORK AND PRACTICE OF ARBITRATION IN UZBEKISTAN*Abduganiev Sobir Abdugafur ugli**A legal assistant of "DUAN & DUAN" law firm**Email: sabeermardoni@gmail.com**Num: +998974322322*

ABSTRACT: This article provides a comprehensive analysis of the arbitration system in the Republic of Uzbekistan. It examines the legal foundations established by national legislation and international treaties, specifies the procedural pathways for the recognition and enforcement of foreign arbitral awards, and contrasts the arbitration mechanism with state litigation. Furthermore, the analysis highlights the advantages of arbitration, including its efficiency, confidentiality, and finality, while also detailing the specific jurisdictional limitations and the critical role of Uzbek courts in enforcing interim measures and foreign awards. The establishment of the Tashkent International Arbitration Center (TIAC) is also presented as a significant development in the modernization of the country's dispute resolution landscape.

Keywords: Arbitration, Alternative dispute resolution (ADR), Litigation, Court Involvement, Recognition of Awards, New York Convention, Economic Procedure Code of Uzbekistan, UNCITRAL Model Law, Jurisdiction, Recognition and Enforcement Order, Appeal Rights, State duties.

Introduction

Dispute resolution in the Republic of Uzbekistan is primarily governed by two distinct mechanisms: litigation and arbitration. Litigation represents the formal process of resolving disputes through the state court system, which applies national civil, economic, administrative, and criminal laws. In contrast, arbitration has established itself as a fundamental method of alternative dispute resolution (ADR), providing a private, efficient, and flexible mechanism for resolving commercial and economic disputes outside the traditional court system. The legal foundation for modern arbitration in Uzbekistan was solidified with the adoption of the Law "On Arbitration Courts" in 2006, which entered into force on January 1, 2007. This law formally instituted arbitration courts, operating alongside state courts, and highlighted the advantages of the arbitral process, including its accessibility, expediency, and exemption from state duties, making it an attractive option for businesses. This research will explore the legal framework, advantages, and procedural pathways governing arbitration in Uzbekistan, focusing on its distinction from litigation and the process for the recognition and enforcement of foreign arbitral awards.

Methods

The article employs a doctrinal legal research methodology to examine the framework and procedures of arbitration in Uzbekistan. The research is conducted through a comprehensive review and systematic analysis of the primary legal sources that constitute the arbitration system.

The core national legislation forming the basis of this study includes:

- The Law of the Republic of Uzbekistan "On Arbitration Courts" (2006), which provides the foundational framework for the establishment and operation of domestic arbitration tribunals.
- The Law of the Republic of Uzbekistan "On International Commercial Arbitration" (2021, No-674), which is in line with the UNCITRAL Model Law on International Commercial

Arbitration. This law governs international commercial arbitration proceedings within Uzbekistan, including the recognition and enforcement of foreign arbitral awards, and aligns with the principles of the New York Convention.

- The Economic Procedure Code of the Republic of Uzbekistan, which outlines the procedural rules for court-ordered interim measures, as well as the specific pathways, timelines, and grounds for the recognition and enforcement of foreign arbitral awards.
- The Civil Code of the Republic of Uzbekistan, specifically Article 9, which provides the legal basis for parties to choose arbitration by granting them the discretion to exercise their civil rights, including the right to protection.
- The Code of Civil Procedure of the Republic of Uzbekistan (Articles 122 and 124), which mandates that state courts must suspend proceedings or refuse to accept a statement of claim if a valid arbitration agreement exists.

Moreover, this research incorporates the provisions of key international treaties to which Uzbekistan is a signatory. These include:

- The 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.
- The Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID Convention).

The analysis also considers the institutional development of arbitration in Uzbekistan, with specific reference to the establishment and operational rules of the Tashkent International Arbitration Center (TIAC) in 2018, as a case study in the system's evolution.

Results

The analysis of Uzbekistan's legal framework shows a comprehensive and multi-layered system governing arbitration, characterized by distinct national legislation and integration with international conventions. The findings are organized into key thematic areas as follows:

1. Legal Foundation and Governing Laws

The activity of arbitration courts in Uzbekistan is supported by an integrated legal system comprising national legislation and international agreements.

- **National Legislation:** The foundational law is the Law "On Arbitration Courts" adopted in 2006, which inaugurated the formal operation of non-governmental arbitration tribunals alongside state courts. While its main provisions are influenced by the principles of the UNCITRAL Model Law, a significant divergence mandates that an arbitral tribunal may only apply the legislation of Uzbekistan; violation of this rule constitutes grounds for setting aside an award. The Civil Code provides the philosophical basis for arbitration: Article 9 states that citizens and legal entities may exercise their civil rights, including the right to protection, at their own discretion, thereby granting parties the autonomy to choose arbitration. Furthermore, the new Economic Procedural Code (2018) contains a dedicated chapter that regulates the recognition and enforcement of foreign court judgments and arbitral awards, stipulating that such awards are only recognized when provided for by international treaties or Uzbek law.
- **International Treaties:** Uzbekistan's integration into the global arbitration system is cemented by its status as a signatory to the 1958 New York Convention, which obliges its courts to recognize and enforce foreign arbitral awards, subject to certain exceptions. Additionally, Uzbekistan is a member state of the International Centre for Settlement of Investment Disputes

(ICSID), granting investors the right to seek dispute settlement under this framework subject to an existing arbitration agreement.

2. Jurisdictional Competence and Limitations.

Arbitral tribunals in Uzbekistan derive authority from valid arbitration agreements and possess jurisdiction over disputes arising from civil legal relations, including commercial disputes between legal entities and individuals engaged in business activities. The research identifies explicit jurisdictional exclusions: arbitral tribunals cannot adjudicate matters related to administrative, family, or labor legal relations. Specific categories include disputes concerning alimony, adoption, reinstatement, and divorce, which remain within the exclusive domain of state courts.

3. Procedural Pathways for Recognition and Enforcement

The recognition and enforcement of foreign arbitral awards in Uzbekistan follow a defined procedural pathway as prescribed by the Economic Procedure Code. This process involves three sequential stages: filing an application, judicial review and decision, and a potential appeal process.

3.1. Filing an Application with the Competent Court. Jurisdiction over applications for recognition and enforcement is vested in specific economic courts. According to article 249 of the Economic Procedure Code, an application for recognition and enforcement of a foreign arbitral award must be submitted to the economic courts of the Republic of Karakalpakstan, regional courts, or the city courts of Tashkent. The application is to be filed at the location of the debtor or, if the debtor's residence is unknown, at the location of its property as registered in the state register.

The application must include the original or a certified copy of the arbitral award and the arbitration agreement. If these documents are not in Uzbek or Russian, certified translations must be provided. According to Article 250, an application shall be submitted in writing and must be signed by the applicant or his representative and must include the following:

1. The name of the economic court to which the application is submitted;
2. The name and location of the foreign arbitration institution and its composition;
3. The full names (surname, first name, patronymic), postal addresses, and places of residence of all parties involved in the case;
4. Detailed information regarding the foreign arbitral award for which recognition and enforcement is sought;
5. A formal petition by the applicant requesting the recognition and enforcement of the award;
6. A complete list of all documents attached to the application.

Additional documents may include proof of the arbitration process, evidence that the award is final and binding, and any other relevant documentation to support the request for enforcement.

3.2. Court Review and Decision. Upon receipt, the economic court is obligated to examine the application for recognition and enforcement in a court session within a statutory period of six months, in accordance with the provisions of the Economic Procedure Code and relevant international treaties.

The court's review is substantive and may result in a refusal to recognize and enforce the award based on the exhaustive grounds enumerated in Article 255. These grounds for refusal are consistent with the 1958 New York Convention and include:

- The award has not yet become binding on the parties or was set aside in its country of origin.
- The party against whom the award is invoked was not given proper notice of the arbitration proceedings or was otherwise unable to present its case.
- The subject matter of the dispute is not capable of settlement by arbitration under the laws of Uzbekistan.
- The recognition or enforcement of the award would be contrary to the public policy (*ordre public*) of the Republic of Uzbekistan, including harming its sovereignty and security.
- The award deals with a difference not contemplated by or not falling within the terms of the submission to arbitration.

If the court is satisfied that none of the grounds for refusal apply and all procedural requirements are met, it will issue a ruling recognizing the award and granting permission for enforcement, pursuant to Article 258. This ruling serves as the writ of execution, enabling the applicant to initiate enforcement proceedings through the state bailiff service, which may employ measures such as asset seizure to ensure compliance.

3.3. Appeal Process. The decision of the court of first instance on recognition and enforcement is subject to appeal. As per Article 259, the right to appeal is granted to parties involved in the case, as well as to other persons whose rights and obligations are affected by the court's decision. In specific cases, a prosecutor or the Representative for the Protection of the Rights and Legal Interests of Business Entities under the President may also file an appeal.

The appeal process in protest complaints follows a tiered structure:

- Decisions from inter-district, district, and city economic courts, as well as from the courts of the Republic of Karakalpakstan, regions, and Tashkent city, are appealed to the Judicial Panel on Economic Affairs of the respective regional court.
- Decisions rendered by the Supreme Court of the Republic of Uzbekistan are reviewed by its Judicial Committee on Economic Affairs.

This structured appellate mechanism ensures a review of both procedural and substantive legal compliance in the initial decision.

4. Interim Measures and the Role of Courts

A critical aspect of the legal framework is the relationship between arbitration and the state court system concerning interim measures. The Uzbek legal system does not grant foreign arbitration institutions the direct power to impose interim measures, such as asset freezes, within its jurisdiction. The Economic Procedure Code vests exclusive authority in Uzbek courts to order such measures to secure the enforcement of a potential judgment or arbitral award. Consequently, to enforce interim measures ordered by a foreign arbitral tribunal, a separate application must be made to a competent Uzbek court, which will review the request according to local law and exercise its discretion to grant or deny it.

5. Institutional Development: The Tashkent International Arbitration Center (TIAC)

In November 2018, Tashkent International Arbitration Center (TIAC) under the Chamber of Commerce and Industry of the Republic of Uzbekistan was established in Uzbekistan. The TIAC will resolve disputes arising from contractual and other civil law relations between commercial organizations through international arbitration. The TIAC will also resolve disputes related to investments, intellectual property and blockchain technologies. Accepting applications for dispute resolution through international arbitration, as well as holding hearings and other proceedings, can be carried out online using modern information and communication technologies without the presence of arbitrators and parties. Representatives of parties involved in resolving disputes through international arbitration at the TIAC do not require a license to practice law when reviewing arbitral awards in the competent courts of the Republic of Uzbekistan, nor when considering any issues in the arbitration disputes considered at the TIAC. The TIAC has the right to resolve disputes through a mediation procedure and other alternative dispute resolution methods in the manner prescribed by law.

6. Advantages of Arbitration Over State Litigation

Arbitration is often regarded as an alternative—and in many respects, a counterpart—to litigation. It involves the appointment of a neutral third party or a panel of arbitrators to resolve disputes between conflicting parties outside the traditional court system. These arbitrators hear the arguments presented by both sides and render an impartial decision, ideally one that is equitable and mutually acceptable. Arbitration is generally favored over litigation due to its efficiency, confidentiality, and flexibility. The advantages and differences of the arbitration court over the state court structure are reflected in the following:

- 1) The arbitral tribunal shall come to an agreement voluntarily by both parties to resolve the customer's contractual disputes;
- 2) It possesses broad jurisdiction, hearing disputes between legal entities and between citizens (e.g., on loans) without the formalistic requirements of state courts;
- 3) Cases are considered and resolved expeditiously due to a single-instance process; the decision is final and generally not subject to appeal;
- 4) In these courts the main purpose is directed to the agreement of the parties and cooperation between the parties is maintained. In the first place, ways are sought to reconcile the parties, with a view to ensuring that relations between the parties do not break down so that they can continue to cooperate;
- 5) Confidentiality is guaranteed by law through closed hearings, protecting trade secrets and sensitive commercial information;
- 6) Proceedings are private, with participation limited to the tribunal and the disputing parties; a prosecutor is not present;
- 7) Parties are not subject to criminal or administrative penalties within the arbitration process;
- 8) The decision of the arbitral tribunal shall take effect immediately from the date of its adoption;
- 9) State economic and civil courts have no right to re-investigate the facts established by the arbitration court or to reconsider the merits of its decision.

In short, arbitration offers a streamlined and confidential path to dispute resolution, often preferred over the formalities of state litigation. Its voluntary nature, swift procedures, and emphasis on preserving cooperation between parties make it especially effective in commercial and civil matters. Ultimately, arbitration empowers parties to resolve conflicts efficiently while maintaining control over the process and outcome.

Discussion

The results show that Uzbekistan has established an organized, multi-faceted legal framework for arbitration that aligns with international standards while retaining distinct national characteristics. The system offers a good alternative to state litigation, particularly for commercial entities, due to its emphasis on efficiency, party autonomy, confidentiality, and finality. The country's adherence to the New York Convention provides a reliable and conventional pathway for the enforcement of foreign awards, which is crucial for fostering international commercial confidence and foreign investment.

However, the system also maintains a significant role for state courts, which act as a gatekeeper for the enforcement of both interim measures and foreign arbitral awards. This ensures that all arbitration-related enforcement actions comply with Uzbek law and public policy considerations. The requirement for arbitral tribunals to apply Uzbek legislation exclusively is a notable feature that distinguishes the domestic regime from a pure Model Law approach and underscores the primacy of national law.

The recent creation of the Tashkent International Arbitration Center (TIAC) represents an important step in the modernization and internationalization of Uzbekistan's dispute resolution infrastructure. By offering a specialized, modern institution with online capabilities and a focus on emerging areas like blockchain and smart contracts, Uzbekistan is actively positioning itself as a competitive hub for international commercial arbitration in the region. The analysis confirms that arbitration in Uzbekistan is a well-defined, attractive, and evolving mechanism for resolving commercial disputes.

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