

**PROBLEMS IN THE CURRENT PRACTICE OF ARBITRATION COURTS IN UZBEKISTAN
AND MEASURES TO IMPROVE THE KNOWLEDGE AND SKILLS OF ARBITRATORS***Mamadaliyev Akrombek**Tashkent State Law University, Faculty of Magistrate's and Correspondence Education**Student of Mediation and Alternative Dispute Resolution*

Annotation. In the era of large-scale reforms being carried out in our country, measures are being taken to radically develop and improve each sphere, to form a system that raises the interests and values of the population to a high level. At the same time, the legal position of arbitration courts, mediation and arbitration courts in the field of alternative dispute resolution is increasingly expanding. In particular, it is very important to eliminate existing problems in arbitration courts and regulate the mechanism of their activities in accordance with world standards. Because arbitration proceedings are a legal institution created to quickly and effectively resolve existing disputes and other similar problems in civil and economic activities. Therefore, today, in our country, in the context of further deepening democratic reforms and the formation of civil society, it is extremely important to widely develop the institution of arbitration courts. This scientific article is devoted to the existing problems in the formation of the composition of the arbitration court in the Republic of Uzbekistan and the need to implement measures to improve their correct formation, the knowledge and skills of arbitration court judges in the field, and to provide proposals and additions to eliminate the existing needs in the legislation. The study provides a detailed analysis of the functions of arbitration courts, the methods and techniques necessary for their development, and the measures taken by the state in this regard.

Keywords: arbitration court, composition of the arbitration court, dispute resolution, competent court, knowledge and skills, law, code.

In countries with developed democratic principles, the institution of alternative dispute resolution and the development of criteria for its determination are of great importance. Through this, it is important to study which courts will consider disputes and the methods and procedures for resolving disputes carried out by the bodies authorized to resolve disputes before the court. Because today, resolving conflict situations between participants in civil legal relations often requires a quick and competent solution and a legal institution that can resolve the dispute. This type of task is performed by an independent arbitration institution. According to the legislation, arbitration courts are a special non-governmental body that resolves civil and economic disputes and is not part of the state judicial system. Due to the fact that this legal institution is not fully formed, its working mechanisms are not regulated, and the existing shortcomings in the legislation have not been fully eliminated, certain problems are emerging. In general, problems in the formation of the composition of arbitration courts and problems in the formation of the composition of judges are constantly encountered, and this is not under control. Therefore, the effectiveness of the activities of arbitration courts also depends on the knowledge and skills of judges, so regular improvement of their knowledge is an important task. S. Maripova also notes that using the method of alternative (pre-trial) dispute resolution, an

impartial, neutral mediator helps the disputing parties to reach a mutually acceptable agreement, but he does not have the right to make a decision on the dispute and advise any of the parties. Based on the fact that the scientist's opinions are quite reasonable, it can be said that the adoption of an award by arbitration courts is fundamentally different from a mediation agreement concluded as a result of mediation. Therefore, the fact that the issue of directing the execution of the award of the arbitration court by competent courts indicates that it has a certain jurisdiction. It follows that the great importance of the judge's decision in resolving disputes in the arbitration procedure and the presence of the factor of enforcement of this decision by the competent court indicates that significant attention should be paid to the correct formation of the composition of the arbitration court judges and the knowledge and skills of the judges. The article analyzes the problems faced by arbitration courts in practice and examines the correct formation of the composition of the arbitration court, its current state and future development directions.

In the course of covering the article, we will directly turn to various materials and methods. In particular, after the establishment of arbitration courts, the most important task is to form their composition. To analyze the existing problems in it, legal materials were studied, in particular, the Law "On Arbitration Courts", the Civil Code, the Civil Procedure Code, the Economic Procedure Code, legal literature and relevant regulatory legal acts. As a method, legal analysis, statistical data processing and comparison methods were used. In this study, we use the following methods:

1. Analysis of legal documents: A legal analysis was conducted based on the laws of the Republic of Uzbekistan, presidential decrees and international legal norms, relevant legislation and legal literature.
2. Statistical data: Statistical reports of the Ministry of Justice of Uzbekistan and other state agencies on arbitration courts were studied. This data was used to improve the skills of judges and assess the effectiveness of judicial proceedings.
3. Surveys and interviews: Surveys were conducted among arbitration judges and lawyers in civil cases. This revealed the existing needs for improving the knowledge of judges and the inadequacy of professional development programs.

The effectiveness of work using specific methods in preventing problems is high. Therefore, if we first turn to the current legislation, including the Law "On Arbitration Courts", Article 14 of the Law clearly defines the requirements for becoming an arbitrator, according to which a citizen of the Republic of Uzbekistan who is not younger than twenty-five years old, capable of ensuring an impartial resolution of the dispute, not directly or indirectly interested in the final outcome of the dispute, independent of the parties to the arbitration agreement, and who has agreed to perform the duties of an arbitrator may be elected (appointed) as an arbitrator.

The requirements for an arbitrator who resolves a dispute individually are: not to be younger than twenty-five years old; be able to ensure an impartial resolution of the dispute; not to have a direct or indirect interest in the final outcome of the dispute; be independent of the parties to the arbitration agreement; have agreed to perform the duties of an arbitrator; be a citizen of the

Republic of Uzbekistan. An arbitrator must have a higher legal education. When a dispute is resolved by a jury, the chairman of the arbitration court must have a higher legal education.

These points established by the law are mandatory for every applicant who wants to become an arbitration court judge. However, the question arises whether the requirements are set correctly for becoming a judge. Unfortunately, no. There are 281 arbitration courts registered in Uzbekistan, with more than 1,500 arbitrators working in them. Almost the majority of these 1,500 arbitrators, whose main work is in various fields, do not have any idea about arbitration. Article 14 of the Law stipulates that an arbitrator who resolves a dispute individually must have a higher legal education. It follows that in cases considered by the jury, in addition to the presiding arbitrator, other judges who are not familiar with the essence of arbitration are participating in the arbitration proceedings. However, although the Arbitration Courts of Uzbekistan Association has an Academy for Training Arbitration Judges, it has been training arbitrators on the condition that they engage in arbitration activities in arbitration courts within the association. It can be understood from this that the association aims only to train its judges and develop its own activities. At the same time, the issue of impartiality in the training process at the association's academy remains open, where training courses are organized in accordance with their own preferences and lessons are taught by arbitrators. This certainly does not correspond to any training curriculum.

In accordance with Article 15 of the Law "On Arbitration Courts", it is established that the parties can only choose arbitrators from the list of arbitrators approved by the legal entity that established the court. Therefore, it is appropriate for the legal entity that establishes the arbitration court to include various specialists in the list of arbitrators.¹

However, the lack of clarity of this authority granted to the legal entity raises some objections. Because, as we noted above, when considering a dispute individually, an arbitration court judge must have the highest legal qualifications, and when considering a case in a jury, the chairman of the court must have the highest legal qualifications. This means that when considering a case in a jury, only the chairman of the court has the highest legal qualifications, and the rest do not even have an understanding of the law, and representatives of other fields are appointed to the position of judges. As a result, this leads to the issuance of illegal decisions by arbitration courts, and this is why citizens' trust in arbitration courts is gradually decreasing. Therefore, I believe that when forming the composition of arbitration courts, it is necessary to first make additions and amendments to the current law, strictly define the requirements for arbitration judges, and entrust the issue of resolving disputes arising from legal relations to authorized persons involved in the field of law.

Secondly, it is necessary to consistently establish a system of measures and develop a mechanism for improving the knowledge and skills of arbitration judges. For this reason, it is advisable for the activities of an arbitrator to be carried out by a person who has passed a special training course according to the program for training arbitrators approved by the Ministry of Justice of the Republic of Uzbekistan, as well as being included in the register of

¹ UDK: 347.746.42 (075) (575.1) Nizolarni muqobil hal etish usullari / Darslik. Hammualliflikda. – Toshkent: TDYU, 2024. – 338 bet. Mualliflar: M.M. Mamasiddiqov, yu.f.d. (DSc), professor – I, II, III, IV boblar; A.A. Xakberdiyev, yu.f.d (DSc), dotsent – V, VI, VII, VIII, IX boblar, glossariy, testlar

arbitrators. This way Through the training of persons engaged in arbitration activities, qualified lawyers, scientists and practitioners will train personnel who are ready to engage in arbitration activities impartially. It will also be ensured that a person who has a certificate and is included in the register of arbitrators can work in any arbitration court in Uzbekistan. This will not lead to the supply of personnel for the benefit of a particular arbitration court, but to the supply of personnel to all arbitration courts in Uzbekistan and the correct interpretation of laws. Such a procedure, Article 12 of the Law “On Mediation” stipulates that “professional mediator activities may be carried out by a person who has passed a special training course under the mediator training program approved by the Ministry of Justice of the Republic of Uzbekistan, as well as entered into the Register of Professional Mediators. It would be appropriate for the Ministry of Justice to introduce a system and procedure for training arbitration judges, similar to the training course for professional mediators. In this way, it is necessary to re-evaluate the knowledge and qualifications of existing arbitration judges by conducting higher certification, and to remove those who are unfit for the position of judge, and to increase their legal knowledge and skills by involving candidates who have expressed a desire to remain in the position of judge in training courses. It is also appropriate to take the following measures to improve the knowledge and qualifications of arbitration judges:

1. Develop international exchange of experience of judges: Every year, arbitration judges receive training from qualified foreign countries exchange experience with judges, send them to participate in trainings. Through this, they will have the opportunity to learn best practices in international dispute resolution.
2. Training programs: Regular training courses for judges on mediation and dispute resolution strategies organized by special training centers and higher education institutions established by the state. These courses will serve to adapt the qualifications of judges to modern trends and international experience.

Based on theoretical and scientific analysis, I consider it reasonable to make the following proposals for amendments to the current law:

1. I propose to include the concept of “Electronic arbitration agreement” in Article 3 of the Law “On Arbitration Courts”, that is, in the list of basic concepts. I propose to interpret this concept as follows. Electronic arbitration agreement is a means of resolving a dispute that has arisen or may arise from contractual legal relations using an electronic signature in the Internet system, as a separate contract or a component of a contract an agreement on the resolution of a dispute formalized in the form of a contractual clause.
2. In addition, the concept of “Online arbitration hearing” should be added to the main concepts of Article 3 of the Law “On Arbitration Courts” and this concept should be interpreted as follows: Online arbitration hearing – an online arbitration hearing that can be used for disputes arising from online transactions and transactions operating on the basis of a special online platform that considers disputes without the physical participation of the parties in the arbitration hearing, as well as for disputes arising in offline mode.
3. The basis for introducing these two concepts is that the concepts of “Online arbitration agreement” and “online arbitration hearing” are included in the regulations of the courts

operating in Uzbekistan in different wordings adapted to their own needs, which leads to different concepts among the operating arbitrators. Therefore, the “Disputes in Uzbekistan Based on the opinions of national and foreign scholars studied within the framework of my doctoral dissertation on the topic “The arbitration process: theoretical and practical issues”, I propose to include these concepts in the legislation.

I propose to change the clause in Part 2 of Article 6 of the Law “On Arbitration Courts” on the establishment of a permanent arbitration court by a legal entity to the clause on its establishment by non-governmental non-profit organizations and to insert the following sentence: “A permanent arbitration court shall be deemed to be established upon approval of the rules of the permanent arbitration court and the list of arbitrators if there are at least five arbitrators in the list of permanent arbitration courts.” That is, I propose to introduce the clause on the establishment of arbitration courts not by legal entities, but by non-governmental non-profit organizations by amending the law. Also, the reason for introducing a norm stating that a permanent arbitration court is considered to be established if there are at least five arbitrators in the list of arbitration courts is: if the permanent arbitration court has two judges and the parties to the dispute demand that their disputes be considered by an arbitration panel, the number of judges is insufficient or it is appropriate to set it at least five to ensure that the parties have the category of arbitrators they want and to prevent other emergency situations.

According to Article 14 of the Law “On Arbitration Courts”, I propose to add a paragraph to the requirements for arbitration judges: “The activities of an arbitrator may be carried out by a person who has passed a special training course according to the program for training arbitrators approved by the Ministry of Justice of the Republic of Uzbekistan, as well as who is included in the register of arbitrators.” This proposal is directly related to the above-mentioned principles and, through it, the arbitration court judge will be formed from individuals with knowledge and skills in the field.

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