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# ISSUES OF LEGAL REGULATION OF ONLINE DISPUTES IN DIGITAL ARBITRATION

#### Bakhromova Mokhinur Bakhromovna,

Senior lecturer at Intellectual Property Law Department of Tashkent State University of Law, PhD in Law

> ORCID: 0000-0001-8686-6005 e-mail: s0000000613@ud.ac.ae

Abstract. Digital arbitration is an alternative dispute resolution mechanism, which is mainly implemented through the use of electronic means of communication. Digital arbitration has some advantages compared to traditional arbitration jurisdictions and other ADRs, as it is a fast, cost-effective, and efficient method of dispute resolution. Digital dispute resolution can be an ideal tool for resolving disputes arising from B2B e-commerce transactions, as it provides disputants with a time- and moneysaving procedure that can be done without their physical presence and an impartial expert on the subject of the dispute. Currently, there is no effective legal framework designed to fully regulate digital arbitration procedures. Therefore, lawyers are forced to use the rules used for traditional arbitrations. We believe that the development of special legal regulations defining the rules of this procedure will greatly speed up the regulation process in this field.

*Keywords:* Arbitration, digitalization, artificial intelligence (AI), blockchain technology, ODR, O-Arb, lex situs, lex mercatoria, COVID-19.

#### RAQAMLI ARBITRAJDA ONLAYN NIZOLARNI HUQUQIY TARTIBGA SOLISH MASALALARI

#### Bahromova Mohinur Bahromovna,

Toshkent davlat yuridik universiteti Intellektual mulk huquqi kafedrasi katta oʻqituvchisi, yuridik fanlar boʻyicha falsafa doktori (PhD)

Annotatsiya. Raqamli arbitraj nizolarni hal qilishning muqobil mexanizmi bo'lib, asosan, elektron aloqa vositalaridan foydalanish orqali amalga oshiriladi. Raqamli arbitraj an'anaviy arbitraj yurisdiksiyasi va boshqa ODR bilan solishtirganda, ba'zi afzalliklarga ega, chunki bu nizoni hal qilishning tez, tejamkor va samarali usuli hisoblanadi. Nizolarni raqamlashtirilgan muhitda hal qilish B2B elektron tijorat operatsiyalaridan kelib chiqadigan kelishmovchiliklarni hal qilish uchun ideal vosita bo'lishi mumkin. Negaki u nizolashuvchilarga ularning jismoniy ishtirokisiz amalga oshirilishi mumkin bo'lgan, vaqt va pulni tejaydigan tartib va nizo predmeti bo'yicha xolis ekspert tomonidan qabul qilingan yakuniy raqamli arbitraj qarorini taqdim etadi. Hozirda raqamli arbitraj tartib-qoidalarini mukammal tartibga solishga mo'ljallangan amaldagi qonunchilik bazasi mavjud emas. Shuning uchun huquqshunoslar an'anaviy arbitrajlar uchun qo'llaniladigan qoidalardan foydalanishga majbur. O'ylaymizki, ushbu tartib-qoidalarni belgilovchi maxsus huquqiy normalarning ishlab chiqilishi sohani tartibga solish jarayonini ancha tezlashtiradi.

*Kalit soʻzlar:* arbitraj, raqamlashtirish, sun'iy intellekt (AI), blokcheyn texnologiyasi, nizolarni onlayn hal etish tizimi (ODR), O-Arb, lex situs, lex mercatoria, COVID-19.

## ВОПРОСЫ ПРАВОВОГО РЕГУЛИРОВАНИЯ ОНЛАЙН-СПОРОВ В ЦИФРОВОМ АРБИТРАЖЕ

#### Бахромова Мохинур Бахромовна,

доктор философии по юридическим наукам (PhD), старший преподаватель кафедры «Право интеллектуальной собственности» Ташкентского государственного юридического университета

Аннотация. Цифровой арбитраж – это альтернативный механизм разрешения споров, который в основном реализуется за счет использования электронных средств связи. Цифровой арбитраж имеет некоторые преимущества по сравнению с традиционной арбитражной юрисдикцией и другими ОDR, поскольку это быстрый, экономичный и эффективный метод разрешения споров. Разрешение споров в цифровой среде может быть идеальным инструментом для разрешения споров, возникающих в связи с транзакциями электронной коммерции В2В. Потому что он предоставляет участникам спора процедуру, позволяющую сэкономить время и деньги, которая может быть выполнена без их физического присутствия, и окончательное цифровое арбитражное решение, вынесенное беспристрастным экспертом по предмету спора. В настоящее время не существует эффективной правовой базы, предназначенной для полного регулирования процедур цифрового арбитража. Поэтому юристы вынуждены использовать правила, используемые для традиционных арбитражей. Автор считает, что разработка специальных правовых норм, определяющих эти процедуры, ускорит процесс регулирования отрасли.

**Ключевые слова:** арбитраж, цифровизация, искусственный интеллект, технология блокчейн, ODR, O-Arb, lex situs, lex mercatoria, COVID-19.

#### Introduction

International arbitration has become an acceptable method of resolving disputes between business partners in international trade, trade, and investment in almost all spheres of investment. International arbitration allows the parties to resolve disputes, it is confidential, economic, and time-saving, in a neutral trial at their own discretion. However, if someone defines confidentiality as most important the aspect of the arbitral tribunal. does not determine the consequences of the arbitration, which will affect the consequences of the arbitral tribunal.

In the field of alternative conflict resolution, arbitration plays a significant role (ADR). Arbitration is the preferred means of settling disagreement if the parties require a binding ruling but do not want to go to court. Arbitration is sometimes defined as a private and consensual means of resolving disputes those results in a binding judgment: rather than a state court, it is a private court appointed by agreement of the parties, and an arbitral award is a binding decision.

Alternative mechanisms can serve for, the improvement of the investment climate in the country, as well as the improvement of foreign trade and the investment climate and systematic in the field of effective regulation and guarantee of subjects. "Active involvement of foreign investment in sectors of the economy and regions" is one of the priorities of development of the economic social sphere by improving the investment climate "is one of the urgent improvements of law enforcement.

Traditionally, the tribunal is made up of arbitrators who oversee the arbitration procedure directly. Labor arbitration has been the sole technologically possible



alternative since the establishment of modern arbitration, particularly international commercial arbitration, in the twentieth century [1]. However, technological advancements, such as digitalization, artificial intelligence (AI), and blockchain technology, are altering the conventional format and conduct of arbitration.

According to Professor Z. Ubaydullayev, "Experience shows that business is not effective if there is no capital in the world. The developing industry depends on the revision of the economy of industrialized industries. The ability of the current investment climate in this country and the international community can be promoted together to ensure the investment of investors to the country"

Stakeholders in the arbitration industry are investigating how new technology and tools may be utilized to improve the arbitration process' efficiency (low cost, high speed) and quality. Empirical study has demonstrated that the latter aspect, in particular, is critical for the parties in their decision to choose arbitration over alternative forms of conflict settlement [2].

When compared to people, smart computers claim to produce better, more consistent, impartial judgments. The spread of COVID-19 is hastening the adoption of smart technology to improve the efficiency and quality of arbitration. Parties and courts will be forced to employ video conferencing software that provides online meetings, desktop sharing, and real-time online meetings if physical hearings are not possible [3]. People can easily adjust to the old "arbitration" method employing technology due to practical needs and limits.

Another crucial consideration for most parties is that conflict resolution be independent and unbiased, reducing the risk of secrecy bias [4]. There are no universal laws for the digital settlement of disputes in cyberspace, which makes

applying substantive and procedural law to the settlement of electronic disputes difficult. The movement measuring method and impact test developed by Zippo can be used to determine which jurisdiction should be used to resolve online disputes [5]. The site of the execution of the contract is an important element in identifying the substantive law or jurisdiction to which the conditions of the case apply in private international law. The Consumer Protection Act protects European consumers from some difficulties caused by a lack of laws governing the same cyber environment and guarantees that obligatory legal rules are followed in the lex situs [6]. Is it conceivable to create an international tribunal to settle all sorts of disputes by enacting the same cyber environment regulations that regulate alternative dispute resolution?

# Materials and methodology

The work uses general scientific methods, such as historical, comparative legal, logical (analysis and synthesis), and empirical methods based on survey, monitoring, study and generalization of experience.

### **Research findings**

The parallels between the implementation of ODR and lex mercatoria in international trade are highlighted here [7]. It would be good to create ODR rules or basic legal principles of legislation and practice in the field of ODR, despite the fact that it is homogenous. Confidence in ODR legislation and practices in cyberspace may be bolstered by key international legal documents, treaties, conventions, and state efforts. In reality, ODR has made many measures to promote openness; therefore, half of this aim is virtually fulfilled [8].

The 1958 United Nations Convention on the Recognition and Enforcement of Foreign Arbitration, the 1968 United Nations Convention on the Enforcement of Judgments in Civil and Commercial Matters, and the 1980 United Nations Convention on Roman

law are examples of these endeavors. The Organization for Economic Co-operation and Development (OECD) released consumer protection rules in the context of e-commerce in 1999. The recommendations ensure that consumers have access to fair and cost-effective dispute resolution options, as well as clarify the role of technology in the usage of ADR systems [9].

According to Professor H. Rakhmonkulov, "The initiative of international organizations in the training of international private right, the preparation of projects of various international agreements is growing. In 1966, the commission (UNCITRAL) was established as a special UN body for international trade law. According to the December 17 Decree of the UN General Assembly on December 17, 1966, the main task of the commission consists of the consolidation of international trade rules and helping coordinate each other. The commission first focused on the results of international goods and sale of the international settlements, such as commercial arbitration.

The following conventions were adopted on the basis of prepared projects:

- UN Convention on International Sales Agreements of Provision;
- Convention on claim periods in the international arms of claims;
- United Nations Convention on the Transportation of Sea;
- UNCITRAL regulations of the arbitration, etc.

In 1985, the Law on Arbitration of International Trade, and in 1988, the International Lighting and International Simulation Convention were adopted.

In the EU, the Trade Directive's Article 17 E-mail specifies that in the case of an electronic dispute, member states must guarantee that the parties do not impede the use of ADR mechanisms "including suitable electronic means" to settle the disagreement [4]. In 2001, the National Advisory Council

on Alternative Dispute Resolution produced ADR standards, followed by ADR guidelines in 2002 [10].

As a result, certain legislative efforts have already been introduced to promote ADR and the use of technology to provide speedy dispute resolution services. This would open the door for new ideas and solutions to be introduced in order to support and improve ADR laws, such as the legal principles announced by international efforts and fair compliance.

Some critics, such as Drake and Moberg, Wilson, Aleman, and Litam, have noted that there are issues with the parties to the conflict's lack of personal collaboration. In dispute resolution, physical presence, body language, and voice tone are crucial [11]. As a result, Hoffman established a "face theory" in which the effectiveness of the conflict resolution process was directly dependent on the parties' discussion and any negative or positive remarks made throughout the debate [12].

However, in most ODR situations, the parties lack sufficient knowledge about one another, and a physical encounter between the parties might diminish the chance of settling disagreements [13]. Methods are utilized to allow the parties to participate in a videoconference hearing without having to be there in person, and even to trade unfavorable remarks.

The ODR initiated a discussion on "self-regulation against government involvement" over time [14]. The American Arbitration Association, the International Chamber of Commerce, and the Bureau of Business Development established ODR regulatory rules at first, emphasizing the need of adopting a secrecy seal [15].

Later, firms like Verisign and TRUSTe arose, while Square Trade and BBB Online pioneered the notion of trust marks as a self-management effort in ODR. E-Consumer Conflict Settlement (ECODIR) and other



ODR programs have been adopted at the government level as e-governance measures since ODR has shown to be an effective instrument for dispute resolution [16]. According to Schultz, the government's role is more crucial than self-regulation. According to Schultz, "symbolic capital" or the ODR provider's social reputation, offers credibility and identification with the government's ODR pricing. The government supports ODR initiatives financially and offers practical assistance in establishing the technical and administrative infrastructure required to carry out ODR.

#### **Review of research findings**

The government would also fund ODR initiatives and assist in the development of the technological and administrative infrastructure required to execute ODR. Schultz also mandates certification for ODR providers, supports electronic filing, and regulates the ODR process, assisting parties in selecting a "service provider." It also backed an online appeals mechanism for ODR providers to examine their judgments, giving the system more openness and accountability [17]. "In many circumstances, the government is the right venue to handle conflicts since the government has a strong motivation to resolve disagreements so society may operate effectively," this rule states. Because it is typically "unhelpful" because of the difficulties presented, the government is also "an excellent location to resolve disagreements [18]."

After analyzing these two approaches, we have concluded that the growth of ODR can be fully realized through a public-private partnership. The role of the government is to build consumer confidence and the private sector to introduce advanced technologies. Within the framework of public-private partnership, advanced methods of ODR can be successfully introduced, as well as greater awareness and participation in the ODR process can be ensured. Special funding

provided by the government in the United States, Australia, New Zealand, Singapore, Canada, and the United Kingdom will help launch ODR projects [19].

The e-commerce platform in the Netherlands is a joint initiative of the Dutch business community and the Ministry of Economy, which has created a code of ethics for e-commerce.

In Singapore, e-ADR was launched and co-managed and supervised by Singapore's lower courts, the Ministry of Justice, the Singapore Mediation Center, the Singapore International Arbitration Court Center, the Trade Development Council, and the International Economic Development Council to resolve commercial disputes. E-courts in India also aim to promote forensic medicine using ODR, judicial review, and online resources, and the CBI (Central Bureau of Investigation) is in the process of building e-courts.

It is clear from the current state of EU law and U.S. law that both approaches come from very different policy perspectives, but neither proves to be satisfactory in resolving consumer disputes at a lower cost [20].

As for the EU approach, the Directives on Unfair Conditions and Articles 10-11 of the ADR Directive effectively expand the provisions of the Ibis Brussels Charter on Judicial Selection and the provisions of Rome Statute I on applicable law in the context of consumer arbitration indicates the main purpose of the latter means was to prevent the consumer from being deprived of the benefits of his internal forum and substantive law in the event of a dispute with the merchant. This is the goal of a truly noble policy [21]. However, this approach does not consider that, in theory, going to court cannot provide a fair trial in practice because of the prohibitive court costs that can typically arise when a consumer files a low-value claim. At the same time, the EU approach does not take into account that the consumer still has to apply the result abroad where the trader has his assets. Strict adherence to the European approach will prevent the implementation of effective out-of-court mechanisms of influence, which is indeed a problematic issue.

The U.S. approach, by contrast, stems from the assumption that the absence of any restrictions on dispute resolution clauses in consumer contracts provides significant benefits to both traders and consumers when concluding a contract. He believes that these benefits could later be more than detrimental to a limited group of consumers who are deprived of sufficient means to resolve a dispute with a particular merchant. One of the best examples of this line of thinking is Carnival Cruise Lines, Inc. v. In Schute's case, the judge ruled that the inscription in small print on the back of the BLACKMUN cruise ticket was unfounded. It is worth noting that a trader who directs his commercial activities to several jurisdictions if he is unable to consolidate his claims, such a trader can sue his clients in several places through his pricing policy, such a trader may give up cross-border activity.

Conversely, if a trader can pre-determine the law and location governing potential disputes, Judge BLACKMUN believes he or she can offer consumers the appropriate cost savings. However, the question may arise as to whether such a "mitigating effect" occurs in practice, or whether the dispute resolution clauses in standard consumer contracts simply encourage dubious business practices. Such clauses allegedly have the opposite effect on collective conflicts [21].

The interaction between pre-conflict resolution items and collective disputes is also important in the EU. In a legal environment where the first steps collective with disputes carefully are implemented, where efforts ongoing are being made to promote out-of-court correction, and where experience with online courts can provide wider access to the traditional judicial system, keeping all options open may not be reasonable [22]. In other words, in order to encourage competition between different methods of dispute resolution, it may be appropriate to remove the existing ambiguity and complexity surrounding pre-dispute arbitration clauses in consumer contracts in favor of the unconditional limitation of such clauses.

Another argument in favor of the unconditional limitation of all pre-dispute arbitration clauses in consumer contracts is that such a restriction allows the weaker party to have a say in the selection of the disputing entity or the neutral. The process of selecting a subject and appointing an appropriate neutral person is a truly important guarantee to ensure that ADR subjects and neutral individuals are truly impartial and independent. In terms of compliance, it should not matter whether the disputed organization is accredited under the ADR Directive [10].

But what about traders' legitimate interest in predictability at the time of contracting? The answer to this question may lie in the delocalized nature of O-Arb and in creating a coordinated set of important rules governing consumer disputes at the lower end of the value. The first significantly reduces the need for physical location prediction, if not completely eliminated. The latter increases legal confidence and significantly reduces the cost of cross-border litigation.

#### **Conclusions**

In order to further improve the business environment of Uzbekistan and increase investment attractiveness, there are a number of systemic issues that prevent the effective protection of the rights and interests of foreign investors. This imposes no regulatory framework governing international arbitration in Uzbekistan, which leads to an increase in foreign



investors and local businesses that are forced to apply to international arbitration. In addition, current legislation, including the laws of the Law of the Republic of Uzbekistan "On Arbitration Courts", the laws of the Parties restrict opportunities for consideration of investment disputes by international arbitral standards: In addition. the lack of specific legal mechanisms for the implementation of international signedups of international arbitral decisions in Uzbekistan has a negative impact on the country's judicial system, which reduces the country's investment attractiveness. There is also no training and retraining of local judges and other international arbitration specialists.

We believe we can make a few easy conclusions from what we have said. The court is evolving quickly, and by the mid-2020s, we may expect a fully integrated online digital justice system in England and Wales to handle civil family and tribunal issues. Paper and analog systems will become obsolete. Those who are interested in the long term should look beyond the current reform trends. As more and more data from our daily lives is recorded on-chain

and becomes inaccessible to meaningful challenges, the sorts of disputes will gradually but unavoidably shift.

Systems in the mid-2020s will be intelligent, but not as intelligent as they will need to be for the next generation when delays in dispute resolution will not be tolerated as much. Working out how national judicial systems that get their authority from specific states may function effectively alongside comparable justice systems in neighboring and other states will be the big prize of the next generation. They will be required to do so because the new technologies that are transforming our lives are global technologies that have the potential to reshape society's fabric.

To manage cybercrime, we will need to be astute in ensuring that regulation keeps up with technology. Risks must be carefully managed and reduced, but they cannot be exploited as an excuse to stifle technological advancement. This advancement will help individuals and companies both domestically and globally because conflicts in 2040 will be settled more intelligently and promptly while remaining just as they are now.

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# **YURISPRUDENSIYA**

# **HUQUQIY ILMIY-AMALIY JURNALI**

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#### **BOSH MUHARRIR:**

Xodjayev Baxshillo Kamolovich

Ilmiy ishlar va innovatsiyalar boʻyicha prorektor, y.f.d., dotsent

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Texnik muharrirlar: U. Sapayev, D. Rajapov

#### Tahririyat manzili:

100047. Toshkent shahar, Sayilgoh koʻchasi, 35.

Tel.: (0371) 233-66-36, 233-41-09.

Faks: (0371) 233-37-48.

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