



## INTERNATIONAL ONLINE DISPUTES AND ARBITRATION: INTERNET-BASED LEGAL SYSTEMS

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### ABSTRACT

*This article provides a comprehensive analysis of the modern mechanism for resolving international online disputes — the institution of Online Dispute Resolution (ODR). It explores the formation, development, and legal foundations of ODR, focusing on the distinctive features of Internet-based legal systems and their application in international trade, electronic commerce, and service sectors. The article includes a comparative analysis of the implementation and practices of ODR systems in the United States, Germany, the United Kingdom, and Uzbekistan, supported by statistical data.*

*Alternative dispute resolution (ADR) procedures, including online arbitration processes, digital tools, online platforms, and automated case management systems integrated into judicial software, are thoroughly examined. Based on theoretical research, the article identifies the unique characteristics, legal advantages, and limitations of online arbitration from both scientific and legal perspectives.*

*Furthermore, it presents substantiated organizational and legal solutions necessary for implementing ODR systems in Uzbekistan. The article covers the evolution of Internet-based legal systems, their role within the international arbitration framework, and their respective strengths and weaknesses. Drawing on international experience, it proposes effective solutions to current challenges and offers legal recommendations tailored to the needs of Uzbekistan.*

### INTRODUCTION

In our daily lives, most of us have engaged in some form of online dispute resolution, whether it be by contacting the courts via email or by using electronic platforms. Thus, in the 20th century, the practice of incorporating arbitration provisions into bilateral and multilateral trade agreements became widespread.

First, let's look at the concept of international online disputes. International online disputes (ODR - Online Dispute Resolution) are legal disputes that arise as a result of cross-border commercial or other activities conducted over the internet.



***One of the methods of resolving international online disputes is arbitration, which is an alternative dispute resolution (ADR) mechanism through which two or more parties can obtain a final and binding decision on their dispute from an arbitrator of their choice, rather than in court. The parties must voluntarily agree to use arbitration, to have the arbitration process be legally binding and the decision to be binding, and to comply with the arbitrator's decision. It follows that online arbitration is a form of arbitration that is carried out through technology, that is, online platforms using computers and the Internet. The parties do not meet face to face, but rather the dispute is resolved virtually.***

Based on the above, in this scientific and analytical work, we will consider the legal significance of conducting online arbitration processes, which are considered important in resolving disputes that have arisen in the international arena, one by one, and on this basis, we will provide a legal analysis of our opinions.

## **METHODS**

This study examines the legal framework, practical aspects, and integration of international online dispute resolution mechanisms (ODRs) and arbitration systems with modern technologies. The study is based on qualitative research methodology and uses the following methods:

- ❖ Analysis of regulatory and legal documents - international legal documents (UNCITRAL recommendations, UN conventions), laws of the USA, Great Britain, Germany and Uzbekistan, and acts on arbitration were studied.
- ❖ Comparative legal analysis - the experience of developed countries was compared with the current legislation of Uzbekistan, their differences and common aspects were identified, and recommendations were made for the development of this institution.
- ❖ Analysis of network sources and open information - statistical and analytical data from the official websites of international organizations (UNCITRAL, ICC, WIPO) and reputable arbitration centers were analyzed.

The results of the study are aimed at strengthening the legal framework of the UNCITRAL at the international and national levels, as well as developing recommendations for the implementation of this system in Uzbekistan.

## **DISCUSSION AND RESULTS**

Today, international trade and investment activities are developing rapidly in the world. At the same time, there are many disputes associated with them. In today's fast-paced world, one of the most important problems that the global community needs to solve is the resolution of international trade and investment disputes. Due to this need, several types of dispute resolution are being developed. Following the COVID-19 pandemic, online dispute resolution has emerged as the most popular method of resolving disputes in a digital environment, with the most convenient system.

Turning to the resolution of international online disputes using internet-based legal systems, the following are examples:

- ♣ **Cybersettle:** It is an automated negotiation system that connects users with blind offers. The system helps to reach an agreement between the parties.



♣ **Online brokerage platforms:** These platforms facilitate asynchronous communication, meaning that parties can communicate without interacting at the same time. For example, a message written by one party can be read and responded to later by the other party.

♣ **Virtual arbitration systems:** Dispute resolution in a digital environment, similar to traditional court proceedings. Parties approach an arbitrator and make a decision online.

In resolving these emerging disputes, there are alternative methods such as negotiation, mediation and arbitration in international arbitration, which, when implemented through electronic technologies, means resolving disputes online and finding solutions to them. If we stop at the process of online arbitration, it is clear from the name that this type of arbitration belongs to electronic arbitration. It refers to a process carried out through telephone, fax, email, and other modes of communication available on the Internet or any other information and communication technology that may be useful in resolving disputes. Online arbitration serves to bridge long distances, especially in cases where the parties are not located in the same area. The following three situations may be grounds for online consideration and resolution of claims and disputes:

1. An electronic contract that includes an online arbitration clause;
2. A written contract that provides for online arbitration;
3. A referral to online arbitration after a dispute arises.

*International lawyer and scholar G. Born in one of his interviews lists the advantages of international commercial arbitration and calls them the "5S of International Arbitration". They are:*

1. Efficient (speaking of efficiency, G. Born once again emphasizes the private-legal nature of this method of resolving disputes, taking into account the possibility of the parties to work out the entire procedure for the proceedings, given the specifics of the dispute);

2. Expeditious (or "one stop shopping" – the ability to quickly resolve a dispute due to the competence of arbitrators, the absence of higher instances for appealing the decision, and, of course, the possibility of a quick resolution of the dispute due to the procedure developed specifically for this case);

The third advantage of arbitration, not mentioned by G. Born, is its low cost. Because in the USA and a number of European countries, the cost of considering a case in an arbitration court is much lower than the cost of considering a case in local courts. "American lawyers compare arbitration to McDonald's and local courts to restaurants."

Online dispute resolution is a general term describing the process of resolving disputes using information technology.

UNCITRAL Law – adopted by the UN Commission on International Trade Law on 21 June 1985 and recommended by the UN General Assembly on 11 December 1985 (resolution 40/72). With regard to arbitrators appointed under the UNCITRAL Model Law on International Commercial Arbitration, Article 6, paragraph 7 of the Rules provides that "the appointing authority shall take into account considerations likely to ensure the appointment of an independent and impartial arbitrator and shall take into account the suitability of the arbitrator appointed by the judges for the purpose of the arbitration and the online resolution of disputes."



Although UNCITRAL operates within the UN, its decisions are considered to be advisory in nature. Nevertheless, UNCITRAL has served as a model normative instrument in the development of many instruments that have had a significant impact on the development of international arbitration[8]. The most important instrument developed by UNCITRAL in the field of international arbitration is the Model Law on International Commercial Arbitration, the text of which was approved in 1985 and recommended by the UN General Assembly as a model for the adoption of national legal instruments regulating international arbitration.

Today, more than 160 States are parties to this Convention. This is supported by the fact that other international treaties aimed at regulating private law or private procedural issues do not have such a high degree of participation.

From the point of view of modern communication, online dispute resolution is divided into two types. The first type is online dispute resolution through simultaneous, synchronous communication between the disputing parties using communication tools such as Skype, MS TEAMS, Zoom. The second type is online dispute resolution through asynchronous, non-synchronous exchange of information between the parties.

Since its adoption in 1958, the New York Convention on the Enforcement of Foreign Arbitral Awards has been ratified by 169 states (the most recent ratification was by the Republic of Iraq on 13 May 2021). With the increasing number of disputes in international commercial arbitration, the importance of experienced and competent arbitrators is undoubtedly reflected in the increasing use of online dispute resolution.

The E-Arbitration-T platform has been created to electronicize the activities of International Commercial Arbitration, offering a reliable and alternative system for resolving existing disputes.

One notable example of an online arbitration platform is the eBay and PayPal dispute resolution platforms. This platform allows buyers and sellers on eBay to resolve disputes without resorting to court proceedings. The online process involves presenting evidence, engaging in negotiations, and ultimately having a decision made by a neutral third-party arbitrator. The eBay and PayPal dispute resolution centers serve as excellent examples of how online arbitration can provide a convenient and cost-effective alternative to traditional methods.

We will analyze the institutions and methods of online dispute resolution using the example of countries.

USA. In the USA, online dispute resolution mechanisms are widely developed and play an important role, especially in protecting consumer rights. The Federal Trade Commission (FTC) and other consumer protection organizations actively support ODR methods. For example, large online trading platforms such as eBay and PayPal have their own internal ODR systems, providing users with quick and effective solutions[9]. The legal framework for online dispute resolution (ODR) is well-established, with a number of laws and regulations in place. The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 expanded the ability of financial services consumers to resolve disputes through ODR systems. The Federal Arbitration Act of 1925 (FAA) also provides for the recognition and enforcement of arbitral awards, increasing the credibility and efficiency of online arbitration processes.



In the USA, mediation and arbitration are widely used in online dispute resolution. In mediation, the parties to the dispute attempt to reach an agreement with the help of qualified mediators. This process is conducted via email, video conferencing, or special digital platforms, which provides speed and convenience. In arbitration, the decision is made by an independent arbitrator and is legally binding. In the United States, especially among large corporations, online arbitration is widely used, and its results are considered equivalent to court decisions. For example, eBay has implemented its own internal dispute resolution system, which allows users to resolve their disputes online. eBay's platform, known as the "Resolution Center", is aimed at resolving disputes between users through mediation. PayPal also offers a similar system, through which users can resolve financial disputes quickly and efficiently.

Germany. Germany is one of the countries that has been successful in implementing and developing ODR systems. Online platforms operate here that serve to resolve disputes between consumers and businesses quickly and efficiently. The legal framework for ODR in Germany is strong and regulated by laws and regulations. In particular, the 2016

Verbraucherstreitbeilegungsgesetz (VSBG) law supports and regulates the resolution of consumer disputes through mediation and arbitration. In Germany, there is an online mediation center called the Schlichtungsstelle, which provides mediation services for resolving disputes between consumers and businesses. The main goal of this center is to ensure a fair and transparent dispute resolution process for consumers. This process is carried out online, which is very convenient for users. In Germany, ONHQ systems are used not only for national but also for international dispute resolution.

Uzbekistan. As the international framework for the regulation of the institution of arbitration moves from the procedures for its regulation to national legislation, international norms serve as the main source of its development. Thus, the Law "On International Commercial Arbitration", adopted on February 16, 2021, was harmonized with national legislation and transformed into a single normative legal document, without departing from the rules of the UNCITRAL Model Law.

This Law stipulates that this normative legal document shall apply to international commercial arbitration in accordance with agreements in force between the Republic of Uzbekistan and other state(s). This Law establishes the principles of arbitration, the rules related to its organization, and the rules related to the enforcement of an arbitration award. Arbitration in the Republic of Uzbekistan has its own characteristics and significance. This provides opportunities for users to achieve good results in terms of financial, political, and economic conditions.

The lack of clear legal mechanisms for the enforcement of international arbitration awards in Uzbekistan has a negative impact on foreign investors' confidence in the country's judicial system, which further reduces the country's investment attractiveness. In addition, there is a lack of training and retraining of local arbitrators and a number of other specialists in the field of international arbitration. At the same time, we all know that there are a number of systemic problems that prevent the effective protection of the rights and interests of foreign investors, further improvement of the business environment and increase of Uzbekistan's investment attractiveness.



The courts of the Republic of Uzbekistan apply the following international treaties of the Republic of Uzbekistan when considering cases on recognition and enforcement of a foreign court or arbitration award:

- The Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention) regulates the recognition and enforcement of arbitral awards made in another state, the parties to which may be natural or legal persons. The New York Convention also applies to arbitral awards that are not considered domestic awards of the requesting state, in the country where recognition and enforcement are sought.

- The Convention on the Settlement of Investment Disputes between States and Foreign Nationals (Washington Convention) regulates the settlement of investment disputes between member states and investors. The Washington Convention obliges participating states to consider decisions made by the International Center for Settlement of Investment Disputes, or Arbitrator, as binding, and recognizes the legal force of decisions made by the courts of certain participating states.

- The Agreement "On the Procedure for Resolving Disputes Related to the Conduct of Economic Activities" (Kiev Agreement) regulates issues arising from contractual and other civil relations between economic entities, as well as their relations with state and other bodies, including issues of enforcement of executive documents.

## CONCLUSION

In conclusion, as the number of online disputes increases, arbitration is becoming a preferred method of dispute resolution, and online mediation is an important option when disputing parties seek a binding decision but do not wish to go to court. Arbitration is often described as a private and consensual means of resolving disputes that leads to a legally binding decision. Instead of the public courts, a private court, appointed by agreement of the parties, makes a binding decision - an arbitration award. From this point of view, the law of private international law is somewhat superior, since it does not require a request from one of the parties. Instead, if the defendant does not continue the proceedings without objecting to jurisdiction, the Swiss court reduces its powers "ex officio". This is an example of the general standard of Swiss law, which demonstrates the ability of Swiss courts to apply government regulations "ex officio" and, in particular, to review their jurisdiction "ex officio". The analysis of online arbitration and the issue of its jurisdiction in online dispute resolution showed that online arbitration can be considered on the basis of artificial intelligence and become an effective mechanism for resolving disputes arising primarily on the Internet and in relation to smart contracts. In addition, a proposal was developed on the jurisdiction of online arbitration, in which the issue of introducing special conflict rules on the subjection of the relevant domain to the law of the place of registration was given high priority. It was also concluded that the introduction of digital arbitration by existing arbitration centers and their submission to their jurisdiction is an ideal situation, and the formalization of decisions by the arbitration center will help to implement it.

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