

Legal Basis on Recognition and Enforcement of Decisions of Foreign Courts of the Republic of Uzbekistan

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Abstract

Today, it is important to create a strong legal framework for the protection of the rights and interests of entrepreneurs and foreign investors. In this article, the legal basis of the recognition and enforcement of the decisions of foreign courts by the Republic of Uzbekistan is analyzed.

Keywords: Exequatur, international commercial arbitration courts, remote communication technologies, online platform, arbitrator, multilateral agreements. bilateral agreements.

Since the first years of independence of the Republic of Uzbekistan, a number of organizational and legal measures have been implemented with other countries on legal assistance in civil and criminal cases. This was first of all reflected in the improvement of the legal basis of the system aimed at the recognition and recognition of foreign court decisions.

Recognition and enforcement of decisions of arbitration and courts of foreign countries in the territory of the Republic of Uzbekistan is one of the important components of the international legal activity of the country. Republic of Uzbekistan adopted the New York Convention on the Recognition and Enforcement of Arbitration Decisions of Foreign Countries of June 10, 1958, also on January 22 1993, "Civil, family and on legal assistance and legal relations in criminal cases" Minsk Convention and Kishinev Conventions. In addition, the Republic of Uzbekistan has concluded bilateral agreements on the provision of legal assistance with a number of countries.

As we mentioned above, based on the decision adopted by the Oliy Majlis of the Republic of Uzbekistan on December 20, 1995, Uzbekistan became a member of the New York Convention.

The Convention on the Recognition and Enforcement of Foreign Arbitral Awards was adopted at a diplomatic conference organized by the United Nations in May and June 1958. This Convention entered into force on June 7, 1959¹.

In addition, the General Assembly strengthened the commitment of the parties to the New York Convention to fulfill their obligations, and increase confidence in the rule of law and expressed confidence that it would ensure justice in resolving disputes arising from obligations.

As of January 2023, 172 countries are members of the New York Convention, 169 of which are member states of the United Nations².

This Convention obliges the courts of the contracting states to apply mutual agreements for arbitration and to recognize and enforce arbitration decisions made in other contracting states.

¹ United Nations, Treaty Series, vol. 330, No. 4739; UN DOC E/CONF.26/SR. 1-25, Summary Records of the United Nations Conference on International Commercial Arbitration, New York, 20 May - 10 June 1958.

²https://en.wikipedia.org/wiki/Convention_on_the_Recognition_and_Enforcement_of_Foreign_Arbitral_Awards

Currently, many international agreements on the provision of legal assistance have been concluded, among which the "Convention on the provision of legal assistance to individuals and legal entities in civil, family and criminal matters and legal relations" signed between the CIS countries on January 22, 1993 in the city of Minsk should be highlighted. .

The Convention envisages a number of forms of legal assistance in civil, family and criminal matters by the competent authorities of the member states. In particular, according to Article 1 of the Convention, the contracting parties have the right to apply freely and without obstacles to the court, prosecutor's office, internal affairs and other institutions within the jurisdiction of civil, family and criminal cases. The parties can file motions, file lawsuits and perform other procedural actions like citizens.

Relations within the framework of legal aid are regulated by Article 5 of the Convention, according to which the competent authorities enter into relations through their central authorities to fulfill the requirements of the Convention. The Ministry of Justice of the Republic of Uzbekistan is designated as the central body for cases, and the General Prosecutor's Office of the Republic of Uzbekistan for criminal cases.

When it is necessary to carry out special procedural actions in the territory of a foreign country, these actions can be carried out with the help of the competent authorities of the foreign country. In this case, it is necessary to comply with the established procedural requirements of applying to these authorized bodies. In this procedural process, the form of appeal can be in the form of a request, an assignment and a questionnaire.

Petitions of foreign state courts for recognition and enforcement of judgments in the Republic of Uzbekistan and decisions of criminal courts regarding recovery of damages shall be considered by the courts of the defendant's place of residence in accordance with the laws of the Republic of Uzbekistan and the Convention.

Petitions for the recognition and enforcement of the decisions of the courts of the Republic of Uzbekistan, written in the name of the courts of foreign countries, are submitted to the courts that adopted the decisions and sent by them to the competent authorities of foreign countries in accordance with the requirements of Article 53 of the Convention.

Today, in the context of globalization, marriage with citizens of foreign countries is widespread. However, cross-border marriages, like ordinary families, sometimes break down and disagreements arise between parents regarding the upbringing of children and their place of residence. Based on this, recently there has been an increase in cases of child abduction or taking the child abroad by one of the parents living in a foreign country.

As in other countries of the world, the number of marriages and divorces with foreign citizens is increasing every year in Uzbekistan. At the same time, the number of appeals from foreign citizens regarding child abduction or illegal detention is also increasing.

In order to effectively resolve disputes between parents who have the citizenship of another country or live in the territories of different countries, the Convention "On Civil Aspects of Child Abduction to Other Countries" (October 25, 1980, The Hague) was developed under private international law³.

The Republic of Uzbekistan joined this Convention based on the decision of the Oliy Majlis of the Republic of Uzbekistan No. 629-I of May 1, 1998 "On Accession to the Hague Convention on the Civil Aspects of Child Abduction to Other Countries". This Convention entered into force in the Republic of Uzbekistan on May 1, 1998.

Also, by the decision of the Cabinet of Ministers of the Republic of Uzbekistan No. 192 dated May 18, 2000 "On organizational measures to implement the Hague Convention on the Civil Aspects of Child Abduction to Other Countries", the Ministry of Justice of the Republic of

³ Ўзбекистон Республикаси Олий Мажлисининг Ахборотномаси, 1998 й., 5-6-сон, 110-модда.

Uzbekistan on the Civil Aspects of Child Abduction to Other Countries It is designated as the central body for ensuring the fulfillment of obligations arising from the Hague Convention.

The purpose of the convention is to ensure the speedy return of children illegally removed to one of the participating states or detained in these states, and the effective observance of the right to guardianship (care) provided by some of the participating states in accordance with the legislation of other participating states.

It should be noted that within the framework of the Convention, only one problem is solved - the return of the child to the territory of the state with permanent residence. Custody, determining the child's place of residence and other rights related to the child are not considered within the framework of the Convention.

Providing legal assistance based on the "Convention Abolishing the Requirement of Legalization of Foreign Official Documents" (The Hague, October 5, 1961) from April 15, 2012 - Convention Abolishing the Requirement of Legalization of Foreign Official Documents (The Hague, 1961) October 5) entered into force for the Republic of Uzbekistan.

Legalization of foreign official documents by ministries, agencies, local state authorities and other organizations of the Republic of Uzbekistan on the basis of the decision PQ-1566 "On measures to implement the provisions of the Convention Abolishing the Requirement for Legalization of Foreign Official Documents (The Hague, October 5, 1961)" are obliged to accept official documents of foreign countries without legalization in the cases provided for by the Convention, and cannot refuse to accept and use apostilled official documents issued by the countries that are parties to the Convention⁴.

The regulation on the procedure for putting an Apostille, approved by the decision of the Cabinet of Ministers No. 307 of November 17, 2011, specifies the procedure for putting a special stamp "Apostille" on official documents drawn up in the territory of the Republic of Uzbekistan. In accordance with Article 5 of the Convention Abolishing the Legalization of Foreign Official Documents (The Hague, October 5, 1961), the authenticity of the signature of the person acting as the signatory of the document and the authenticity of the imprint of a seal or stamp confirming the document are confirmed with it⁵.

A signature, seal or stamp for an apostille does not require additional confirmation. Competent state bodies perform the function of affixing an apostille to official documents. Apostille for documents executed by embassies or consular institutions of the Republic of Uzbekistan abroad; it is not placed on documents directly related to commercial or customs operations, passport, military ticket.

It was ratified by the decision of the Oliy Majlis of the Republic of Uzbekistan No. 183-I of December 22 "On ratification of the Hague Convention on Civil Procedure, signed on March 1, 1954". It entered into force for the Republic of Uzbekistan on December 6, 1996.

In accordance with Article 1 of the Convention, documents on civil or commercial matters are sent to the specified authority at the request of the consul of the country in which the transfer of documents to competent authorities abroad is requested. When sending a document, the name and nature of the authorized body, the address of the recipient, the nature of the document must be indicated in the language of this state.

If the document to be handed over is drawn up in the language of the requested authorities or in a language agreed between the two interested countries, or if the document is translated into one of the above languages, the requested authorities shall, with this request, submit the above-mentioned document in accordance with the procedure established by the legislation for internal affairs or if it does not conflict with these procedures. can be submitted in a special order.

⁴ Ўзбекистон Республикаси қонун ҳужжатлари тўплами, 2011 й., 27-сон, 281-модда.

⁵ Ўзбекистон Республикаси Олий Мажлисининг Ахборотномаси, 1995 й., 12-сон, 273-модда.

Convention "On conciliation and arbitration within the framework of the Council for Security and Cooperation in Europe" (December 15, 1992, Stockholm) 186-I of December 22 "Compromise within the framework of the Council for Security and Cooperation in Europe signed on December 15, 1992 and acceded to the Stockholm Convention on Arbitration. It entered into force for the Republic of Uzbekistan on March 24, 1996⁶.

The main purpose of the adoption of the convention on conciliation and arbitration within the framework of the Security and Cooperation Council in Europe is to resolve disputes peacefully, taking into account the obligations of the countries that are participants of the conference, provided for in Article 2, Clause 3 of this Convention and Article 33 of the Charter of the United Nations.

They also prevent encroachment on the authority of other existing institutions or mechanisms, including the International Court of Justice, the European Court of Human Rights, the Court of Justice of the European Communities and the Permanent Court of Arbitration.

Confirm its decision to settle its disputes by peaceful means and to develop mechanisms for settling disputes between the participating states. In accordance with the provisions of this Convention, disputes referred to it shall be settled by arbitration courts through the establishment of arbitration courts.

Each State Party to this Convention shall, within two months of its entry into force, appoint one arbitrator and one alternate, who may be nationals of its own or of any other State Party to the OSCE. Arbitrators and their deputies must have the necessary qualifications for appointment to the highest judicial positions in their country or be recognized lawyers in international law.

Arbitrators and their deputies shall be appointed for a term of six years no more than two times in a row. The state party that appointed them before the end of their term of office cannot release them from their obligations.

In case of death, resignation or inability to fulfill their duties of an arbitrator and his deputy, and this fact is recognized by the Presidium, in accordance with paragraph 1 new appointments will be made. The new judge and his deputy shall serve until the end of the term of office of their predecessors.

The Law of the Republic of Uzbekistan dated December 13, 2019 ORQ-593 "On Ratification of the Protocol on the Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters of January 22, 1993 (Moscow, March 28, 1997)" was adopted. This law is aimed at further development of mutual international cooperation in the field of legal assistance and legal relations in civil, family and criminal cases⁷. According to Article 5 of the Convention, within the framework of the Convention, it is envisaged that the justice institutions will carry out mutual relations with other CIS member states through their central bodies.

The ratification of this protocol serves to facilitate the registration of civil status documents, exchange of education, work experience and other similar information, as well as to facilitate the implementation of legal relations in civil and criminal cases and to create additional conveniences for citizens.

Uzbekistan joined the Convention of October 7, 2002 on legal assistance and legal relations in civil, family and criminal matters. This allows for relations with the competent authorities of Azerbaijan, Armenia, Belarus, Kazakhstan, Kyrgyzstan and Tajikistan. However, since the Russian Federation is not a party to this Convention, it does not create the possibility of mutual relations with it. However, the requirements of this Law are the Republic of Uzbekistan and the Russian Federation, at the same time, the absolute majority of requests (77 percent of total

⁶ Ўзбекистон Республикаси Олий Мажлисининг Ахборотномаси, 1995 й., 12-сон, 276-модда.

requests) considered by the competent authorities of the Republic of Uzbekistan within the framework of the Minsk Convention originate from the Russian Federation.

THE LIST OF USED LITERATURE

1. United Nations, Treaty Series, vol. 330, No. 4739; UN DOC E/CONF.26/SR. 1-25, Summary Records of the United Nations Conference on International Commercial Arbitration, New York, 20 May - 10 June 1958.
2. https://en.wikipedia.org/wiki/Convention_on_the_Recognition_and_Enforcement_of_Foreign_Arbitral_Awards.
3. Ўзбекистон Республикаси Олий Мажлисининг Ахборотномаси, 1995 й., 12-сон.
4. Ўзбекистон Республикаси қонун ҳужжатлари тўплами, 2011 й., 27-сон.
5. Ўзбекистон Республикаси Олий Мажлисининг Ахборотномаси, 1995 й., 12-сон.
6. Махмудов Х. ЎЗБЕКИСТОН РЕСПУБЛИКАСИДА ЧЕТ ЭЛ СУД ВА АРБИТРАЖ ҚАРОРЛАРИНИ ТАН ОЛИШ ВА ИЖРОГА ҚАРАТИШНИНГ ҲУҚУҚИЙ АСОСЛАРИ //Иновационные исследования в современном мире: теория и практика. – 2023. – Т. 2. – №. 18. – С. 116-119.
7. Махмудов Х. ЎЗБЕКИСТОН РЕСПУБЛИКАСИДА ЧЕТ ЭЛ СУД ВА АРБИТРАЖ ҚАРОРЛАРИНИ ТАН ОЛИШ ВА ИЖРОГА ҚАРАТИШНИНГ ҲУҚУҚИЙ АСОСЛАРИ //Иновационные исследования в современном мире: теория и практика. – 2023. – Т. 2. – №. 18. – С. 116-119.