

# Legal Regulation of Arbitration Agreement in the Republic of Uzbekistan

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**Abstract:** This article discusses the legislative regulation of arbitration agreements in the Republic of Uzbekistan. The author focuses on the law of the Republic of Uzbekistan “On International Commercial Arbitration” and Tashkent International Arbitration Center (TIAC) as the leading arbitration institution in the Republic of Uzbekistan, respectively, and compares with the Chinese model of legal regulation of the arbitration agreement. As a result of the analysis, the author concludes that it is necessary to make changes to the legislation of the Republic of Uzbekistan to optimize arbitration agreements.

**Keywords:** arbitration agreement, arbitration process, arbitrator, international commercial arbitration, UNCITRAL, Tashkent International Arbitration Center ( TIAC ).

In the Republic of Uzbekistan, numerous opportunities are created for foreign investors. A strong legislative framework, that protects the rights and interests of the investors, taxes, and other types of benefits and preferences for investors can prove this fact. On the other hand, investments in the Republic of Uzbekistan bring a significant contribution to the development of the country’s economy.

As a result of the development of international economic relations of the Republic of Uzbekistan, the possibility of economic disputes arises among legal entities established in the Republic of Uzbekistan, on the one hand, and foreign legal entities, on the other.

On August 18, 2021, the Law of the Republic of Uzbekistan “On International Commercial Arbitration” ( LRU-674) came into force<sup>2</sup>, regulating all issues related to arbitration in the Republic of Uzbekistan.

Nowadays, one of the most difficult aspects that legal practitioners and arbitrators usually face is the issue of formulating and agreeing arbitration clauses in contracts.

Arbitration processes in the Republic of Uzbekistan are carried out in permanent arbitration institutions or arbitration courts that are created to resolve a specific dispute. Among them, of course, the Tashkent International Arbitration Center (TIAC), founded on November 5, 2018, based on Decree of the President # 4001, plays an important role in resolving international commercial arbitration disputes<sup>3</sup>.

The contracting parties prefer to resolve disputes with the help of arbitration in the Republic of Uzbekistan if the territory for the supply of goods or provision of service is in the territory Republic of Uzbekistan. The contracting parties should agree to settle the dispute by arbitration in the Republic of Uzbekistan in an arbitration agreement or a separate signed arbitration agreement.

If contracting parties choose Tashkent International Arbitration Center (TIAC) as a competent arbitration institution to resolve the dispute, it is recommended to conclude an arbitration agreement as follows:

"All disputes arising out of or related to this agreement, including its existence, invalidity, or termination, are finally resolved by the rules of the Tashkent International Arbitration Center (TIAC)

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<sup>2</sup>National database of legislation, 02/17/2021, 03/21/674/0123-son , <https://lex.uz/docs/5294106> .

<sup>3</sup>National database of legislation, 06.11.2018, No. 07/18/4001/2157 , <https://lex.uz/uz/docs/4039518> .



under the Chamber of Commerce and Industry of the Republic of Uzbekistan. The place of arbitration is (select jurisdiction). Number of arbitrators - (one or three). Language of arbitration - (language of arbitration is selected).<sup>4</sup>”.

LRU-674 provides a clear definition of an arbitration agreement. Article 12 of this law defines an arbitration agreement as “an agreement to arbitrate all or specified disputes arising between the parties, whether contractual in nature or not, relating to any specific legal relationship.”. This article also contains a provision that the arbitration agreement must be concluded in writing. Also, if the content of an arbitration agreement is recorded in any form by the actions of the parties or through other means, regardless of whether the arbitration agreement or contract was concluded orally or not, this agreement is considered to be concluded in writing<sup>5</sup>.

The legislation of several countries also has its own rules regulating arbitration agreements. For example, Article 16 of the Arbitration Law of the People's Republic of China sets the following requirements for an arbitration agreement<sup>6</sup>:

1. the parties must have a clear intention to address arbitration;
2. availability of conditions for arbitration proceedings;
3. presence of an arbitration commission.

Thus, the Arbitration Law of the People’s Republic of China mentions what exactly should be included in the arbitration agreement.

When it comes to the TIAC Rules, it is important to select the number of arbitrators, the place of arbitration, and the language of the arbitration proceedings. Article 15 of LRU-674 provides, that the parties may determine the number of arbitrators at their discretion and that, in the absence of such agreement, three arbitrators will be appointed<sup>7</sup>.

According to the TIAC Rules, it is also important to indicate where the arbitration will take place. LRU-674, however, makes a special reference to the place of arbitration, according to which the parties can agree on the place of arbitration at their discretion. In the absence of such an agreement, the place of arbitration proceedings is determined by the arbitration court, taking into account the circumstances of the case, including the factor of convenience for the parties. For example, the parties can indicate whether the dispute will be considered by the TIAC regulations in the city of Tashkent or Moscow.

Besides, according to LRU-674, unless the parties have agreed otherwise, the arbitral tribunal may meet in any place where it deems it necessary to hold consultations between its members, hear witnesses, experts, or parties, or inspect goods, other property, or documents<sup>8</sup>.

According to the TIAC Rules, parties shall determine the place of arbitration based on their mutual agreement, which also can be determined by the arbitrators taking into account the circumstances of the case if no such agreement exists<sup>9</sup>.

It is also important to specify the language in which the arbitration will be conducted in arbitration agreements. Specifying the language in which the arbitration will be conducted depends primarily on the parties' location, also where the arbitration will take place. For example, in an arbitration agreement for an international economic contract concluded between a USA-registered company, and the other company created in one of the European Union countries, the language of arbitration proceedings is usually chosen to be English. Typically, arbitration proceedings are conducted in the language of the contract or in the language of the country where the arbitral institution is located.

<sup>4</sup><https://www.tiac.uz/tiac-rules-of-arbitration>.

<sup>5</sup>National database of legislation, 02/17/2021, 03/21/674/0123-son , <https://lex.uz/docs/5294106> .

<sup>6</sup><https://www.wipo.int/wipolex/ru/legislation/details/6598> .

<sup>7</sup>National database of legislation, 02/17/2021, 03/21/674/0123-son , <https://lex.uz/docs/5294106> .

<sup>8</sup>National database of legislation, 02/17/2021, 03/21/674/0123-son , <https://lex.uz/docs/5294106> .

<sup>9</sup><https://www.tiac.uz/tiac-rules-of-arbitration> .



LRU-674 states that the parties may agree on the language or languages to be used at the arbitration hearing at their discretion and that the arbitral tribunal has the power to designate the language or languages to be used at the hearing if such agreement is not available. Alternatively, this law also provides that such agreement or order, unless otherwise provided for, also applies to any written application by a party, any hearing, and any award, order, or other notice of the arbitral tribunal<sup>10</sup>.

The arbitration process in the TIAC is mostly conducted in the English language. Of course, the choice of language for arbitration proceedings will depend on many factors, including the state in which the contracting parties are located. For example, in an arbitration agreement concluded between a legal entity established in the Russian Federation and a legal entity established in the Republic of Uzbekistan, the Russian language is mostly chosen.

Arbitration agreements also play an important role in determining which law will be applied to resolve disputes arising from contractual relations. For example, stipulating in the arbitration agreement that disputes arising from an international economic contract concluded with a company established in the Republic of Uzbekistan will be resolved based on the legislation of the Republic of Uzbekistan will significantly facilitate the arbitration process for the company created or operating in the Republic of Uzbekistan. For this purpose, an arbitration agreement can include the following clause - "All disputes arising from this agreement will be resolved based on the legislation of the Republic of Uzbekistan."

Considering the above, it must be emphasized that to avoid problems with the emergence of issues related to the conclusion, validity, and enforceability of arbitration agreements, the agreeing parties should pay attention to the correct conclusion of the arbitration agreement, and it is also necessary to make some changes to the legislation of the Republic of Uzbekistan regarding the arbitration agreement. Following the Chinese model of arbitration agreements, establishing clear terms regarding what should be included in the arbitration agreement will serve to improve the arbitration legislation of the Republic of Uzbekistan.

#### **LIST OF REFERENCES USED:**

1. National database of legislation, 02/17/2021, 03/21/674/0123-son, <https://lex.uz/docs/5294106>.
2. National database of legislation, 06.11.2018, No. 07/18/4001/2157, <https://lex.uz/uz/docs/4039518>.
3. Gary Born – International arbitration, 2012.
4. <https://www.wipo.int/wipolex/ru/legislation/details/6598>.
5. <https://iccwbo.org/dispute-resolution/dispute-resolution-services/arbitration/rules-procedure/arbitration-clause>.
6. <https://www.tiac.uz/tiac-rules-of-arbitration>.

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<sup>10</sup>National database of legislation, 02/17/2021, 03/21/674/0123-son , <https://lex.uz/docs/5294106> .

