Issues of regulation of the procedure of dispute consideration by the arbitral tribunals by the legislation of the Republic of Tajikistan

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I. INTRODUCTION

The Universal Declaration of Human Rights and freedoms, adopted December 10, 1948 by UN in the article 7 states that all are equal before the law and are entitled without any discrimination to equal protection of the law, and article 8 of the same Declaration specifies that each person has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law. On December 16, 1966 the UN General Assembly had adopted the International Covenant on economic, social and cultural rights and the International Covenant on Civil and political rights, both of them were signed by the USSR on March 18, 1968 and ratified on September 18, 1973.

These international documents, which are often referred to as the "International Bill of rights", became the basis for the adoption of other instruments on the protection of the rights and freedoms, one of which is the Civil procedure Convention (The Hague, March 1, 1954). The Convention was ratified and came into force of the USSR on July 26, 1967.

Rules on the protection of the rights and freedoms of a person and citizen specified in the international statutory instruments are reflected directly or indirectly in the constitutions of foreign countries, if these acts ratified and have come into legal force in the country.

"15 independent national States were formed after the collapse of the Soviet Union in 1991: The Republic of Azerbaijan, The Republic of Armenia, The Republic of Belarus, Georgia, The Republic of Kazakhstan, The Kyrgyz Republic, The Republic of Latvia, The Republic of Lithuania, The Republic of Moldova, Russian Federation, Tajikistan, Turkmenistan, The Republic of Uzbekistan, Ukraine, the Republic of Estonia"[1].

In many republics of the former USSR international legal standards that were adopted during the Soviet period, have kept (were again ratified) their effect in the legislation and the constitutions of these countries. On the other hand, characteristics of the former USSR states that is usually contained in the fundamentals of the constitutional system have changed radically in the post-Soviet constitutions comparing to the Soviet period. They all became sovereign, democratic, etc.

"The fundamentals of the constitutional system, usually begin with the constitutional

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[1] GRIGONIS, E. P., GRIGONIS, V. P. *Constitutional law of foreign countries.* Saint - Petersburg. 2002. p. 42.

characteristics of the state, where the form of Government (monarchy or republic), the form of state system (unitary state or federation), the political mode (democracy) and other important characteristics are set out: legal, social nature of state, etc."[2].

The Republic of Tajikistan is not an exception. Tajikistan Constitution was adopted on November 6, 1994. The article 1 of it provides that Tajikistan is a sovereign legal democratic state.

In the article 5 of the Constitution of Tajikistan it is provided that the highest value is the man, his life, freedom, honour, dignity and other inalienable rights.

In the article 19 of the Constitution of Tajikistan stated that everyone is guaranteed judicial protection and the right to a case consideration by a competent, independent and impartial court established by law.

If the Republic of Tajikistan is a democratic state, some institutions of civil society must act there in order to protect the rights and freedoms of citizens, without help of the public authorities. Arbitral tribunals are these institutes in the field of justice that allow citizens to defend their rights and freedoms in the field of civil and legal relations. In many ways, "disputes consideration of business entities and protection of their rights and interests in an arbitral tribunal is more preferable than consideration of the case in a state court"[3].

Consequently, citizens can use not only the courts coming into the judicial system of the Republic of Tajikistan, but the same tools of non-state economic justice.

1.1. PROBLEM STATEMENT

The article is devoted to the regulation of the procedure of consideration of disputes by the arbitral tribunals. Nowadays in the modern world, the arbitral tribunals are widely represented in the sphere of economic dispute resolution. Arbitration is an alternative to public justice. Arbitration is an independent non-government independent organization. Arbitral tribunals are not judicial authorities and therefore are not included in the judicial system of the Republic of Tajikistan.

The main purpose of arbitration is to resolve legal conflicts in the area of economic activity. And Voluntary execution of obligations is also one of the important features of arbitration. The above-mentioned objective is expressed in that arbitration is initiated by the parties to the dispute who voluntarily rely on a certain arbitration institution to make a decision on their case and undertake in advance to comply with this decision. The power of the arbitral tribunal is not based on common Law, but on the contractual principle and on the will of individuals. It is reasonable that arbitration and international commercial arbitration are called "private justice"[4].

Arbitration is such a form of jurisdiction that is most relevant to the Institute of market economy because this form complies with the individual approach to each specific dispute and its participants. Possibility of influence of the of State Justice authorities on the dispute resolution process is minimal.

Accordingly, the arbitration procedure should be regulated by a separate law the quality and completeness of which is of great importance for its existence and further development.

Arbitration in the Republic of Tajikistan is regulated by the Law No.344 dated January, 5 2008 "On arbitral tribunals" (hereinafter the Law), entered into force on April 1, 2008. In the process of drafting this Law, extensively used

[2] GRIGONIS, E. P., GRIGONIS, V. P. *Constitutional law of foreign countries.* Saint - Petersburg. 2002. p. 13.

[3] GAVRILENKO, V. A. *Arbitration as a guarantee of the protection of the rights and interests of business entities.* // Abstract of the Candidate of legal sciences thesis (PhD). Saint-Petersburg. University of the Ministry of the Interior of Russian Federation. 2006. p. 6.

[4] LEBEDEV, S. N. *International commercial arbitration and interim measures.* // Moscow journal of international law. 1999. No.1. p. 62.

experience and best practices of the Russian legislation and law enforcement. Legal regulation of many of issues of arbitration by the Law is similar with Russian law.

The law regulates the arrangement of arbitral tribunals and the procedure of their action. The arbitral tribunal may be transferred to disputes arising from civil and other economic legal relations within the country. These disputes can be regarded by arbitral tribunals under the agreement of parties. It is needed to specify that subjects of these disputes can be both Tajikistan subjects of legal relations and foreign entities carrying out their activity in the Republic of Tajikistan. Therefore, the competence of the arbitral tribunal includes disputes resolution arising from civil and economic legal relations within the country.

1.2. PURPOSE OF THE RESEARCH

The main objective of the present research is to analyse in a detailed way the provisions of the law No.344 of the Republic of Tajikistan "On arbitral tribunals" dated January 5, 2008 (hereinafter the Law) that regulates the arbitration institute in the state.

In the terms of the foregoing, it is possible to define the following objectives of the study:

- examination of the characteristics and trends of development of legislative regulation of the institution of arbitration in the Republic of Tajikistan;
- study of features of the legal status of arbitral tribunals in the Republic of Tajikistan;
- research of the dispute resolution procedure at all stages;
- analysis of the basic principles of arbitration in the Republic of Tajikistan;
- research on the legal status and procedural provisions of the arbitrators;
- research on the procedural status of the parties to the arbitration trial;
- research on the legal properties of evidence and procedure of proof;
- study of the legal properties of the arbitral award;
- detailed commentary to the provisions of the Law that govern the above issues.

1.3. RESEARCH METHODS.

Institute of the arbitration is a difficult, complex legal phenomenon. This legal institution is regulated both by the norms of procedural law and the norms of substantive law. Accordingly, the study takes a comprehensive approach to the consideration of legal relationships arising in the field of arbitration that consists of using the methods implemented by the science of private law and by the science of civil and arbitral process. Comparative-legal, analytical, formal and logical methods combined with a systematic approach to the analysis of problems in the sphere of legal regulation of arbitration by the legislation of the Republic of Tajikistan form the basis of this scientific work. Application of the analytical method has particular importance as the concept of this article includes an analysis of the legislation of the Republic of Tajikistan in the sphere of arbitration.

II. RESULTS AND DISCUSSION

2.1. LEGAL REGULATION OF ARBITRATION, GENERAL INFORMATION.

The law provides two kinds of arbitral tribunals, such as single-time (ad hoc) arbitration established for the consideration of a specific dispute and the permanent arbitral tribunal. Prior to the adoption of the Law "Regulations on the arbitral tribunal for resolving of economic disputes in the Republic of Tajikistan" dated May 15, 1997 was valid and provided for the creation of ad hoc arbitral tribunal for a particular dispute consideration after which the Court ceased to exist. This norm was uncomfortable because every time a dispute arises it had to repeat an entire process of the arbitral tribunal formation even if a dispute took place between the same entities. Accordingly, it should be noted that the inconsistency of the arbitration agreement of the parties took place not only when a specific dispute was transferred to the Arbitral tribunal, but it also

concerned certain categories of disputes or disputes which have arisen or may arise between them. There was a constant process of forming a single arbitral tribunal that did not contribute to the effective resolution of disputes between parties to the economic turnover.

The Law also contains a provision that the arbitral tribunals are organized by non-profit organizations. Chambers of commerce, stock exchanges, associations of entrepreneurs, associations and unions can be these organizations. The legislator prohibits directly the formation of arbitration courts in the bodies of state power and local authority.

The Arbitral tribunal is considered formed after the decision made by a legal entity on its establishment, approval of its Provisions on permanent arbitral tribunal and the list o arbitrators.

One of the first arbitration courts in Tajikistan is the Arbitral tribunal at the Chamber of commerce and industry of the Republic of Tajikistan, which was formed on April 14, 2008 in a short time after the adoption of the law. The Bureau of the Chamber of commerce and industry of the Republic of Tajikistan adopted the Regulations of the Arbitral Tribunal and the list of arbitrators.

Strengthen the position of arbitral tribunals provides interaction with the state courts. Article 3 of the Act specifies that the interaction begins at the stage of the arbitral tribunal formation, when a legal entity that established the permanent arbitral tribunal sent to inform the competent court copies of the documents attesting the establishment of the permanent arbitral tribunal Permanent Court of arbitration. The Economic court of the Republic of Tajikistan shall act as the competent court for disputes jurisdictional to economic courts, district (city) court for disputes jurisdictional to the courts of general jurisdiction. Obviously, although the arbitral tribunals and not part of the judicial system of the Republic of Tajikistan, but they could not carry out its activities without interference from the State courts.

A procedure for the formation of an ad hoc arbitral tribunal was left to the consideration of the parties entering into the agreement. However, the legislator has limited the discretion of the parties. The agreement on the formation of an ad hoc arbitral tribunal should not contradict the articles 7-13 of the law. These articles define the formation of the arbitral tribunal structure, the requirements for the arbitrators, the procedure and grounds for disqualification and rejection, the procedure for terminating of powers and the replacement of judges.

2.2 ARBITRAL AGREEMENT.

The legal basis for the submission of a dispute to the arbitral tribunal is the arbitration agreement, which is in the form of an arbitration clause or in the form of a separate agreement, in accordance with which the arbitral tribunal permission to send them all or certain types of disputes arising between the parties in connection with a particular legal relationship. Arbitration clause can be included in any civil law contract. It represents a significant and independent part of the contract concluded in writing. The basis for resolving arising or occurring, i.e. dispute that has already occurred, is arbitration agreement concluded in the form of a written contract. It means that it is unacceptable to change the basic contract parties with the aim of adding arbitration clauses concerning the permission of the dispute (art. 4).

The arbitration agreement can be concluded by the parties to refer disputes arising over the non-fulfillment or improper fulfillment of contractual duties. Though such agreements could be concluded over actual and potential future disputes. Procedural legal consequence of the arbitration agreement is an exception to the jurisdiction of the state court, that is, the economic court or court of general jurisdiction leaves the claim without consideration after its adoption unless the parties have an agreement on the transfer of the case to the arbitral tribunal.

However, the existence of the arbitration agreement to refer the dispute to the arbitral

tribunal doesn't mean a total loss of the right to apply to the economic court or court of general jurisdiction. Even in the presence of the arbitration agreement party is entitled to contact the economic court for protection of the violated right, if the other party doesn't ask to send the case to the arbitral tribunal not later than its first statement on the substance of the dispute or the defendant doesn't object, doesn't make a motion for the referral of the dispute to the arbitral tribunal before his first statement on the merits of the dispute or before the awarding judgment. The parties can also contact the economic court to protect their rights in the presence of the arbitration agreement in the following situations. Firstly, when the arbitration agreement is admitted invalid, insignificant or cannot be enforced. Secondly, when the parties didn't choose the competent arbitral tribunal. In the third, when the parties of the arbitration agreement concluded a new agreement on the transfer of the dispute to the economic court In the fourth, when a dispute cannot be the subject of arbitration.

The law specifies the legal basis for the activity of the arbitration courts (art. 5). This article is a general rule in legislation and prescribes the implementation activities of the arbitral tribunals in accordance with the Constitution of the Republic of Tajikistan and applicable legislation. Also, the legislator establishes a rule on the application in the arbitration trial of dispute the terms of the contract between the parties and customs of trade.

Contract on the transfer of the dispute to the arbitral tribunal takes the form of the arbitration clause or agreement. The Law defines in detail the content of the arbitration agreement that limits the jurisdiction of the arbitral tribunal (art. 6 of the Law).

The law provides for the conclusion of an arbitration agreement in writing in the form prescribed by civil law, expressed as a separate document and contained in a document signed by the parties or by an exchange of letters, by telex, telegraph or other means of electronic or other communications to ensure the adoption of such an agreement.

Also, certain mandatory requirements to the content of the arbitration agreement are established. In addition, the Parties shall be entitled to make provision in the agreement and other requirements on the basis of mutual consent.

Upon the signing of the arbitration agreement on the dispute by the ad hoc arbitral tribunal it is necessary to provide rules of proceedings in a specified court, which must not conflict with the provisions of chapter 3 of this Law (arbitral tribunal structure). Failure to comply with these rules, leads to the invalidity of the arbitration agreement.

Important is the rule that unless otherwise is agreed by the parties when passing the dispute to the permanent arbitral tribunal, rules of the permanent arbitral tribunal are considered as an essential part of the arbitration agreement. In the practice of arbitration, unless the parties entrust the dispute to a specific permanent arbitration court, then they agree with its rules and regulations. In the agreement, the parties may specify the conditions of the trial desirable for them. But, if the latter contradicts the rules of the arbitral institution specified in the arbitration clause, there will be obstacles to effective deal with a dispute.

2.3 LEGAL STATUS OF ARBITRATORS.

The legislator establishes requirements for arbitrator who should be a person capable of ensuring an impartial dispute resolution, that is not interested in the outcome of the case, independent of the parties, agreed to serve as the arbitrator in the manner agreed by the parties. The requirement of higher legal education is provided only for an arbitrator considering the dispute alone and for the chairman of the arbitral tribunal in the case of a collegial decision of the dispute (art. 7 of the Law).

In addition, it is stated that the parties of the arbitral proceedings may provide additional requirements to the candidate of the arbitrator which are contained in the arbitration agree-

ment. Additional requirements for qualifications of arbitrators may be contained in the rules and regulations of the permanent arbitration courts.

It is necessary to consider that additional requirements may relate exclusively to the professional qualifications of the applicant. For example, experience of work on a speciality, availability of academic titles, skills, special branch education, etc. can be considered. But the requirements do not apply to nationality of arbitrator, his religion, gender, political belief, etc.

The range of people, who can not be an arbitrator, is defined in the Law. These are people who either don't have full legal capacity or under the tutelage and guardianship or have an outstanding conviction. There is also a legislated prohibition to be the arbitrator towards to a person having an official status of a judge, prosecutor's office employee, etc.

The number of arbitrators in litigation must be odd. In the main hearing, the case is conducted by three arbitrators. Otherwise, the number of arbitrators may be provided by agreement of the parties or by the rules of the permanent arbitral tribunal

The procedure for the formation of the arbitral tribunal is regulated in the following way (art. 9). The arbitral tribunal shall be formed in order of election or appointment. The permanent arbitral tribunals control the formation of the tribunal composition in its regulations. In ad hoc arbitral tribunals, a court composition occurs in the order determined by the parties in the arbitration agreement. But unless the otherwise agreed by the parties, the procedure for the composition of a single-time arbitral tribunal are clearly described in the part 4 of art. 9 of the Law. Each party elects one arbitrator and the two elected judges elect a third judge. If one of the parties doesn't elect the arbitrator within 15 days after the receipt of the request for the election of the arbitrator from the other party or two selected arbitrators within 15 days elect a third arbitrator, the arbitration dispute in the arbitral tribunal is not subject to review. The same legal consequences in the case of a dispute shall be settled by a sole arbitrator when after the appeal of one side to the other with the proposal regarding the election of the arbitrator the parties within 15 days did not choose the arbitrator.

Issues of the arbitrator's disqualification are essential. The circumstances which give rise to some doubts to the impartiality of the arbitrator impede a fair trial of the case. If there is such a reason, an individual who is requested to be an arbitrator should indicate the circumstances of his disqualification. If such circumstances become known during the arbitration, the arbitrator should notify the parties and declare his rejection.

Art. 10 of the Law provides an exhaustive list of the grounds for disqualification that are the following: direct or indirect interest in the outcome of the arbitration case; if the judge is a relative of one of the parties or has special relations; the dispute directly or indirectly connected with the execution of his official authority; the arbitrator within one month after his election or appointment is not fulfilling his responsibilities connected with the consideration of the case; inconsistency was revealed between the arbitrator and qualifications required by the Law; judge was involved earlier to this case etc. The mentioned circumstances form the basis not only for the arbitrator's disqualification but also an obstacle to his election as the arbitrator and the rejection of the latter.

Now consider the order of the arbitrator's disqualification. A party can file a motion for recusal of an elected arbitrator if circumstances that are grounds for disqualification became known after his was elected the arbitrator. The law provides for the harmonization of the parties of the procedure of disqualification of the arbitrator. If it is not agreed upon by the parties or does not provide for the rules of the permanent arbitral tribunal, then the motion for recusal of the arbitrator is served by a party within 5 days after the formation of the arbitral tribunal composition. If the judge doesn't take rejection in case of filling a motion for recusal

or the other party doesn't agree with the recusal of the arbitrator, then the question of objection is solved by the other arbitrators within ten days from receipt of the written statements by the parties. In the case of a sole arbitrator of the dispute, he resolves the question of disqualification by himself.

The law defines the procedure for the termination of the authority of the arbitrator. The standard ground for the termination of the authority is the completion of the proceedings and the adoption of the decision. The law establishes the period of authority termination in 15 days from the date of adoption of the decision.

In the case of an appeal against the arbitration decision or appeal of the parties for an additional judgment, for an explanation of decisions and correction of mistakes, misprints and arithmetical errors in the arbitration, the authority of the arbitrators should be terminated after these proceedings.

The law also established the list of grounds according to which the authority of the arbitrator can be terminated, such as agreement of the parties, rejection, recusal (grounds for recusal listed in the article 10 of the Law), death of the judge.

The legislator also specifies the other grounds for the termination of the authority of the arbitrator, such as legal or actual inability of the arbitrator to participate in the consideration of the dispute and other reasons for which the arbitrator is not involved in the dispute over an unduly prolonged period. The legal inability is considered as the presence of the grounds provided for in the articles 7 and 10 of this Law. The actual inability primarily related to the health and the whereabouts of the arbitrator.

The substitution of the judge goes in the following order. It is provided that in the event of termination of the authority of arbitrator, another arbitrator is elected or appointed in accordance with the rules applied to the election or appointment of the arbitrator who is being replaced. Proceedings not terminated in case of the termination of the authority of the arbitrator that ensures the replacement of the arbitrator (art.13 of the Law).

2.4 EXPENSES AND FEES.

The legislator determines the expenses, the aspects how to pay a sum as an advance payment to cover costs as well as the consequences of failing to make an advance (art. 14 of the Law). Provision of the advance provides some guarantee against bad faith of one of the parties in case of failure to execute a decision or ruling of the arbitral tribunal in the part of payment of costs. The distribution of costs between the parties dealing with the dispute consideration is indicated in the decision or ruling of the arbitral tribunal and is mandatory for execution. In case of failing to make an advance, the latter of the parties in the amount and the manner determined by the arbitral tribunal has the right to suspend proceedings or to refuse in their realization.

Specific amount of the fee of the arbitrators is not specified in this Law. Determining the amount of fee, the price of suit, the complexity of dispute, the amount of time spent by arbitrators and other relevant circumstances should be taken into account. The norm is quite an abstract, it doesn't clearly limit the amount of the fees. But at the same time, the law allows to foresee the scale of fees of arbitrators in the regulations of the permanent arbitral tribunals. In the single-time arbitral tribunal, the mount of the fee should be determined by the agreement of the parties. Unless otherwise is provided for in this agreement, the arbitral tribunal itself determines the amount of fee, taking into account the requirements of this article.

We will consider the regulation of the issues related to the distribution of the costs between the parties that are determined by the arbitral tribunal in proportion to the satisfied and rejected requirements, unless otherwise is provided by the agreement of the parties (art. 15 of the Law).

The cost of a representative of the party in whose favour the decision of the arbitral tribunal was considered as well as the other expenses related to the arbitration proceedings may be

attributed to the other side if the claim for the cost's recovery was made during the arbitration proceedings and granted by the arbitral tribunal.

The costs of the party that won the trial are additional costs, and they can be fulfilled by the arbitral tribunal within reasonable limits. In practice, the value of these costs is determined by the contract of a party with a representative or with another person.

2.5 PROCEDURAL ISSUES IN ARBITRAL PROCEEDINGS.

The main stage of the dispute resolution by the arbitral tribunal is the arbitration trial of disputes which is regulated by the chapter 5 of the Law.

Let's consider the issues related to the statement of claim (art. 16 of the Law). The plaintiff submits his/her requirements in the statement of claim and conveys it to the arbitral tribunal. A copy of the statement of claim is transferred to the defendant and the Law imposes a duty to direct to the defendant a copy of the statement of claim to the arbitral tribunal. The statement of claim should contain: the date of the application; name of the parties, their legal requisites; requirement and indication of the circumstances on which the plaintiff reposes his claim; evidence to establish the grounds for the claim; the amount of the claim; the list of the documents and other material annexed to the statement of claim.

The statement of claim must be signed by the plaintiff or his representative, with an attachment of a power of attorney or other document confirming the authority of the latter.

The Law permits providing for the additional requirements on the statement of claim by the arbitration rules. For example, article 29 of the regulations of the Arbitral tribunal at the Chamber of commerce and industry of the Republic of Tajikistan requires the statement of claim to be accompanied by a number of documents such as a copy of the arbitration agreement or other document containing an agreement clause; all the necessary documents proving the circumstances on which the claim is based; the proof of payment of the registration and arbitration fees.

Next, we will consider the submission of the statement of defense (art. 17 of the Law). Submission of the statement of defense is a right and not an obligation of the defendant. Consequently, the defendant decides to give the statement of claim or not. Of course, the statement of defense speeds up the case consideration because you can determine in advance the position of the defendant towards the appeared dispute and allows you to define a list of issues to be clarified during the session of the arbitral tribunal. The law defines that the statement of defense is submitted to the plaintiff and to the arbitral tribunal. If the deadline for the submission of the statement of defense is not determined, the statement of defense should be submitted before the first session of the arbitral tribunal. As a rule, in the regulations of the permanent arbitral tribunals and arbitration agreements on dispute consideration by a single-time arbitral tribunal the reasonable period to submit the statement of defense is specified. The law also give parties the right to amend or supplement their claims and objections to the claim, to provide additional materials during the arbitration proceedings. It should be noted that the failure of the statement of defense should not be regarded as recognition of the claims of the plaintiff and does not constitute an obstacle to the consideration of the claim.

Along with the statement of defense the defendant can make a counterclaim which presentation issues are regulated in detail (art. 18 of the Law).

The counterclaim should be presented if there is a relationship between the requirement of the plaintiff and the counterclaim and if both requirements in accordance with the arbitration agreement can be considered by the arbitral tribunal. The counterclaim can be made at any stage of the arbitration proceedings before a decision is ruled by the arbitral tribunal. Requirements to the content of the counterclaim are the same as to the content of the statement of claim. The defendant has the right to present objections to the counterclaim.

Also, the Law establishes the right of the defendant to demand for the counterclaim set-off unless the otherwise is agreed by the parties.

The Law also regulates the obtaining of documents and other materials necessary for the litigation (art. 19 of the law). These documents and materials are sent to the parties as agreed by them and on their given addresses. In the absence of agreement on the other order of the transmission of documents and other materials, they are sent by registered notification letter to the last location of the organization which is a party to the arbitration or the place of residence of a citizen who is a party of the arbitration proceedings. Documents and other materials are considered to be received on the day of their delivery, regardless of the fact whether the addressee lives or reside in that address or not.

The issues of the arbitral tribunal competence are of great importance (art. 20 of the Law). This is an important innovation out of the law, as in the previous legislation, the competence of the arbitral tribunal has not been examined. Objective necessity to resolve the issue is in real respect for jurisdiction over disputes in accordance with the applicable procedural law; ensuring the implementation of the content of the arbitration agreement.

The need to clarify the existence of the jurisdiction of the arbitral tribunal occurs whenever a party of an arbitration agreement appeals to it for protection. When the subject of arbitral tribunal become three separate issues such as: any objection concerning the existence or validity of the arbitration agreement; range of disputes within the competence of the arbitral tribunal; observance of the limits of the competence of the courts of arbitration.

It appears that the arbitral tribunal may acknowledge its competence only towards the disputes which have been agreed upon by the parties in the arbitration agreement. The arbitration agreement should be considered "as the basis of a dispute submission to the arbitral tribunal that defines the scope of the jurisdiction of the arbitral tribunal"[5]. Adoption of the disputes by the arbitral tribunals for the further consideration contained in the statement of claim beyond the arbitration agreement is linked to the will of the defendant. If the latter does not object, the arbitral tribunal can admit its competence.

Parties of the arbitration are given the right to declare that the arbitral tribunal doesn't have the competence to consider the dispute at the beginning of the case consideration. Also, during the proceedings, the parties can state about exceeding of authority by the arbitral tribunal, if at the time of the dispute consideration the question arises that is not provided by the arbitration agreement or question can't be discussed in accordance with the rules of the permanent arbitral tribunal or this Law. In these situations, the arbitral tribunal postpones or suspends the consideration of the case and consider a statement made by a party of the arbitration, after which it decides on its own competence.

The arbitral tribunal resolves the issue of the presence or absence of the competence on its own and makes an appropriate definition about it. During the consideration of the statement about the lack or excess of the power of an arbitral tribunal, the latter postpones the consideration of the case or suspends the examination of the case till the issue towards the existence of the appropriate competence is resolved. In the absence of the competence the arbitral tribunal makes ruling and the arbitration trial of dispute is terminated, the costs incurred by the arbitral tribunal are compensated by the parties in equal parts.

Legislation of the Republic of Tajikistan doesn't permit to appeal the arbitral tribunal ruling on its own jurisdiction.

The arbitral tribunal resolves issues of compliance of the arbitration agreement to the legislative requirements, the existence and the validity of

[5] GAVRILENKO, V. A. *Jurisdiction in arbitration proceedings*. // The Russian Yearbook on business (commercial) law. 2009. No.3. p. 317.

the mentioned agreement. If the arbitral tribunal finds the absence or the invalidity of the agreement, it must refuse to consider the dispute and to make the corresponding reasoned determination. The materials of the claim and the court ruling are returned to the plaintiff.

2.6 PRINCIPLES OF ARBITRATION.

Next, let us consider the principles of the arbitration trial that can be regarded as a basic regulatory framework governing beginnings characterizing its contents and basics (art. 21 of the Law).The law provides for the principles of legality, voluntariness, confidentiality, independence and impartiality of arbitrators, optionality, adversarial proceedings and equality of the parties. The Law does not disclose the content of these principles.

Principles of the arbitration trial should be analyzed in detail.

The principle of the legality should be understood as a requirement to consider the disputes in arbitration and perform procedural acts in accordance with the current legislation of the Republic of Tajikistan. The principle of legality is a procedural principle that should be followed by this court in the realization of the arbitration trial.

The principle of voluntariness means that no one can not be compelled to the arbitration trial against the will. The arbitral tribunal is a treaty-based institution by nature. It is based on an arbitration agreement and cannot be imposed on parties who have not expressed their consent with the proceedings by the arbitral tribunal.

The principle of the confidentiality lies in the inadmissibility for the people participating in the trial of dispute to disclose the information that have become known to them during trial. This rule is valid both for the arbitral tribunal and the parties of the dispute. The arbitration trial of dispute is closed in order to keep the confidentiality of the proceedings, unless the otherwise is agreed by the parties. It is non-public and private. In the article 25 of the Law it is provided for the confidentiality of the arbitration trial and the testimonial immunity is installed for the arbitrators.

Independence of the arbitrators can be defined as the lack of financial and other ties between them and one of the parties. It is obvious that the person may not serve as an arbitrator if he/she has strong business ties with one of the parties or has material interest in the outcome of the case. Under impartiality, we should understand the arbitrator's lack of preference for the position of one of the parties and of any kind of direct or indirect interest in the outcome of the case.

Arbitrators have to consider the specific disputes referred to the arbitral tribunal on the basis of existing legislation and in accordance with its internal conviction under the conditions when any influence and impact on them are excluded.

Principle of the optionality reveal itself in providing to the parties to the conflict the possibility to control material rights and procedural means of their protection. The fundamental content of the principle is the freedom of the concerned person to determine the forms and means of the protection of the violated rights or the interest protected by the law. The right of the parties to conclude the arbitration agreement, in order to protect their legitimate interests, is clearly the consequence of this principle.

The principle of the equality of the parties is reflected in the fact that the procedure of arbitration takes place in such a way that the opposing sides have equal legal capacity in the protection of their rights and legal interests in court. The arbitral tribunal must not give preference to one of the parties of the dispute.

The content of the adversarial principle is that arbitration trial includes active actions of the parties on the justification of the legitimacy of their claims and objections by presenting evidence to support of their position, participation in the study and evaluation of all the assembled evidence, the implementation of all the other legal proceedings necessary to defend the position.

Some provisions of the Law are dedicated to the determination of the rules of the arbitration trial (art. 22 of the Law) that is usually carried out

in accordance with the rules of the permanent arbitral tribunal with the participation of the parties or their representatives, unless otherwise is agreed on the application of other rules of arbitration trial. The rules of the proceedings in the ad hoc arbitral tribunal are established by the arbitral agreement between the parties. In a situation when the parties have not agreed on arbitration rules, the arbitral tribunal defines them itself.

The law prescribes that the rules agreed by the parties of the dispute cannot contradict it.

According to the provisions of the Law, in the ad hoc arbitral tribunal the parties agree on the place of the trial of the dispute (art. 23 of the Law). If the parties failed to agree on the place of arbitration it is determined by the arbitral tribunal having regard to all the circumstances of the case, including facilities for the parties. The permanent arbitral trial has a bit of different rules on the choice of the place of the arbitration trial, it is defined according to the rules of the permanent arbitral tribunal. If they do not contain any indication of the place of arbitration or the way of its determination, the question of the place selection for the arbitration trial is solved by the composition of the arbitral tribunal.

The Law also regulates the question of the language of the arbitration trial (art. 24 of the Law). The parties have the right to agree on the language of the arbitration trial. In the absence of agreement, the arbitration should be conducted in Tajikistan language that is the official language in the Republic of Tajikistan. If the documents and other materials are not submitted in the language (s) of the arbitration proceedings, the translation is provided. Translation can be done on demand of the arbitral tribunal.

The Law also addresses the confidentiality of the arbitration trial (art. 25 of the Law). The arbitrator does not have the right to disclose information gained during arbitration without the consent of the parties or their successors. Also, there is an immunity for the arbitrators from the interrogation as a witness on information gained during the arbitration trial. The question of immunity of the arbitrators is very important because it protects the confidential information about the dispute and the interests of the parties from disclosure and use. All law enforcement bodies of the Republic of Tajikistan are obliged to take into account and respect the testimonial immunity of arbitrators. In the case of improper interrogation and the use of the pressure on the witnesses-arbitrators, the testimony does not have probative value in breach of the conditions of admissibility of evidence.

Further, we will consider the processing time of the trial by the arbitral tribunal (article 25.1 of the Law). It has been established that the period of the trial should not exceed ten days from receipt of the claim. But the legislator also envisaged two possibilities of the extending of the above-mentioned period. Parties of the trial have the right to conclude agreement on extension of the term of the case consideration to a reasonable amount, but not for more than ten days. In addition, if the expert examination or any kind of investigation are necessary, the term of the case consideration may be extended for a period of the execution of these activities. The above article of the Law provides the efficiency of the trial of dispute. Let us agree that "one of the universally recognized advantage of case consideration by the arbitral tribunal before the proceedings in the state courts at all times and in all states is its efficiency"[6].

2.7 INTERIM MEASURES.

The law provides for the interim measures and the power of the arbitral tribunal in their adoption (art. 26 of the Law). The question of the

[6] ZAYTSEV A. I. *The Efficiency of dispute resolution in the arbitral tribunal - wishful thinking and normative validity.* // Collection of scientific articles and abstracts on the materials of the International scientific-practical conference "Actual problems of modern forms of protection of the rights and freedoms of man and citizen". Veliky Novgorod. 2017. p. 176.

implementation of these measures arise from the breach of the duties when there is an admission that the decision will not be enforced at all or be executed partially. There is a possibility of the intentional acts of the defendant who does not fulfil treaty obligations under the disposition of the property, funds and other values that are the subject of the contract directed to prevent their seizure or foreclosure on them. It is obvious that "unfair side can always take measures to avoid the enforcement of a decision in favor of the other party"[7].

The law establishes that upon the application of any party, the arbitral tribunal has the right to order interim measures if it deems necessary. The possibility of applying interim measures exists unless otherwise is provided in the arbitration agreement. Parties in the arbitration agreement have the right to agree on the lack of opportunities for the use of the interim measures.

A statement made by one of the parties of the dispute on interim measures typically contains the reason indicating the specific facts supporting the need for interim measures, such as the circumstances indicate bad faith of the defendant and the high probability of the failure to fulfil the decisions of the arbitral tribunal. Thus, the claimant provides the relevant evidence supporting the need for the application of interim measures.

Interim measures are applied only after the formation of the arbitral tribunal. The arbitral tribunal may require any party to provide appropriate security lawsuit in connection with such measures that means it can require certain behaviour by the parties of the trial. The legal power of the interim measures does not extend to third parties.

The arbitral tribunal has the power to make determination concerning the adoption of the interim measures. Party of the dispute trial, against which these measures have been taken, is obliged to execute them voluntarily.

In a situation of failure to fulfil the determination of the arbitral tribunal on interim measures, the concerned party has the right to appeal directly to the Economic court for the adoption of the interim measures. It should be noted that the legislation of the most states, including the Republic of Tajikistan "provides the judicial protection of civil rights"[8] which includes the use of interim measures.

2.8 EVIDENCE AND PROOF.

Further, we will consider the procedure for the presentation of evidence (article 27 of the Law). The parties must prove the circumstances with the help of which they justify their statements and objections. The arbitral tribunal has the right to request additional evidence if it considers given evidence insufficient. Thus, the duty to prove their claims and objections lies on the parties of the arbitration trial. Evaluation of evidence is implemented by the arbitral tribunal. "Contents evaluation of evidence includes the determination of the validity, relevance, reliability, sufficiency and the relationship to the totality of the evidence"[9].

Types of the evidence are not concretized in the Law. But the article 58 of the Code of civil procedure of the Republic of Tajikistan and the article 63 of the Code of the Republic of Tajikistan's economic Procedure identify the main types of evidence such as written and material evidence; the explanations of the parties and third persons; expert opinion; testimony of witnesses; audio and video recordings, other documents and materials. We believe that the types of evidence used by the parties in the arbitration trial are similar to the types of evidence used in civil and economic legal proceedings.

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[7] GAVRILENKO, V. A. *Arbitration (The manual).* Veliky Novgorod. 2007. p. 104.

[8] VINOKUROV, V. A., NEMCHENKO, S. B. *Rights and freedoms of human and citizen: restriction and protection (The manual).* Saint-Petersburg. 2016. P.107.

[9] GAVRILENKO, V. A. *Evidence and proof in the arbitration trial.* // Vestnik of Polotsk state University. Series D: Economic and legal Sciences. 2007. No.10. p. 165.

The participation of parties in the session of the arbitral tribunal is regulated (art. 28 of the Law). As a rule, the parties or their representatives are directly involved in the sessions. For this purpose, the parties are notified in advance of the time and place of the session of the arbitral tribunal. Representatives of the parties introduce a duly executed power of attorney to confirm their authority. The arbitral tribunal must pass to the party the copies of the documents and other information provided to it by the other party.

The law also clearly stipulates the closed nature of disputes, unless otherwise is agreed by the parties in the arbitration agreement. In addition, the provision of equal opportunities to the parties to protect their rights and interests are specified, it reflects the principle of equality of the parties.

The law also indicates the consequences of failure to provide the documents and other materials by the parties or absence of the parties (art. 29 of the Law). The above-mentioned circumstances are not an obstacle for the conduct of the trial of dispute and adjudication if the parties have been duly notified of the time and place of the session of the arbitral tribunal session and if the reasons for the non-submission of the documents and the absence of the parties are not recognized as valid by the arbitral tribunal. If the party of the arbitration trial reported that it wouldn't be able to participate in the case consideration for a good reason, the arbitration trial should be postponed for the time that is necessary to eliminate obstacles.

Further, we will consider the regulation of the procedure for the appointment and presentation of the expert examination (art. 30 of the Law). The opinion of the expert is recognized as one of the proofs in the arbitration trial. The arbitral tribunal has the right to make determination, which oblige the party or one of the parties to hold an expert examination. The need of the expert examination is determined by the questions, which requires special knowledge to be clarified. The Law does not regulate the actions of the court in case of failure to comply with the definition on the expert examination. This issue, according to the legislator, should be determined by the rules of the permanent arbitral tribunal or resolved by the arbitrator(s) of a single-time arbitral tribunal.

The procedure of the expert's recusal also is not given in the Law. It should be determined by the rules of the permanent arbitral tribunal or by the agreement of the parties.

2.9 ARBITRAL DETERMINATIONS AND AWARDS.

The law provides for the protocol of session of the arbitral tribunal (art. 31 of the Law). The Protocol is conducted only when it is provided for by the agreement of the parties or the rules of the arbitral tribunal. Therefore, the rule of protocol of session of the arbitral tribunal is dispositive because it gives the parties the right to use the protocol of the session of the arbitral tribunal but does not oblige them to do it.

Responsibility for recordation is imposed on the secretary of the arbitration trial. In his absence, the arbitrators have the right to elect a secretary from their members. Chairman of the arbitral tribunal cannot perform the functions of the secretary

The legislator regulates the content of the protocol. The responsibility of the arbitrators and the secretary to sign the protocol is also specified.

There is a possibility of the disqualification of the secretary. The procedure of disqualification is determined by the rules of the arbitral tribunal or by the agreement of the parties. It seems, that the reasons for the disqualification of the secretary should be similar to the reasons for the disqualification of the arbitrators.

The parties of the arbitration trial have the right to conclude a settlement agreement at any stage of the consideration of the dispute until the judgment is made (article 31.1 of the Law). The act provides for the requirements of the settlement agreement which are the following: written form, existence of the reconciliation conditions in the agreement and the conse-

quences of the failure. Moreover, the legislator prohibits enslaving conditions of a settlement agreement for either party. But the features of an enslaving agreement are not given in the Law. Obviously, the issue is handled directly by the arbitral tribunal.

The arbitral tribunal makes determinations approving the duly executed settlement agreement. There is also an arbitral tribunal procedure for clarification of the conditions and consequences of the settlement agreement as the parties of the dispute give the receipt which is attached to the materials of the case.

Chapter 6 of the Law deals with the issues connected with the decisions of the arbitral tribunal. The decision is made by the tribunal after examination of all circumstances of the case by majority of votes of the arbitrators, in the event of collegial dispute consideration. In case of the dispute consideration by one judge, the decision is taken by him individually. The decision declared at the session of the arbitral tribunal that has the right to declare only the final (resolute) part of the legal decision. According to the general rules, the arbitral award is directed to the parties not later than 15 days after the announcement of its final part. The parties have the right to agree on another term for directing the arbitral award (art. 32 of the Law).

The legislator provided the right for the arbitral tribunal to postpone a decision and to announce an additional session. The parties must be summoned for an additional meeting in the manner provided for in the article 28 of the Law.

The arbitral award is considered adopted since its signing by the judges dealing with the dispute.

The law lays down the form and the content of the arbitral award (art. 33 of the Law). The mandatory written form is provided. The signing of the arbitral award by the arbitrators is required. The arbitrator who disagrees with the decision, however, must also sign it outlining the reasons for the disagreement in the dissenting opinion. The dissenting opinion is issued as a separate document attached to the arbitral award. When the case consideration is collegial, the decision of the arbitral tribunal may be signed by the majority of the included arbitrators. Meanwhile, you need a good reason for the absence of the signatures of the other arbitrators.

Legislator imperatively regulates the content of the arbitral award, indicating in detail the information that must be contained. Also, the arbitral tribunal must in obligatory order give or send the parties a copy of the decision, thereby bring to the attention of each party of the dispute its contents.

The Law establishes a special form of the arbitral award, such as the additional decision (art. 34 of the Law). The latter can be made if the arbitral tribunal composition didn't reflect in its final decision any claims declared in the course of the trial. It is a constituent part of the main decision and can not be considered as a separate variety of arbitral awards.

Statement on the adoption of the additional decision can be filed by one of the parties, having notified the other party within 10 days after the receipt of the arbitral award. The arbitral tribunal must consider this statement not later than 10 days after receiving it. The result of the consideration is either the adoption of additional decision or the determination of refusal. The parties of the arbitration trial may specify in the arbitration agreement a prohibition for initiating the proceedings leading to the additional decisions.

A process of explaining the court decision is provided (art. 35 of the Law). The need to explain the taken decision is determined by the uncertainty, incomplete or contradictory of its contents that may hinder its execution. Explaining the decision, the arbitral tribunal presents it in a more understandable form.

Statement of clarification of the decision may be submitted by one of the parties, having notified the other party within 10 days after the receipt of the arbitral award. The arbitral tribunal considers the application not later than 10 days after receiving it. Consideration of the

application is performed by the arbitral tribunal of the composition that made the decision. The result of the consideration is the definition on explanation of the court decision or the refusal of the application.

The process of correcting the mistakes, misprints and arithmetic errors in the court decision is also regulated. This procedure may be initiated by a statement of any party of the dispute or by the arbitral tribunal itself. The arbitral tribunal makes the court ruling on the results of the correction, it becomes a constituent part of the decision (art. 36 of the Law).

The Law codifies the right of the arbitral tribunal to make a determination on the matters not affecting the essence of dispute. The legislator indicates the difference between the decision and the determination of the arbitral tribunal (art. 37 of the Law).

Article 38 of the Law provides a clear list of reasons for termination of the arbitration trial of the dispute, they are the following: plaintiff's refusal from his claim, unless the defendant expresses the objections to the termination of the arbitration proceedings due to his legitimate interest in resolving the dispute on the merits; reaching the agreement on the termination of the arbitration trial by the parties; the dispute is lack of jurisdiction of the arbitral tribunal, i.e. lack of competence; making of the determination by the arbitral tribunal on approving of the settlement agreement; organization liquidation, which is a party of the arbitration trial; death, declaring dead and missing physical entity or an individual; there is the decision of the court of general jurisdiction, of the arbitration court or of the arbitral tribunal that entered into legal force on the dispute between the same parties concerning the same subject and on the same grounds. The list of reasons for the termination of arbitration trial is exhaustive and is beyond broad interpretation.

The order of the storage of the court decisions and cases is established in the present Law (art. 39 of the Law). The permanent arbitral tribunals are obliged to keep the considered cases within 5 years from the date of the adoption of the decisions. But the law allows to including in the regulations of the permanent arbitral tribunals another periods for the storage of the cases.

Cases considered by the single-time arbitral tribunal, are handed to the state authority in the manner prescribed by the Law of the Republic of Tajikistan "On the National archive fund and archive institutions". The state authority where the mentioned cases are to be handed is not specified in the article.

The Law of the Republic of Tajikistan "On the National archive fund and archive institutions" dated November 13, 1998 in the article 12 mentions that "state bodies, enterprises, institutions and organizations create archival units for temporary storage of archival documents and in order to use them in the office, industrial and scientific purposes, as well as to protect the legitimate rights and interests of citizens". In our opinion, the commented rule should be interpreted as the responsibility of a single-time arbitral tribunal to hand over the concerned case to the competent economic court or court of general jurisdiction. The competent court is determined in accordance with the jurisdiction established by the legislation of the Republic of Tajikistan.

2.10 EXECUTION OF ARBITRAL AWARDS.

The procedure of execution of the arbitral award is regulated in chapter 7 of the Law. The rule of the mandatory execution of the decision of the arbitral tribunal is set out (art. 44 of the Law). A common feature of the execution of the decision of the arbitral tribunal is its voluntary compliance. This is connected to the fact that the parties at their own will have chosen arbitration trial as a form of dispute resolution, they participated in the formation of the arbitral tribunal and each of them after selecting the arbitrator is confident in his impartiality and integrity in resolving the dispute.

The legislator also obliged the arbitral tribunal and the parties to make all the possible efforts to ensure that the decision was legally

enforceable. Thus, the Law establishes the principle of the execution of the decisions of the arbitral tribunal, meaning it complies with the certain conditions, which allows the defendant to fulfil it both voluntarily and forcibly on the writ of execution.

The arbitral tribunal decisions execution is prescribed in the order and in the period determined by the decision, itself. If the period of the execution is not determined in the decision, it is subject to immediate execution. In practice, it means the obligation of the concerned party to execute the actions regulated by the court decision within a reasonable time after receiving the full text (art. 45 of the Law).

The legislator regulates the issues of the enforcement of the arbitral award. The award of the arbitral tribunal, which was not executed voluntarily, is subject to enforcement in the manner determined by the legislation of the country (article 46 of the Law). Consequently, this rule is a reference rule as it refer to the other normative acts.

The procedure for the enforcement of the decision of the arbitral tribunals is regulated by the Code of civil procedure of the Republic of Tajikistan (section 7, chapter 46, art. 407-411) and the Code of economic proceedings of the Republic of Tajikistan (chapter 27, § 2, art. 215-219).

The statement concerning the enforcement of the arbitral tribunal is filed by one of the parties or its representative to the economic court or court of general jurisdiction. The statement must be filed in writing. Article 408 of the Code of civil procedure of the Republic of Tajikistan and the article 216 of the Code of economic proceedings of the Republic of Tajikistan establish requirements to the content of the mentioned statement and its annexes.

The application is considered by a judge individually in one month from the date of its receipt at the court. Based on the results of the examination of the statement, the court ruling is made on the issue of the writ of execution or the refusal in it which can be appealed in the manner prescribed by the legislation.

Writ of execution to enforce an arbitral award may be presented to the enforcement within three years from the date when the arbitral award entered into power (art. 13 of the Law of the Republic of Tajikistan "On enforcement proceeding").

The Law states the grounds for refusing to issue a writ of execution. The competent court is not legitimate in the case of the issue of the writ of execution to investigate the circumstances established by the arbitral tribunal or to reconsider the decision of the arbitral tribunal on the merits (art. 47 of the Law).

The Law does not contain the grounds for refusing to issue a writ of execution. This mentioned article is referential and directs to the procedural laws of the country. Article 410 of the Code of civil procedure of the Republic of Tajikistan and the article 216 of the Code of economic proceedings of the Republic of Tajikistan establish an exhaustive list of the grounds necessary for the refusal to issue a writ of execution to enforce the decision of the arbitral tribunal.

The bases are the violations of the procedural order, such as: admission of the arbitration agreement invalid on grounds provided by law; the party was not properly informed of the election of the arbitrators or on the place, time or for the other valid reasons could not submit to the arbitral tribunal its explanations; the arbitral award admitted on the basis of dispute that is not provided by the arbitration agreement or not falling within its terms or extends beyond the limits of the arbitration agreement; composition of the arbitral tribunal or the arbitration trial does not comply with the agreement of the parties or the Law; the court decision has not become mandatory for the parties, or it has been set aside, or it has been suspended by a competent economic court.

Also, the grounds for refusing to issue a writ of the execution are violations of the substantive rules such as the admission of the arbitration agreements invalid and the violation of the fundamental principles of law by the decision of

the arbitral tribunal. It should be noted that the Code of civil proceedings of the Republic of Tajikistan has no wording regarding the violation of the fundamental principles of law and a more specific concept of contradiction of the arbitral award to the law is used. The contradiction to the current legislation of the Republic of Tajikistan is meant.

The legislator also affirms the right of the parties of the arbitration trial when making determination of the competent court on the refusal to issue a writ of execution to apply to a competent state court or reapply to the arbitral tribunal (in accordance with the arbitration agreement) to resolve the dispute (art.47 of the Law).

However, the legislator has made a reservation that the mentioned right cannot be implemented in the cases provided by the article 44 of the Law. This article establishes the mandatory execution of the decision of the arbitral tribunal by the parties. It appears that the refusal to issue a writ of execution to enforce an arbitral award implies the invalidity of this decision. Accordingly, there is no obligation to execute it.

3. CONCLUSION

In conclusion, we note that the institute of the arbitration develops dynamically in the states of the near abroad particularly in the Republic of Tajikistan, which is reflected in the legislation. Economic development leads to the improvement of the legislation and the emergence of new legal institutions in business, economics and law, such as arbitral tribunals. In addition, international economic relations of the Republic of Tajikistan widely develop, including cooperation with foreign legal entities and businessmen in various fields. All this points to the urgent need to enhance the practice of the arbitration trial of the commercial disputes both inside the country and abroad. It is obvious that "the use of the arbitration form of conflicts resolution by the entrepreneurs is justified by practice"[10].

It should be noted that the majority of states supports arbitration at the legislative and enforcement level, contributing to the further distribution and growth in popularity of this method of conflict resolution. In the Republic of Tajikistan such support means that a separate law regulating the arbitration is adopted, it promotes the development of the economy and the business turnover. The above-mentioned comment of this law shows its proper quality. The Law regulates the institute of arbitration and the procedure for the examination of the disputes by the arbitral tribunals in the full measure taking into account all the necessary circumstances subject to legal regulation. Economic actors are able to protect their legitimate rights and interests through arbitral tribunals. It should be noted that legislators of the Republic of Tajikistan used the Russian experience of lawmaking and legal science. Legal regulation of some issues of arbitration trial of disputes by the Law is similar to the Russian legislation.

[10] GAVRILENKO, V. A. *Judgment in arbitration (The monograph).* Veliky Novgorod. 2008. p. 71.