

Jurisdiction of ODR and its Necessity in International Private Law

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ABSTRACT

Due to the increase in the number of cross-border disputes in arbitration in recent years, the process of ADR and ODR has become international. International commercial arbitration has become a system of private transnational dispute resolution, consisting of multilateral conventions, bilateral agreements, national arbitration rules and principles and rules for resolving private informal disputes. In the 1920s, new legislation regulating international commercial arbitration emerged, and in 1958, the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, known as the New York Convention, was adopted. This was followed by the United Nations Commission on International Trade Law of 1976 on Arbitration Rules and the United Nations Commission on International Trade Law on International Commercial Arbitration of 1985 on International Trade Arbitration. The arbitration process was harmonized on the basis of the Model Law.

KEYWORDS: *ODR, United Nations Commission on International Trade Law (UNCITRAL), ODR PROCEDURE RULES, traditional arbitration, ADR, arbitral agreement, transboundary electronic transactions.*

The rules created for online arbitration allow us to use electronic agreements. They should also ensure that the legal process should not be at risk due to the rapid pace of electronic communications. Finally, such rules should take the necessary measures to protect the safety and privacy of the deal, which should be carried out through the necessary mechanisms of playing the decision in a simple and economical implementation.

The parties may choose various electronic communications to conduct the process.¹ Each engine has its advantages and disadvantages. Therefore, the parties must consider the most convenient tools, taking into account the peculiarities of disputes and disputes.

In July 2010, the United Nations Commission on International Trade Law (UNCITRAL) ordered its working group to create an internationally adopted and a reliable regulatory framework for transboundary electronic transactions. This order, in particular, demanded a customized mechanism for resolving transboundary e-commerce conflicts, which does not impose delays in the dangerous economy value, delays and similar obligations. Accordingly, the working group decided to work with a pragmatic approach, such as the combination of laws or renunciation of law in solving the law. As a result, UNCITRAL did not need to approve the issue of the EU Commission almost simultaneously, ADR director and government policy based on the ODR Regulations.

It is noteworthy that the Working Group covers operations between business and consumer at the ODR Procedure rules, which eventually chose to develop a project. As UNCITRAL, it was found to be

¹Paritikios, Antonis, "The Role of transnational online arbitration in regulating cross-border e-business, Part II.", *Computer Law & Security Report*, Volume 24, Issue, 2, p.131.

included in consumer operations into its regulatory database. Such transactions have been understood not only to form a significant part of electronic and mobile commercial transactions, but also that such transactions are often transboundary nature.² In addition, the distinguishing between traders and consumers in the UNCITRAL Online environment considered it practical and theoretically difficult.³

Initially, within the working group, a consensus was achieved to create a three-stage ODR system. This ODR system ends compulsory (online) arbitration on several cases that cannot be solved by technology or the online mediation. According to the first session, delegations agreed that Arbitrage was the necessary component of Arbitrage, as it was the only mechanism that could make the final measurement of the unfinished cases in the previous stages. Accordingly, the rules ensure that neutral individuals have the right to the decision to be executed in accordance with the New York Convention. In the context of low-value conflict, it was understood that it was not enough to just rely on the New York Convention, the working group also studied self-defense.⁴

However, this does not mean that UNCRITRAL FUND It's Note that consumers should avoid consumers to interfere with the rights of national or local or local laws. ODR PROCEDURE RULES apply to the parties agreement, such as UNCITRAL arbitration rules. Thus, the ODRs Procedure Rules Links only the Parties to the extent that does not contradict the rules of compulsory internal legislation, which cannot be deviated. In other words, the ODR PROCEDURE REQUIREMENTS will only be the nature of a solid contract.

Although discussion in May 2012, the Working Group was sharply divided into the ODRs Procedure rules. In order to continue their work, laws have understood the need to compromise the pre-dispute arbitration agreement.⁵

To prevent this difficulty, the ODR's "Two Roads" system was invited to facilitate this difficulty. The first path will end negotiations, simplified solutions and arbitration, and the second way is to complete recommendations instead of arbitrage. It is said that such a two-oriental approach can be done by preparing rules that alternate alternative extradition or transaction can agree to the rules of ODR.⁶ Thus, various ODR applicants provide access to various other "ways".

In all cases, the communications tools and other procedural chosen must guarantee the confidentiality and security of the process and ensure compliance with the relevant legislation.

The parties may choose out of extravagant mechanisms for the execution of the decision, for example, the use of credentials, the use of automatic payments and other technological mechanisms

²Kuner, Christopher, "An international legal framework for data protection: Issues and prospects", *Computer Law and Security Report*, 2009, p.311-315.

³Yusupov, Sardor. "ROBOT TEXNIKASINI TARTIBGA SOLISH MUAMMOLARI: HUQUQIY VA AXLOQIY MUAMMOLARNI HAL QILISH BO 'YICHA BA'ZI KO 'RSATMALAR." *Oriental renaissance: Innovative, educational, natural and social sciences* 2.3 (2022): 592-606. <https://cyberleninka.ru/article/n/robot-texnikasini-tartibga-solish-muammolari-huquqiy-va-axloqiy-muammolari-hal-qilish-bo-yicha-ba-zi-ko-rsatmalar>

⁴Katsh, Ethan "Online Dispute Resolution: Some Implications for the Emergence of Law in Cyberspace", *Lex Electronica*, vol.10n°3, Winter 2006, p.11, <http://www.lex-electronica.org/articles/v10-3/katsh.htm>.

⁵Юсупов, Сардор. "ЗАМОНАВИЙ ЖАМИЯТДА РОБОТОТЕХНИКА СОҶАСИНИ ФУҚАРОВИЙ-ҲУҚУҚИЙ ТАРТИБГА СОЛИШ МАСАЛАЛАРИ." *БАҲҚАРОРЛИК ВА ЕТАКЧИ ТАДҚИҚОТЛАР ОНЛАЙН ИЛМИЙ ЖУРНАЛИ*(2022): 99-110. <http://www.sciencebox.uz/index.php/jars/article/view/1622>

⁶Bakhramova, Mokhinur. "LEGAL STATUS OF INTERNATIONAL INSTITUTIONS SPECIALIZED IN RESOLUTION OF ODR DISPUTES." *Euro-Asia Conferences*. 2022. <http://papers.euroasiaconference.com/index.php/eac/article/view/594>

on credit cards.⁷

Online arbitration rules should be combined to prevent differences in different local rules. The harmonized legal framework provides confidence in the rules that may be in the process of disputed persons in different nationalities. However, harmony can be a difficult task, as negotiations on the International Convention may last for many years. The sample law helps to harmonize the legal framework, but it may be lower than that it is a flexible tool.⁸

The most practical method of having a combined legislation on this topic is to provide standard law for the adoption of all countries in each country.

Taking into account all the above, we can conclude the following by the second chapter of this dissertation:

Can the current legislation of the traditional arbitration apply to the online formation arbitration online?

The current legal framework for traditional arbitration does not preclude the ability to conduct an online arbitration process.⁹ However, online arbitration has features that can distinguish it from traditional arbitration and require special rules. For example, online arbitration only is done only through electronic means and regulate the use of such means. Similarly, the use of electronic documents and signatures requires a set of special rules that are not available in the applicable arbitration legislation.

Therefore, even if the applicable legal framework does not prohibit on online order, it is helpful to design its legal framework based on its specifics. Such a legal framework should regulate the use of electronic communications. The recognition of the validity of electronic documents and signatures should also be determined to be taken to ensure the value, the righteousness and confidentiality of the process.

Does online arbitration require special rules?

As mentioned above, online arbitrage has certain features that are not covered by the legal framework used for traditional arbitration. Therefore, a set of rules regulating the special features that set it off the traditional arbitration is required.¹⁰

These Rules for force the establishment of electronic contracts, the regulation of the use of electronic communications, allow electric documentation in the arbitral documentation and the use of electronic documents, the decision of the decision of the Arbitration Court is simpler and should create effective execution mechanisms.¹¹

⁷Lazic, Vesna, "The Impact of Uniform Law on National Law: Limits and Possibilities – Commercial Arbitration in the Netherlands", *Electronic Journal of Comparative Law* vol. 13 (2009) nr. 2, p. 7.

⁸Bakhramova, Mokhinur. "Theoretical and Legal Regulation of ODR in the European Union Countries." *EUROPEAN JOURNAL OF INNOVATION IN NONFORMAL EDUCATION* 2.1 (2022): 299-304. <http://www.innovatus.es/index.php/ejine/article/view/247>

⁹Goldman, Berthold, "The applicable law: general principles of law – the *lex mercatoria*", in Lew, Julian (editor), *Contemporary problems in International Arbitration*, Centre for Commercial Law Studies, Queen Mary College.

¹⁰Bahramovna, Bahramova Mohinur. "RAQAMLI MAKONDA ONLAYN NIZOLAR TUSHUNCHASI VA ULARNING HUQUQIY MAQOMI." *BAKQARORLIK VA ETAKCHI TADQIQOTLAR OHLAYN ILMIIY JURNALI* (2022): 163-168. <http://sciencebox.uz/index.php/jars/article/view/1634>

¹¹Shenton, David, W. "Supplementary rules governing the presentation and reception of evidence in international commercial arbitration" in Lew, Julian (editor), *Contemporary problems in International Arbitration*, Centre for Commercial Law Studies, Queen Mary College, 1986, P. 192.

What are the rules of the online arbitration agreement?

The arbitral agreement is a contract, according to which the parties agree to resolve their disagreements in court or other ADR organization, not in the ADR organization.

The arbitral agreement must be in writing, and the contract is available to electronic means of electronic means.¹² The parties to the parties should be approved by their manuscript or electronic digital signature.

An online arbitration agreement should include no disputes that may be considered in arbitration. The procedure for using electronic communication products, their geographical location, as well as the privacy and protection of information that can be issued in this order, should also be specified in the arbitral agreement.

What specifics should the online arbitration process have?

Online arbitration procedure should be developed in such a way that the speed of the process should not affect justice and equality between the parties and equality. The right to submit the evidence, as well as the key actual procedural guarantees such as the right to decide within time and reasonable time.

Online arbitration rules provide an equal access to electronic communication tools, and it is easy to use these tools, be open to both parties and to provide all the evidence and documents.

Finally, the process should take the necessary measures to ensure the integrity and privacy of the data sharing on arbitration.

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