

SPECIFIC CHARACTERISTICS OF SUBJECTS OF INTERNATIONAL INVESTMENT LAW

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Annotation: At present, not only in our country, but also in foreign countries, special attention is paid to investments and processes related to the application of national and international law in this area. This article discusses some aspects of international investment settlement and dispute resolution.

Keywords: investment, investment disputes, investment entities, arbitration courts, reinvestment, conventions, investment dispute resolution center.

In today's globalized era, it is clear that every country has ambitious goals, but these goals are difficult to achieve without investments [1]. The influence of states in the world community is directly related to the policy of fair management and the stability of their economic independence. In the current period of economic growth, all the countries of the world pay great attention to business entities in order to create their economic stability, create an investment environment in the country and establish international cooperation in this regard.

Countries cannot develop economically, politically, culturally, scientifically and technically without establishing international cooperation. Today, every country is a full-fledged subject in international relations, and hundreds of bilateral and multilateral agreements have been signed in every field.

Modern international economic relations are very diverse. International economic relations include international credit and financial relations, international transport relations, international economic cooperation relations, international trade relations, international investment relations, etc. Various states, their legal and physical entities, international organizations, and transnational companies can participate in international economic relations [2].

In the early years of the 21st century, the issue of the scale of foreign investments and their rapid development, the harmonization of the national law and international law in this area has risen to a level. First of all, international investment law has grown significantly. The country, which wants to achieve economic stability, is first of all harmonizing its domestic legislation with the norms of international law in order to create a favorable investment environment. In particular, several laws regulating investment relations have been developed in Uzbekistan.

According to Article 4 of the Law of the Republic of Uzbekistan “On Investments and Investment Activities” [3], the main principles of investments and investment activities are as follows:

- legality;
- transparency and openness;
- freedom to carry out investment activities;
- fairness and equality of subjects of investment activity;
- do not allow discrimination against investors;
- presumption of good faith of investors.

The main principles of the legislation on investments and investment activities are used at all stages of the process of investment and investment activities.

Also, in Article 3 of the Law [4] a separate definition of foreign investors is given, foreign investors are foreign countries, administrative or territorial bodies of foreign countries, agreements between countries or other agreements concluded in accordance with international public international organizations that are legal subjects, legal entities established and operating in accordance with the laws of foreign countries, any other companies, organizations or associations, citizens of foreign countries and stateless persons permanently residing outside the Republic of Uzbekistan, -defined.

There can be independent business entities, legal entities and individuals. They are currently the most active in making investments. They are among the leaders in making investments today. In this regard, most of them are large companies with the status of a legal entity [5].

Subjects of International Investment Law include investors and participants of International Investment Law. The following can be investors and participants of the International Investment Law:

- Residents of the Republic of Uzbekistan (natural and legal entities);
- local state authorities and state administration bodies;
- foreign countries, international organizations and foreign legal entities and citizens, as well as stateless persons and citizens of the Republic of Uzbekistan permanently residing abroad;
- legal entities and individuals, as well as states and international organizations, carrying out joint investment activities.

Investors can be a customer (investor), creditor, buyer, as well as a participant in investment activities in accordance with the law. The participants of the international investment law can act as executors of the investor's order based on the agreement concluded with the investor.

Making investments is the absolute right of the investor and this right is protected by law. However, investment in certain areas is prohibited by the current legislation. The investor independently determines the purpose, direction, type and size of

investment. In order to carry out investment activities, it attracts legal entities and individuals as participants of investment activities on the basis of a contract or by holding a competitive (tender) sale. The investor has the right to own investment objects and their results, use them, dispose of them, as well as reinvest. Investing in objects that do not lead to the acquisition of property rights defined by law does not exclude the investor's right to later own these objects, manage them operationally, or participate in the profits (income) from their use.

According to the decision of the investor, the right to own, use and dispose of investment objects and their results can be transferred to other legal entities and individuals in accordance with the procedure established by law. During the assignment of rights, the relations of the parties are carried out on the basis of the contracts they conclude. If no other procedure is established by the legislation, the investor has the right to acquire the property he needs from legal entities and individuals at prices and conditions determined on the basis of mutual agreement, without limiting the size and nomenclature. Other rights may be granted to the investor by the current legislation.

A participant in international investment law has the following obligations:

- compliance with norms, rules and standards established by law;
- timely and proper execution of contracts;
- compensation for damages caused to the investor due to non-performance or improper performance of the contract;
- must fulfill the requirements of local state authorities and state management bodies within their authority.

The profit obtained by the subject of investment activity as a result of investment activity can be reinvested or used in any other way at his discretion after paying taxes, fees and other mandatory payments. Shares and other securities received by the subject of investment activity, its target bank deposits, as well as in cases where the received property is seized (requisitioned), their value or rent payments are compensated (compensation is paid) in accordance with the law. Restricting the use of the accounts of the subject of investment activity or forcibly withdrawing funds may be carried out in accordance with the procedure established by law.

According to Article 25 of the **Washington Convention** of 1965 [6], the category of investment disputes includes direct foreign investments between participating states and persons from other participating states, in particular:

- a) investment disputes arising from relations related to foreign investments;
- b) a dispute between a participating state and a foreign private investor;
- c) legal disputes regarding the nature and extent of the rights and obligations of the parties, the conditions and extent of compensation to be paid for non-fulfillment of the obligations specified in the investment agreement.

As we can see, The Washington Convention defines the concept of an investment dispute relatively broadly in relation to national law. The authors of this Convention took into account that each country defines a more precise concept in its legislation.

Indeed, according to Article 25 of the Convention, each state authorizes the Center to consider a dispute by notifying the Center of the category of disputes it considers to be an investment dispute.

First of all, it is possible to define the concept of "investment dispute" in the national legislation of the participants of the Convention. Second, by defining the concept of an investment dispute, the state empowers the Center to deal with only those disputes that it authorizes.

It should be noted that in some countries, the concept of investment dispute is interpreted more broadly and includes disputes arising from investment-related relations.

A number of mechanisms aimed at peaceful settlement of economic disputes were created as a result of the Washington Convention. An example of this is the establishment of the International Center for Settlement of Investment Disputes. In 1985, the **Seoul Convention**, aimed at international protection of similar investments, created a multilateral Investment Guarantee Agency.

These Conventions are leading to the creation of a single system of mechanisms aimed at the protection of investments at the international level. This is based on the same international principles. These international structures, of course, also affect the laws of the national state.

There are basically 3 types of ADR.

1. Negotiation (negotiation) - mutual agreement of the parties to the dispute without the involvement of a third party.
2. Mediation - resolution of the dispute with the help of an independent neutral mediator, in which the mediator assists in the negotiation.
3. Arbitration (arbitration) - settlement of a dispute with the help of an independent neutral person - an arbitrator, in which the arbitrator issues a binding decision for the parties.

At the same time, the ICSID (Center for Settlement of Investment Disputes) Convention was adopted in 1965 in order to settle investment disputes and support investors.

Today, 152 countries are members. According to Article 53(1) of the Convention, ICSID decisions must be binding on all parties and there must be no appeal or remedy other than that provided for in the Convention. Article 54(1) of the Convention stipulates that member states shall accept the decision of the Convention as a decision made by their competent courts, recognize the decision and fulfill the related obligations, as well as monetary obligations.

Decisions made by the Center are considered binding for the parties, over the decision they are not allowed to appeal, because these decisions are equal to the decisions made by the competent courts in the territory of the states. For some time, the decisions of the Center were widely understood, and petitions were filed against the de facto decisions.

To date, when sufficient information has been provided by the commission, the decisions have become perfect and no appeals can be filed. The development of international investment cooperation, as a result of which one of the most effective ways to resolve investment disputes is dispute resolution in international arbitration. In order to protect the interests of investors, the Washington Convention was adopted in 1965, and it was also reflected in bilateral agreements. The Republic of Uzbekistan is also a member of this Convention, and there are about 50 other bilateral agreements, 48 of which are in force today. All these Conventions provide for the protection and promotion of investment. In such Conventions, foreign investors have the right to refer to international arbitration in order to protect their rights. The most widely used arbitration in the settlement of investment disputes is the International Center for Settlement of Investment Disputes, established on the basis of the Washington Convention.

If we take into account that states are included among the subjects of international investment law. In this case, we should not forget that countries invest in foreign countries as investors, as well as host investments. Therefore, the investor and the investment-hosting country have a number of rights and obligations in the investment contract.

First of all, if we mention the rights of investors, the guarantees of the rights of foreign investors provided by the state, including the free use and transfer of funds, their return, localization or requisition (expropriation) in connection with the termination of investment activities, and the law protection against unauthorized modification of documents, guarantees of openness are preserved. In general, the legal regime of foreign investments, which includes special rights of investors (for example, a special type of visa, conditions for obtaining a residence permit, etc.), the procedure for attracting foreign employees and insurance of investments, etc. In addition, it is considered one of the main rights of the individuals who are private investors to agree to the impartial consideration of the case in the international arbitration courts of the country hosting the investment. A case in point is Bilateral Investment Treaties (BITs) that define investor protection. Because BITs are international agreements consisting of material and procedural articles, in which the state must not illegally expropriate the property of foreign investors, give the most favorable regime, not discriminate inappropriately, and be impartial in the event of a dispute. agrees to hear the case in international arbitration courts.

As the subject of the investment agreement, the host state has a number of rights and obligations towards the state or private entities. Such rights and obligations are specified in the national laws of the states regulating this field and in bilateral and multilateral agreements. The rights and obligations of investment-hosting countries are established mainly by concluding BIT and MIT agreements. In international procedural law, investment relations are established within the framework of principles and norms of international public law. If we take into account that international legal norms have priority over national legal norms today. The international investment law has also created enough grounds for the separation of international law as a separate independent field of law. Investors also strictly adhere to the presumption of good faith of investors. In the event of a dispute, how to resolve the case depends on the agreement of the parties. Because this is stipulated in the contracts. The parties should try to resolve the dispute arising in the investment activities as fairly, quickly, transparently, objectively and without transaction costs as possible.

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