**Международной коммерческий арбитраж в современных условиях антироссийских санкций**

***Р.М. Магомедов***

*Студент*

*Северо-Кавказский институт ВГУЮ РПА (Минюста России),*

*бакалавриат, II курс*

*Научный руководитель:* ***А.А. Магомедова***

*Старший преподаватель кафедры “Гуманитарных и социально-экономических наук”*

*Северо-Кавказского института ВГУЮ РПА (Минюста России)*

*E-mail: scorbisabzi@gmail.com*

International commercial arbitration is traditionally considered one of the most popular and effective ways to resolve cross-border commercial disputes. Being autonomous from each other and independent from the states on whose territory they are located, arbitral institutions remain neutral, impartial and non-politicized forums for resolving disputes.

However, this does not mean that they can ignore the applicable regulations in force in the country where they are located, including the norms of sanctions legislation, which leads to a number of difficulties for both the sanctioned persons and their foreign representatives, arbitrators and arbitration institutions. Conventionally, all problems that arise can be divided into 3 groups, depending on the time of occurrence:

1) when initiating arbitration;

2) during arbitration proceedings;

3) when executing a decision made by arbitration.

Clarifications regarding the conduct of proceedings under sanctions have also been issued by individual arbitral institutions. Thus, the International Arbitration Court ICC, popular among Russian parties, located in France (Paris), stated that the ICC is a non-profit, non-governmental organization subject to the requirements of French legislation (including sanctions legislation), but adhering to a policy of neutrality in relation to all its users, regardless of their nationality and sanctions imposed on them[4].

Despite the statements and measures taken by arbitration institutions, in practice, persons included in the sanctions list face a number of difficulties. Thus, according to the Russian Arbitration Association (RAA), in 2022, a huge number of respondents declared the impossibility of making payments to arbitration institutions or were completely faced with a refusal to administer their disputes, satisfy claims, etc[7]. Most often, such situations occurred with the participation of arbitrators from the United States.

However, we can already trace positive changes in this area, for example, a year ago, in mid-October 2022, OFSI (the supervisory authority for the UK) issued a general license for LCIA (General License INT/2022/1552576 Payments), this license allows LCIA to receive payments from sanctioned persons. In practice, this license gives the sanctioned person the opportunity to submit a dispute to LCIA arbitration by paying an arbitration fee without any restrictions, and the LCIA will be able to use these funds to pay the arbitrators and cover the costs of the arbitration.

These circumstances force persons subject to sanctions to change their preferences regarding the arbitration institution and place of arbitration. However, there are several ways to minimize these risks. Among them is the choice of an arbitration institution located in a neutral jurisdiction, that is, a jurisdiction that has not adopted anti-Russian sanctions or has adopted them to a limited extent that does not affect the arbitration proceedings.

But it is impossible not to note the trend towards weakening sanctions and removing the sphere of arbitration from their scope, which we can clearly see in practice in the execution of arbitration awards of Russian institutions abroad, the removal of restrictions on the payment of arbitration fees in the UK, as well as the gradual increase in the number of foreign arbitrators and law firms ready to work with Russian persons. We would like to hope for the further development of international commercial arbitration and the complete removal of this area from sanctions, since emerging political difficulties should not prevail over the parties’ right to justice and judicial protection.

**Reference:**

1. Hunt C., Trehearne C., Kadota E. The Challenge of Sanctions for Arbitral Participants;

2. Neuburger P., Ibesich M., Oblin K. European Union: Sanctions Against Russia and International Arbitration: Four Questions and Answers;

3. Council Regulation (EU) 2022/428 of 15 March 2022 amending Regulation (EU) No. 833/2014 concerning restrictive measures in view of Russia’s actions destabilizing the situation in Ukraine // URL: https://eur-lex. europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32022R0428;

4. ICC. International Economic Sanctions // URL: <https://iccwbo.org/media-wall/news-speeches/internationaleconomic-sanctions>;

5. LCIA Notes for Parties;

6. HKIAC Policy on Proceedings Affected by Sanctions;

7. Russian Arbitration Association. Arbitration Association (ARA) Study 2022: Impact of Sanctions on Commercial Arbitration;