Arbitration in Three Baltic States: A Thorny Path of Learning

Galina Žukova*

This volume of the Baltic Yearbook of International Law contains a collection of essays which were initially presented at the conference ‘Arbitration in the Baltics: Contemporary Issues’, which took place at the Riga Graduate School of Law in Latvia in June 2007.¹

Arbitration presents an alternative to dispute settlement by way of litigation, that is to say, in state courts. Recent decades have witnessed a great increase in the popularity of arbitration, especially in the field of commercial disputes. Investment arbitration – a relatively small portion of arbitration – is by now a recognised mechanism for dispute settlement between the state, on the one hand, and the private investor, on the other hand. Recently this trend of ever growing attractiveness of arbitration across the world has reached the Baltic eastern coast as well.

That is not to say that arbitration was previously unknown to the three Baltic States – Estonia, Latvia and Lithuania respectively. Indeed, at the time when these three countries were Soviet Socialist Republics, arbitration courts (otherwise known as specialised economic courts) were part of each

---

¹ The conference organisers would like to express their gratitude to ‘Sorainen Law Offices’, ‘Skudra & Ūdris’, ‘Liepa, Skopiņa/BORENIUS’, the Latvian Chamber of Commerce and Industry and the European Branch of the Chartered Institute of Arbitrators for their generous support of the conference.
Republic’s judicial system.\(^2\) That is, arbitration courts were not ‘alternative’ venues to dispute resolution in the court; quite the opposite, arbitration courts formed an inherent part of the domestic judiciary. As a rule, these courts were entitled to deal with commercial disputes of a particular type only, their jurisdiction extending exclusively to purely domestic disputes,\(^3\) while the minimum amount in dispute was established by law. As such, even if nominally arbitration courts were in place, their status and principles of functioning were quite distinct from arbitration principles known in the West and followed by now nearly universally.

The situation changed drastically after the Baltic States regained their independence at the beginning of the 1990s. Dismantlement of the Soviet past, getting to grips with the powers and responsibilities of a sovereign state and the drive towards membership in the European Union crystallised among many other things the urgent need for major and profound alterations in the domestic legal systems. A simple return to the legal norms of the first independence period was not a solution to the task of adjusting the legal framework to modern-day requirements. Even though, as a rule, the civil law of each Baltic State\(^4\) at the beginning of the XX century provided for the possibility of dispute settlement by means of arbitration, it was pretty clear that those norms would not correspond to the realities of the end of the century. For example, in 1991 Latvia adopted a special law on the Commercial Court (and on its procedure), whose competence covered exclusively commercial disputes – both national and international.\(^5\) By the

\(^2\) For example, the Civil Procedure Code of the Latvian SSR contained a separate Annex 3 ‘Rules on Arbitration’.


\(^4\) On the institution of arbitration in independent Latvia, see e.g. V. Bukovskis, *Civilprocesa mācību grāmata* (Autora izdevums, Rīga, 1933) pp. 568–579. For example, the Arbitration Court at the Chamber of Commerce and Industry started its work in 1934.