

**Yuliia Ivankiv,**

Research supervisor: Mariya Mykhayliv

Candidate of Law Sciences, Associate Professor

Language tutor: Anetta Artsyshevskya

Candidate of Philological Sciences, Associate Professor

Ivan Franko National University of Lviv

## **INVESTOR-STATE DISPUTE SETTLEMENT PROCEDURES**

Various ways of resolving investment disputes are provided in national legislation, international conventions and bilateral investment agreements on mutual protection of investments.

Firstly, in Ukrainian legislation, ways of resolving investment disputes are enshrined in Law of Ukraine "On the regime of foreign investment", namely Art. 26 that provides the following "Disputes between foreign investors and the state on state regulation of foreign investments and activities of enterprises with foreign investments are subject to consideration in the courts of Ukraine, unless otherwise specified in international treaties of Ukraine. All other disputes are subject to review by the courts of Ukraine or if so agreed by the parties - in arbitral institutions"

Consequently, the national legislation provides for such methods of resolving investment disputes as filing a claim to Ukrainian courts and, if so agreed by the parties, in arbitral institutions.

Speaking about Ukrainian courts, such disputes are subject to consideration in commercial or civil proceedings. At the same time, a foreign economic entity, in accordance with Art. 123 of the Commercial Procedural Code of Ukraine, is provided with the same procedural rights and obligations as those of Ukrainian business entities. At one time there was an idea of creating a special chamber in the system of civil courts, which would consider exclusively investment disputes, but it was never realized.

Secondly, among the international conventions, one of the main instruments for resolving investment disputes is the 1965 Convention on the Settlement of Investment Disputes between States and Foreign Holdings ("the Washington Convention"), which Ukraine signed on April 3, 1998, and the Law of Ukraine No. 1543 -III from March, 16th, 2000 ratified without any reservations.

The Washington Convention established the International Center for Settlement of Investment Disputes (ICSID), that is located in Washington DC.

The ICSID is considering disputes in the investment arbitration procedure, which will be discussed in the next section.

The Washington Convention provides with two main ways of resolving disputes: conciliation of parties or, if no agreement has been reached from three to six months from the receipt of a written communication with a precise position on the subject of the dispute, - arbitration proceedings.

At the level of Bilateral Investment Agreement (BITs), certain ways of resolving investment disputes are provided. Such methods include, for example, reconciliation by negotiation or mediation, as well as an appeal to an arbitration institution.

The last but not the least, International Investment Arbitration is the most popular way of resolving investment disputes. However, certain dispute has to fall within the jurisdiction of a particular arbitration institution. Jurisdictional requirements can be set in:

- a) multilateral Investment Treaties (ICSID Convention)
- b) bilateral investment protection agreements (BIT's).

The procedure for resolving disputes in international investment arbitration is modeled on the basis of a procedure in international commercial arbitration. In fact, all investment disputes are subject either to institutional rules of ICSID, UNCITRAL (Arbitration Commission for International Trade Law) or SCC (Stockholm Commercial Arbitration), or ICC Rules (International Chamber of Commerce).

Summarizing, the following ways of resolving investment disputes exist: reconciliation through negotiation or mediation, settlement of a dispute in the national court and filing a claim to an arbitration institution. The most popular and efficient way is to file a claim to any arbitration institution or to International Center for the Settlement of Investment disputes, that specializes specifically in solving of investor-state disputes.

### **References:**

1. International Centre for Settlement of Investment Disputes. ICSID Convention, Regulations and Rules. Washington, D.C. :International Centre for Settlement of Investment Disputes, 2003, retrieved from <https://icsid.worldbank.org/en/Documents/icsiddocs/ICSID%20Convention%20English.pdf>

2. Commercial Code of Ukraine, retrieved from <http://zakon0.rada.gov.ua/laws/show/1798-12>

3. 3. Law of Ukraine "On the regime of foreign investment», retrieved from <http://zakon3.rada.gov.ua/laws/show/93/96-%D0%B2%D1%80>