IVANE JAVAKHISHVILI TBILISI STATE UNIVERSITY

NATIONAL CENTER FOR ALTERNATIVE DISPUTE RESOLUTION

Alternative Dispute Resolution

Yearbook

2018-2019

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Arbitration as an Alternative Mechanism of a Tax Dispute Resolution

Arbitration is an alternative method of protection of right. Since the second half of the 20th century it becomes more and more popular. According to the international practice, arbitration considers disputes of many types, including tax dispute. Dispute may be considered on the national level, between the tax authority and tax payer, as well as on the international level as a dispute between two states. The goal of the article is to consider the essence of the institute of arbitration, expedience of its application to tax disputes, advantages and disadvantages, as well as the prospects of introduction of this institute in Georgia.
keywords: *tax, tax law, arbitration, tax dispute.*

1. Introduction

Tax dispute in particularly specific and complex type of administrative-legal dispute. Tax disputes differ from civil disputes. Tax dispute begins when the tax payer, in the opinion of tax authority, hasn't fulfilled the liability, imposed by the law. Such disputes are often caused by incorrect interpretation of the law.[1]

Georgian legislation knows several classical mechanisms of resolution of tax dispute. Among them, administrative, i.e. non-judicial and judicial mechanisms shall be mentioned. In accordance with the Tax Code of Georgia, tax dispute may be considered in the system of the Ministry of Finance of Georgia and in the court.[2]For the tax payer, the mentioned mechanisms of protection of rights are basic. In addition to these mechanisms, alternative methods like tax arbitration, as well as tax agreement, tax mediation, etc. exist.

The subject, considered in the present article is the alternative method of protection of right during tax dispute – arbitration. The essence, function, advantages and disadvantages of this mechanisms will be discussed in the article.

The practice of foreign countries, related to the arbitration will also be reviewed in the article.

The paper not only describes the essence of the institute, but assessed the expedience and perspectives of its introduction in Georgian reality.

2. The Essence of the Basic and Alternative Mechanisms of Tax Dispute Resolution

2.1. The Basic Mechanisms of Tax Dispute Resolution

The basic, i.e. classical mechanism of tax dispute resolution includes judicial and non-judicial, i.e. administrative ways of tax dispute resolution.

As it was already mentioned above, in accordance with the Tax Code of Georgia (hereinafter – TCG), tax dispute may be considered in the system of the Ministry of Finance of Georgia and in the court.[3] The bodies, resolving tax disputes in the system of the Ministry of Finance of Georgia are the Revenue Service and the Dispute Resolution Board under the Ministry of Finance of Georgia.[4] Tax dispute in the

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1 *Smith K.W., Stalans L. J.*, Negotiating Strategies for Tax Disputes: Preferences of Taxpayers and Auditors Author(s), Law & Social Inquiry, Wiley on behalf of the American Bar Foundation Stable, Vol. 19, № 2, 1994, 337, <http://www.jstor.org/stable/828626 Accessed: 04-09-2016 15:27 UT>.

2 Tax Code of Georgia, Article 296- I, Legislative Herald of Georgia, 12.10.2010.

3 Ibid, Article 296 (I).

4 Ibid, Article 297 (I).

Ministry of Finance of Georgia is a two-step process and starts with submission of claim to the Revenue Service.[5]

Administrative mechanism of tax dispute resolution, as compared with legal proceedings, is a short-term process. The dispute resolution body considers the claim within 20 days;[6]and in accordance with the Civil Procedural Code of Georgia, the court considers the case not later than within 2 months from the date of accepting the suit. For the case of extremely complex category this period can be extended to maximum 5 months.[7] The mentioned time frames also apply to the disputes of administrative category like tax dispute.

The above mentioned legal methods of protection of rights have many advantages and disadvantages. However, administrative and judicial mechanisms don't represent the subject of consideration for the present article.

2.2. The Essence of Alternative Mechanisms of Tax Dispute Resolution

All mechanisms, directed towards resolution of prevention of tax dispute, may be regarded as alternative methods of tax dispute resolution. If the taxpayer considers that administrative or judicial mechanism is too procrastinated or ineffective, he can find alternative method of optimal and painless completion of tax dispute.

As tax dispute resolution methods, the tax payer may use tax arbitration, tax agreement, mediation, etc. Definition of general idea of these institutes is important.

One of the methods of completion and prevention of tax dispute in modern tax science is reconciliation with tax authority in different forms. The institute of tax agreement is regarded as an expression of this institute. The essence of tax agreement is provided by the Tax Code, according to which, tax agreement may be formalized between the Revenue Service and the tax payer for the purpose of reduction of tax liability of the tax payer.[8]

After the tax payer applies to the Revenue Service, the latter will submit the application, together with the attached materials, to the Minister of Finance for the purpose of consideration on the Government meeting.[9]

After formalization of the tax agreement, the Government of Georgia makes decision, which will determine the amount to be paid by the tax payer in accordance with the tax agreement and the deadline of payment.[10]

Tax agreement act, in its final form, shall be formalized between the Revenue Service and the tax payer.[11]

Achievement of any kind of consensus between the tax administration and tax payer shall be assessed positively. However, it is important to change scale, as formalization of tax agreement occurs on quite high level and the Government of Georgia participates in the given proceeding.

Another novelty in tax legislation is consideration of the draft act of inspection in the Mediation Council of the Revenue Service. The tax payer is granted the authority to present his position in regard to the draft act of inspection in the Revenue Service and correct inaccuracies, existing in the act of inspection prior to tax accrual as a result of inspection.Appeal of the draft tax inspection act in Mediation Council is free of charge. At this moment, tax is not accrued to the tax payer, so indebtedness enforcement measure will not be used in regard to him.[12] It is clear that such measure serves to prevention of tax dispute too.

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5 Ibid, Article 297 (III).
6 Ibid, Article 301 (I).
7 Civil Procedural Code of Georgia, Article 59- III, The Parliament News, 31.12.1997.
8 Ibid, Article 292 (I).
9 Ibid, Article 293 (I).
10 Ibid, Article 294 (I).
11 Ibid, Article 294 (I).
12 *Gabisonia I.,* Tax Law, The Mechanisms of Protection of the Tax Payer's Rights, Tbilisi, 2013, 110 (In Georgian).

Other measures of dispute prevention are also important. From this viewpoint, the institutes of personal tax advisor and district tax inspector appear as preventive measures, but successfulness of and trust towards them is very low presently, as they represent the part of controlling authority itself. Consequently, formation of private structure outside of controlling authority, enjoying equal trust from all parties, is encouraged. Such institute, in the form of "Tax Consultant"successfully operates in Germany.[13]This institute efficiently works in Germany.[14]

As for arbitration, it shall be mentioned that, out of the above mentioned institutes, as has the longest history. Consequently, it is important to discuss the essence of this institute and determine whether it can serve as efficient means of protection of right in the case of tax disputes. This mechanism will be discussed in the next chapter of the article.

3. Arbitration, as Alternative Method of Tax Dispute Resolution

3.1. Origin of Arbitration Institute and its Essence

To determine the expedience of application of the institute of arbitration as the method of tax dispute resolution, it is important to understand historical development and essence of this institute.

It wouldn't be correct to regard private arbitration as innovative institute and the achievement of the 21st century. Alternative methods of dispute resolution were popular even in antique period. There is an opinion that application of similar mechanism for the purpose of resolution of disputes, emerged between persons, preceded the formation of state itself.[15]

Arbitrations initially developed from the guilds of merchants and not from judicial system. It was considered as rudimental and primitive system of dispute resolution, as didn't require obedience to court, but obedience to common persons. In middle ages, when dispute was merging between two merchants, they preferred assistance of the third merchant in dispute resolution rather than initiation of legal proceedings. In spite of this simple beginning, arbitration formed as the most complex and disputable issue of international law.[16]

If we consider long history of various legal institutes, arbitration may seem quite young mechanism. This institute formed in its present form in the last quarter of the 20th century due to economic advancement of the world. There is an opinion, that its formation was finalized after the World War 2, but this opinion has opponents too.[17]

Attitude towards arbitration was quite positive at the very beginning too. General supervisor of New York state, Andrew Elliot, wrote as early as in 1781 that the most expedient and fair method of resolution of trade disputes is to hand it over to the authoritative merchants.[18] It shall be mentioned that International Arbitrage of London began operation as early as in 1892.[19] After the World War 2, fast pace of economic development conditioned increase of popularity of arbitrages, but it doesn't mean that they formed in the second half of the 20th century.[20]

In parallel with historical background, it is important to clarify the essence of arbitration. The institute of arbitration implies the procedure, in the course of which the parties, or their representatives, present their subjective opinions to the arbiters, and the latter, through analyzing of the received information, shall arrive

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13 Ibid,111-112.

14 *Deutsche Treuhand-Gesellschaft AG.,* Tax Procedure: Tax Litigation and Dispute Resolution in Germany, 1999, <http://www.mondaq.com/x/7706/Arbitration+Dispute+Resolution/174+Tax+Procedure+Tax+Litigation+and+Dispute+Resolution+in+Germany>, [29.07.1999].

15 *Tsertsvadze G.,* International Arbitration, Tbilisi, 2009, 28 (In georgian).

16 *Ganguly M.*, Tribunalsand Taxation: an Investigationof Arbitration In Recent US Tax Conventions, Law Journal, Wisconsin International Law Journal, Vol. 29, Issue 4, Winter 2012, 737.

17 *Tsertsvadze G.,* International Arbitration, Tbilisi, 2009, 28 (In Georgian).

18 Ibid, 28.

19 Ibid, 29.

20 Ibid.

to objective conclusion, which shall be formed as arbitration decision and have legally binding power for the parties.[21]

In modern arbitrages, two or more arbiters, selected by the parties, participate in case consideration. The selected arbiters appoint the third arbiter, who also performs the function of the chairperson. The goal of the measure is for the parties to make sure that the outcome of the case doesn't depend only on the opponent. This procedure serves to neutrality of composition of arbitrage.[22]

The parties consider the arbitration proceedings and its general rules in commercial context.[23]

In European countries, especially in Germany, great attention is paid to the relation of arbitration with justice. The opinion, formed in USA, is opposite to it; according to it, arbitrage is not the body, implementing justice, but it is a kind of business service, offering quick, cheap and qualified resolution of dispute to the client.[24]

The opinion on public law nature of arbitration also exists. This opinion is supported by the circumstance that arbitrage is equipped with the authority of resolution of dispute, emerged between the parties. However, other scientists have opposite opinion; they state that it is not obligatory to apply to arbitrage for the purpose of dispute resolution, rather, the parties entrust resolution of dispute to it only on the basis of agreement.[25]

3.2. The Types of Arbitrages

Classification of arbitrages may be performed on the basis of many criteria; however, in the cross-section of tax disputes only several, most important types shall be outlined.

Primarily, they differ the so-called "open" and "closed" arbitrages. This issue is determined by the founding documentation of arbitrage in each specific case. Arbitrage is "closed", if its competence is limited to consideration of disputes of only certain circle of persons; and "open" arbitrage has the authority to consider disputes, emerged between any subjects.[26]

Arbitrages may also be divided into mandatory and optional arbitrages. Mandatory nature of this institution is determined according to mandatory nature of arbitrage decision. In some cases, arbitrage decision may be not mandatory for either of the parties.[27]

The most actual is classification of arbitrages according to the periodicity of their activities. Arbitrage may be established for consideration of one specific dispute. Activities of such arbitrage terminate as soon as the case is resolved. Such arbitrage is referred to as an "ad-hoc" arbitrage. This is a Latin germ and means "for this case".[28] Besides, there are permanent, i.e. institutional arbitrages, established for indefinite period.[29] The advantages and disadvantages of such arbitrages will be discussed in the next chapters of the article.

Arbitrages may be divided into general and specialized arbitrages.[30] According to branch-wise specialization, there may be general arbitrage, which considers all types of disputes, as well as specialized arbitrage, which is limited to only specific sphere.[31] Tax arbitrage may be the type of the specialized arbitrage.

One more, intermediate type, the so-called administrative arbitrages exist. This is the case when some commercial organization combines the function of arbitrage in specific case.[32]

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21 Ibid, 31.

22 *Ganguly M.*, Tribunalsand Taxation: an Investigationof Arbitration In Recent US Tax Conventions, Law Journal, Wisconsin International Law Journal, Vol. 29, Issue 4,Winter 2012, 739.

23 Ibid,739.

24 *Tsertsvadze G.,* International Arbitration, Tbilisi, 2009, 31 (In Georgian).

25 Ibid, 32.

26 Ibid, 41.

27 Ibid.

28 Ibid, 44.

29 Ibid, 45.

30 Ibid, 49.

31 Ibid, 45.

32 Ibid, 46.

3.3. Arbitrage, as the Means of Protection of Rights in Tax Dispute

Resolution of tax disputed by arbitration may be implemented in the framework of national legislation, within the dispute existing between the tax payer and administrative body, as well as on international level. Private arbitrage may appear as quite efficient method of protection of rights in tax disputes.

Different arbitration institutes are oriented towards consideration of diverse disputes, including tax dispute. There are quite authoritative arbitration institutes in the world: International Private Arbitrage of International Chamber of Commerce in Paris (ICC), American Arbitration Association (AAA), London Court of International Arbitration (LCIA), etc.[33]

Arbitration on tax cases is regarded is efficient method of protection of rights, especially in the cases of double taxation. When two states sign tax agreement, they share uniform tax procedures.[34] However, in practice, these two states may demonstrate different interpretation of this agreement, even due to the language of the agreement.[35]

Basically, disagreement in the sphere of double taxation emerges, when the tax payer is a multi-national corporation or citizen, it was taxed in accordance with two different jurisdictions and has to pay tax two times. Traditionally, when such international dispute emerges, tax administrative authorities of both countries get involved in "Mutual Agreement Procedure (MAP), which is specified in the agreements, concluded by these countries. Mutual agreement procedure is the main method of resolution of international taxdisputes, however, it may require quite long time.[36] Due to this disadvantage, arbitration is regarded as the institute, which fills this shortcoming. When the negotiations in the framework of "Mutual Agreement Procedure" end without any result, the tax payer, or the governmental bodywith involve the parties in arbitration proceedings. In spite of advantages of arbitration, its conformity to tax dispute resolution is still disputable.[37]

To get involved in such type of tax dispute, the parties shall have tax agreement, signed by them. This condition shall be sufficient for considering the arbitration activities legal, and the decision – enforceable.[38]

Tax dispute may be diverse, as the subject of tax dispute is diverse. As for arbitrage resolution in the framework of national legislation, it shall be stated that tax payer may appeal the measure of the tax authority, issued in the form of administrative- legal act. From the first glance, we may think that private arbitrage will not be authorized to nullify the act, issued by the tax authority. According to the General Administrative Code of Georgia, administrative body is authorized itself, to nullify the act, issued by it.[39] Consequently, in the part of execution of the arbitrage decision, arbitrage doesn't need to nullify the act. In such case the administrative body itself will do it, if it agrees with the decision, made by the private arbitrage. Otherwise, the mechanisms of recognition and execution of arbitrage decision will be enforced and the court will get involved in the process of execution.

3.4. Advantages and Disadvantages of Arbitration

Arbitration, as an alternative method of dispute resolution, has quite a lot of advantages. Among the advantages, it is often mentioned that the parties are provided opportunity to adapt the dispute resolution to their requirements and interests as much as possible.[40]

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33 *Tsertsvadze G.,* International Arbitration, Tbilisi, 2009, 48 (In Georgian).

34 *Ganguly M.*, Tribunalsand Taxation: an Investigationof Arbitration In Recent US Tax Conventions, Law Journal, Wisconsin International Law Journal, Winter 2012, Vol. 29, Issue 4, 749.

35 Ibid, 750.

36 Ibid.

37 Ibid, 750.

38 Ibid, 751.

39 General Administrative Code of Georgia, Article 60^1- III, Legislative Herald of Georgia,15.07.1999.

40 *Tsertsvadze G.,* International Arbitration, Tbilisi, 2009, 34 (In Georgian).

Competence of arbiters is considered as one of the advantages of arbitration. Since the early stage of development of arbitrages, highly qualified and authoritative specialists in the sphere of law and economy, related to the specific dispute, were invited as arbiters. Unlike them, you can't require deep knowledge of specific sphere, like economic issues, from a judge.[41]

Arbitration is often regarded as cheap means of dispute resolution. Obviously, milder assessment is nearer to the reality; arbitration doesn't remain cheap method of dispute resolution and it is related with delays in time, but it can be regarded as more flexible and efficient means. Besides, the parties agree on all details; and the court is limited by procedural legislation.[42]

Procedural rules of appellation don't apply to arbitrage decision. The only method of appellation of its decision is application to the court with the request of its nullification.[43] Consequently, it is regarded as the disadvantage of arbitrage that this institute contains risk, as there is the chance of its nullification by the court or refusal of its execution.[44]

Recently, arbitration turned into quite efficient tool for international investment and commercial dispute resolution. For the purpose of assessment of popularity of arbitration scientists point out several criteria. These are: predictability, unbiasedness, expertise, finality, confidentiality, limited investigation, less time expenditures and better friendliness.[45]

Surveys, conducted on relevance of these criteria, showed quite interesting picture. Entrepreneurs, representing arbitrage resolution segment, were interviewed. 75% of the interviewed entrepreneurs think that the result of arbitration proceedings is not predictable. Neutrality of arbitrage corps is the mostimportant task.[46]In the opinion of 72% of the interviewed entrepreneurs, arbiters are neutral and unbiased. 36% of the interviewed attaches high relevance to the high expertise ofarbiters. Total 64% of the interviewed consider confidentiality as highly relevant and important advantage. 35% of the interviewed consider relatively limited nature of investigation of circumstances in arbitration proceedings as significant advantage. 37% regard the impossibility of its appellation as highly relevant advantage. Besides, 41% of the interviewed persons consider friendliness of arbitrage as not quite persuasive opinion.[47]

It is considered that arbitration expenses are not higher of those of the court, which is achieved due to short procedural cycle; consequently, representational expenses, borne in the course of arbitration proceedings, are lower.[48] Arbitration proceedings are free from postponing of meetings, which can be regarded as integral phenomenon of the court. Limited period of investigation of the circumstances of the case and absence of appellation makes it a faster mechanism.[49] However, 37% doesn't consider it persuasive that arbitration proceedings will require less time. Obviously, for that reason, 51% doesn't consider it true that arbitrations is a cheaper procedure.[50]

Confidentiality of arbitration is one of its most important advantages. Unlike legal proceedings, arbitration proceedings are confidential. Court hearings are often attended my media and public, but this right is excluded in the case of arbitration proceedings.[51]

Although arbitrage and court are different institutions, they are quite inter-related; in particular, in the part of execution of the court decision.[52]

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41 *Tsertsvadze G.,* International Arbitration, Tbilisi, 2009, 35 (In Georgian).
42 Ibid, 37.
43 Ibid, 35.
44 Ibid, 38.
45 *Ganguly, M.*, Tribunalsand Taxation: an Investigationof Arbitration In Recent US Tax Conventions, Law Journal, Wisconsin International Law Journal, Vol. 29, Issue 4, Winter 2012, 744.
46 Ibid, 745.
47 Ibid, 744-745.
48 *Tsertsvadze G.,* International Arbitration, Tbilisi, 2009, 34-36 (In Georgian).
49 *Ganguly M.*, Tribunalsand Taxation: an Investigationof Arbitration In Recent US Tax Conventions, Law Journal, Wisconsin International Law Journal, Vol. 29, Issue 4, Winter 2012, 746.
50 Ibid, 744-745.
51 Ibid, 747.
52 Ibid, 749.

As it was already mentioned, there are two basic types of arbitrages; these are institutional and the so-called ad hoc arbitrages. Advantages and disadvantages of these forms of arbitrages are interesting. Institutional arbitrage is competent, when the parties choose the rules of specific arbitrage institution. Unlike it, ad hoc arbitrage consists of temporarily gathered arbiters and the parties determine the rules of arbitration proceedings themselves. In the case of arbitration proceedings the parties may select the desired arbiters from the list, defined by this institution.

One of the advantages of institutional arbitrage is that it is simple to write arbitration agreement and arbitration proceedings may begin without negotiations on detailed rules. Instead of inventing the wheel anew, each arbitration agreement implies application of the rules determined by arbitration institute. Most of these rules is more than tens of years old, but they are updated. The rules of arbitration proceedings are translated into different languages so that all parties can familiarize with them.[53]

Arbitration institute is a coordinating body in the part of all expenses and payment of fees, required by arbitration proceedings. The circumstance, that resolution of the case in institutional arbitrage required payment of fees in advantage for administrative expenses of the case is considered as the disadvantage for arbitrage institution. In accordance with the international practice, in the case of reconciliation outside the arbitrage, the arbitration fees are cancelled. In the case of complex disputes payment of fees may be even necessary.[54]

As a joke, scientists compare the difference between institutional arbitrage and ad hoc arbitrage with the tailor-made suit and the suit, bought in the store. Instead of application of the existing rules, ad hoc arbitration offers to the party more involvement. Use of the existing rule allows the party save money and time, but instead, the party has to sacrifice by having less control over the proceedings.[55]

Each arbitrage institution has its rules. Application of these rules is not the best choice of ad hoc arbitrage. The UN International Trade Commission introduced model legal rules in regard to international trade, which may be used by ad hoc arbitrages. In 1976 the above mentioned Commission published arbitration rules, which became an important event for ad hoc arbitrages, as these rules are used by them as a framework. It shall be mentioned the most of tax arbitrages are of ad hoc form.[56]

3.5. The Rules of Arbitration proceedings in Georgia

The activities of arbitrages in Georgia are regulated by the Law "On Arbitrages, which was adopted on June 19, 2009. With coming into force of this Law, the Law of Georgia "On Private Arbitrage" dated April 17, 1997 was declared null and void.[57]

The above mentioned Law establishes the rules of establishment of arbitrage, arbitration proceedings, arbitrage decisions, as well as recognition and execution of arbitrage decisions, made outside Georgia.[58]

It is appropriate to review the basic issues of Georgian model of arbitration proceedings.

In accordance with the Law of Georgia "On Arbitrage", the arbitrage is authorized to consider the private property-related disputes, based on equality of the parties, which the parties can regulate between each other.[59] The above mentioned provision is repeated in the Civil Procedural Code of Georgia, according to which private property-related dispute, based on the equality of the parties, which the parties can regulate between each other, on the basis of agreement, may be forwarded to the arbitrage for resolution.[60] Consequently, according to the existing legislation, the possibility of resolution of administrative dispute like

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53 *Ganguly M.*, Tribunalsand Taxation: an Investigationof Arbitration In Recent US Tax Conventions, Law Journal, Wisconsin International Law Journal, Vol. 29, Issue 4, Winter 2012, 740.

54 Ibid, 742.

55 Ibid, 743.

56 Ibid.

57 The Law of Georgia on Arbitration, Artile 47, Legislative Herald of Georgia, 02.07.2009.

58 Ibid, Article 47, I (1)

59 Ibid, Article 47, part I (para. 2).

60 Civil Procedural Code of Georgia, Article 12-I, The Parliament News, 31.12.1997.

tax dispute by arbitration is excluded. Although tax dispute is always related to the financial interest of the tax payer, it doesn't represent private property-related dispute, but a public legal one.

For the purpose of protection of tax payers' rights, on the initiative of the Government of Georgia, the Parliament identified arbitration in the Tax Code, adopted in 2004 as one of the forms of dispute resolution. However, according to this provision, resolution of dispute with reconciliation in arbitrage was impossible. Nevertheless, advantage of arbitrage against the court is higher probability of completion of the dispute with reconciliation. The possibility of regulation of tax dispute through arbitrage will soon be removed from the Tax Code. The mentioned method wasn't considered by the new Tax Code either, which came into force on January 1, 2011.[61]

The parties may agree on the rules of arbitration proceedings, which will be specified by the parties in arbitration agreement. Besides, agreement of the parties on specific arbitration institution includes agreement on the rules of this arbitration institution;[62] and arbitration agreement is the agreement, by which the parties agree to hand over to the arbitrage all or some disputes, which emerged or may emerge between them.[63] Such agreement shall be concluded in written.[64]If agreement of rules doesn't exist between the parties, the dispute shall be resolved according to the rule, established by the arbitrage and consideration of the requirements of the law.[65]

Arbitrage may consist of one of several arbiters, the number and rule of appointment of which shall be determined by the parties. Usually, the parties appoint arbiters of equal number.[66] If the number of arbiters is defined by even number, the appointed arbiters shall be obliged to elect one more arbiter within 10 days from appointment.[67] If the number of arbiters is not determined the parties' agreement, the arbitrage shall be created in composition of three arbiters.[68] In such case, each party appoints one arbiter and the two arbiters, so appointed, shall appoint the chairman of the arbitrage.[69]

As for the applicable legal norms, arbitrage shall resolve the dispute in accordance with the legal norms, selected by the parties, which apply to the substantial part of the dispute.[70]

One of the most important issues is the time frame of arbitrage decision making, which, in accordance with the existing legislation, shall be made in written form, within 180 days from starting arbitrage. In the case of necessity arbiter may extent the mentioned period by maximum 180 days.[71]

The party often executes arbitrage decision voluntarily, as it doesn't want to compromise its own reputation;besides, the mechanisms of recognition and execution of arbitrage decisions exist.[72]If this decision is not executed voluntarily, the issue of its compulsory execution will be brought to the forefront. According to the Georgian legislation, disregarding the country, where the arbitrage decision was made, its execution is mandatory and in the case of submission of written appeal in the court, it shall be executed. Appeal Courts are considered authorized courts in regard to the decisions, made in Georgia, and the Supreme Court of Georgia – in regard to the decisions, made beyond Georgian borders.[73]

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61 *Gabisonia I.,* Tax Law, The Mechanisms of Protection of the Tax Payer's Rights, Tbilisi, 2013, 111 (In Georgian).
62 The Law of Georgia on Arbitration, Artile 2 (II), Legislative Herald of Georgia, 02.07.2009.
63 Ibid, Article 8, (I).
64 Ibid, Article 8 (III).
65 Ibid, Article 24 (I-II).
66 Ibid,Article 10 (I-II).
67 Ibid, Article 10 (III).
68 Ibid, Article 10 (IV).
69 Ibid, Article 11 (III) „a".
70 Ibid, 36.
71 Ibid, 39 (I-II).
72 *Tsertsvadze G.,* International Arbitration, Tbilisi, 2009, 517 (In Georgian).
73 The Law of Georgia on Arbitration, Artile 44 [1],Legislative Herald of Georgia, 02.07.2009.

4. Conclusion

As a conclusion, it shall be mentioned that the role of arbitration, as alternative means of tax dispute resolution, must increase.

Arbitrage, like many other legal institutions, is imperfect. Nevertheless, it has many advantages, which may be viewed as positive event in the issued of tax dispute resolution. Although arbitration doesn't represent particularly cheap and fast method of tax dispute resolution, it has many advantages as compared with the court. Arbitrage can still be considered as more or less fast and cheap means of consideration of dispute, adapted to the party. Besides, arbitration is regarded as unbiased and confidential mechanism of dispute resolution, where highly qualified specialists of the sphere are involved.

Presently, legislation in Georgia doesn't allow tax dispute resolution by arbitrage, however, introduction of such method may be considered as highly efficient and necessary measure for resolution of tax disputes.

Perfection of alternative mechanisms of tax dispute resolution will be the guarantee of faster and more efficient restoration of the violated right.

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9. *Tsertsvadze G.*, International Arbitration, Tbilisi, 2009, 28, 31-32, 34, 34-36, 41, 44-45, 49, 517 (In Georgian).