

**International Commercial Arbitration Court and Maritime Arbitration
Commission at the Ukrainian Chamber of Commerce and Industry**

REPORT

of the activities for 2015

1. GENERAL PROVISIONS

During the reporting period, the International Commercial Arbitration Court and the Maritime Arbitration Commission at the Ukrainian Chamber of Commerce and Industry (hereinafter referred to as the ICAC and the MAC at the Ukrainian CCI), despite notoriously-known events in Ukraine, under normal conditions performed the functions entrusted to them.

In 2015 a high priority was put on further enhancement of the ICAC and MAC competitiveness, as well as elaboration of measures set for an arbitration-friendly climate establishment in Ukraine. In that context, the following key guidelines seeking to further boost the value of the ICAC and the MAC at the Ukrainian CCI as leading forums for legal services and international commercial dispute resolution were developed by the Presidium of the Ukrainian CCI:

- improvement of legal frameworks of arbitration procedure (drafting legislative proposals intended to amend certain legislative acts that are applied to commercial arbitration, preparation of the 4th edition of the Rules of the International Commercial Arbitration Court at the Ukrainian Chamber of Commerce and Industry, the Schedule of Arbitration Fees and Costs);
- organizational activities (extension of the Recommendatory List of Arbitrators of the ICAC and MAC at the UCCI by including distinguished international and Ukrainian legal experts; approval of the updated compositions of the Presidiums of the ICAC and MAC at the Ukrainian CCI; public awareness intensification of Ukrainian arbitration jurisdiction by organizing conferences, discussions and others);
- improvement of the ICAC and MAC at the UCCI facilities and resources and of up-to-date technologies implementation (equipment of the hearing room with a program that enables to make a record of arbitration hearings and video conferences; introduction of electronic document management system)

In pursuance of the specified decisions, a working group set up at the ICAC updated Rules of the ICAC and MAC at the UCCI which were heard at first reading by the Presidium of the Ukrainian CCI in December 2015. Besides, the ICAC and MAC undertook work on selection of new candidates - eminent international and Ukrainian legal experts to the Recommendatory List of Arbitrators of the ICAC and MAC at the UCCI.

In 2015 measures were taken to renew facilities of the ICAC and MAC at the UCCI that suggested complete equipment of hearing room with facilities and software which enables to make an audio recording and videoconferencing of arbitration procedures. Besides it is being expected one more completely equipped room hearing to emerge in 2016, as the Ukrainian CCI has allocated additional premises to the ICAC and MAC in 2015.

In 2015 a great care has been devoted to promotion of international relations of the ICAC and MAC at the UCCI. In this regard, the key event of the year has been the inclusion of the ICAC at the Ukrainian CCI into the list of non-governmental organizations which are invited as observers to the sessions held by the United Nations Commission on International Trade Law (UNCITRAL).

The delegation of the ICAC at the Ukrainian CCI composed of Mykola Selivon, President of the ICAC at the Ukrainian CCI, arbitrator of the ICAC at the Ukrainian CCI Yuliya Chernykh and Vice Secretary for international affairs of the ICAC at the Ukrainian CCI Olena Vasylenko participated by invitation of the Secretary of United Nations Commission On International Trade Law (UNCITRAL) as observer at the 48th Commission session which was held from 29 June to 8 July 2015 in Vienna International Centre (Vienna, Austria). A central issue of the work of the 48th Commission session was consideration of the draft revised UNCITRAL Notes on Organizing Arbitral Proceedings which are designed to assist arbitration practitioners and may be used whether or not the arbitration is administered by an arbitral institution. In the course of Commission session work Mykola Selivon, President of the ICAC at the Ukrainian CCI, continually contributed to the discussions suggesting comments and precedents from the ICAC at the Ukrainian CCI casework. Series of meetings underlining the significance of promotion of the arbitral institutions at the Ukrainian CCI and development of cooperation in the field of international commercial arbitration were conducted by the ICAC at the Ukrainian CCI delegation. In particular, delegation held the meeting with UNCITRAL Executive Board staff, representatives of Vienna legal community and heads of arbitral institutions. Of particular importance was the meeting of Ukrainian delegation with the Secretary of UNCITRAL Renaud Sorieul and principal legal officer of International Trade Law Division of the Secretariat of the Commission Corinne Montineri. The meeting participants discussed the issues of cooperation between UNCITRAL and the ICAC at the Ukrainian CCI as well as the Commission's assistance to business development and commercial arbitration in Ukraine.

On 7-11 September the ICAC at the UCCI delegation composed of Tetiana Zakharchenko, Vice President of the ICAC at the Ukrainian CCI, and arbitrator Yuliya Chernykh participated as observers in the work of 63rd Commission session held in Vienna International Center (Vienna, Austria).

The 63rd Commission session was dedicated to consideration of issues regarding enforcement of settlement agreements.

On 23 November 2015 in Bucharest (Romania) the regular annual meeting of the ICC European Arbitration Group took place. The delegation of the ICAC at the Ukrainian CCI composed of Mykola Selivon, President of the Court and Olena Vasylenko, Vice-Secretary for International Affairs of the ICAC took part in the above meeting. This year's meeting was co-organized and hosted by the Court of International Commercial Arbitration attached to the Chamber of Commerce and Industry of Romania. The core issue at the Group's meeting was the presentation and further discussion by its participants of the most important issues and events in the activities of the arbitration courts. The representatives of 10 arbitral institutions (Bulgaria, Croatia, Czech Republic, Estonia, Latvia, Moldova, Poland, Romania, Ukraine, France) made their reports at the meeting, focusing mainly on the number of cases registered during the reporting period, the applicable Rules of the arbitral institutions, amendments to Rules, new laws and regulations related to arbitration, contemporary issues of arbitration, competition issues, alternative dispute resolution mechanisms, innovations, and the most important events in the activity of the institutions.

To promote arbitral institutions at the Ukrainian CCI, the delegation of the ICAC, in addition to active participation in the ICC European Arbitration Group meeting also took part in the international conference «Arbitration in Eastern Europe. Trends and Developments» organized by the Court of International Commercial Arbitration attached to the Chamber of Commerce and Industry of Romania on 24 November 2015. The common problems of modern arbitration, as well as features of its development through the example of separate countries were brought up for discussion of the conference. About 100 participants took part in the conference, including representatives of the academic and university science, law firms, arbitrators of the Court of International Commercial Arbitration attached to the Chamber of Commerce and Industry of Romania as well as representatives of foreign arbitral institutions.

President of the ICAC at the Ukrainian CCI Mykola Selivon reported on «International Commercial Arbitration in Ukraine: status and trends of development» highlighting the peculiarities of arbitration in Ukraine, the benefits of Ukrainian jurisdiction, the process of modernization of the ICAC at the Ukrainian CCI, challenges that currently faces arbitration in Ukraine and measures taken to improve arbitration procedure. Also the report underlined the ICAC's endeavors aimed at cultivation of arbitration friendly climate in the country by way of active elaboration of proposals to amend international commercial arbitration legislation and the ICAC Rules caused by the latest experience of the world's arbitral institutions and implementation of UNCITRAL Model Law on International Commercial Arbitration and the UNCITRAL Arbitration Rules innovations in the specified regulations.

On 11-12 May 2015 Mykola Selivon, President of the ICAC and MAC at the Ukrainian CCI, and Tetiana Zakharchenko, Vice President of the ICAC and MAC at the Ukrainian CCI took part at the international conference «Arbitration and Mediation in the countries of Central and Eastern Europe and some countries of Asia» which was held in Istanbul (Turkey). Mykola Selivon, President of the ICAC and MAC at the Ukrainian CCI presented his report on «The legal status of arbitrator under the laws of Ukraine».

There were two major events organized in 2015 under the auspice of the ICAC and MAC at the Ukrainian CCI: the III International Arbitration Readings in Memory of Academician Igor Pobirchenko and scientific round-table discussion «Towards effectiveness: Improvement of arbitration laws».

The III International Arbitration Readings in Memory of Academician Igor Pobirchenko took place in the Ukrainian CCI premises on 13 November 2015 and were supported by the United Nations Commission on International Trade Law (UNCITRAL). The last fact determined its distinguishing characteristic comparing with previous International Arbitration Readings in Memory of Academician Igor Pobirchenko. Given that in 2015 the world celebrated the 35th anniversary of the United Nations Convention on Contracts for the International Sale of Goods (Vienna, 1980), which is widely applied in the field of international trade and also in the course of resolution of international commercial disputes both in international commercial arbitration and in public courts, the organizers of the event dedicated the III International Arbitration Readings in Memory of Academician Igor Pobirchenko to the subject matter that reads «Applicable Law in International Commercial Arbitration. Practices of Application of the Vienna Convention on Contracts for the International Sale of Goods».

More than 200 participants from Ukraine, Austria, Belarus, Poland, Sweden, Serbia, USA and Germany attended the venue.

The welcoming speeches for the participants of the event were delivered by Mr. Oleksii Filatov, the Deputy Head of the Administration of the President of Ukraine, the Head of the Council for Judicial Reform under the aegis of the President of Ukraine and the Secretary of the Constitutional Committee; by Mrs. Yuliia Kovaliv, the First Deputy Minister for Economic Development and Commerce of Ukraine; by Mr. Cyril Emery, the UNCITRAL representative; by Mr. Manfred Heider, the Secretary General of the Vienna International Arbitral Center of the Austrian Federal Economic Chamber; by Mr. Gennadiy Chyzhykov, the President of the Ukrainian Chamber of Commerce and Industry; and by Mr. Mykola Selivon, the President of the ICAC and MAC at the Ukrainian CCI.

Within the frameworks of the event the Cooperation Agreement between the Vienna International Arbitral Center of the Austrian Federal Economic Chamber and the ICAC at the Ukrainian CCI was signed. Needless to say that the Vienna International Arbitral Center of the Austrian Federal Economic Chamber is considered to be one of the most renowned and popular among the permanent arbitral institutions in Europe.

On 1 December 2015 on the Kyiv Regional Center of the Ukrainian National Academy of Law Sciences premises the ICAC and MAC at the UCCI jointly with the Scientific-Research Institute of Private Law and Entrepreneurship of the Ukrainian National Academy of Law Sciences and the Ukrainian Civilist Association held a round table discussion: «Towards effectiveness: Improvement of arbitration laws». Among the participants of the round table were representatives of the judicial authorities, representatives of law firms and advocacy agencies, legal practitioners in the field of foreign trade and arbitration, arbitrators of the ICAC and MAC at the UCCI, representatives of the academic and institutional science, students and graduates of higher education institutions. During the round table the attendees considered matters of improvement of Ukrainian arbitration legislation focusing, in particular, on the following issues:

- implementation of the UNCITRAL Model Law (amended in 2006) provisions into the Law of Ukraine On International Commercial Arbitration: its limits and viability;
- arbitrability of corporate disputes and disputes arising out of conclusion, amendment, termination and performance of public procurement contracts,
- improvement of procedural legislation pertaining matters of promotion of international commercial arbitration and supervision of arbitration
- viability of adoption of provision granting the parties with the right to abandon judicial review

The round table discussion also considered basic trends of improvement of the Rules of the ICAC and MAC at the UCCI including open-list or closed-list methods of arbitrators appointment, reasonability of keeping minutes, audio- and video recording during oral hearings, worthwhileness of expedited arbitration, feasibility of emergency arbitrator procedure in Ukraine.

In the course of 2015 the ICAC and MAC representatives participated in a wide range of conferences, round-table discussions and other events held in Ukraine.

On 20 March 2015 International legal forum took place on the Supreme Court of Ukraine premises. It was organized by the Supreme Court of Ukraine, «The Legal Practice» newspaper and the Taras Shevchenko National University of Kyiv. The ICAC at the Ukrainian CCI was represented by Mykola Selivon, President of the ICAC at the Ukrainian CCI, his deputies Liudmyla Vynokurova and Tetiana Zakharchenko and arbitrators of the ICAC at the UCCI Yuliya Chernykh and Yuriy Prytyka.

President of the ICAC at the Ukrainian CCI, Mykola Selivon, made a report «About some issues of interaction between courts and the ICAC at the Ukrainian CCI». Yuriy Prytyka reported on the trends of Ukrainian legislation improvement

in the field of arbitration assistance and monitoring. Yuliya Chernykh spoke on the limits between regulatory state actions and violation of bilateral agreements on investment protection.

On 24 September 2015 President of the ICAC at the Ukrainian CCI, Mykola Selivon, and his deputy Tetiana Zakharchenko took part in International Legal Forum «Ukraine-EU» held by «The Legal Practice» newspaper at support of the Ministry of Economic Development and Trade of Ukraine, where Mykola Selivon made a report «Arbitration and other alternative disputes resolution development within the framework of Ukraine–European Union Association Agreement».

On 4 November 2016 President of the ICAC at the Ukrainian CCI, Mykola Selivon, and his deputies Tetiana Zakharchenko and Liudmyla Vynokurova took part in the workshop hold under the auspice of the Ministry of Justice of Ukraine and dedicated to «Establishing best world practice in the field of international commercial and investment arbitration in order to compensate the losses caused by temporal occupation of part of Ukraine by Russian Federation».

Mykola Selivon reported on «Creation of effective instrument of commercial and investment disputes resolution in Ukraine: reformation of the ICAC at the UCCI or establishment qualitatively new institution?».

On 4 December 2016 commercial law issues and problems of Ukrainian commercial legislation improvement were under discussion in the Taras Shevchenko National University of Kyiv. Vice President of the ICAC at the Ukrainian CCI Liudmyla Vynokurova presented a report on «Commercial Law improvement in favour of international commercial arbitration».

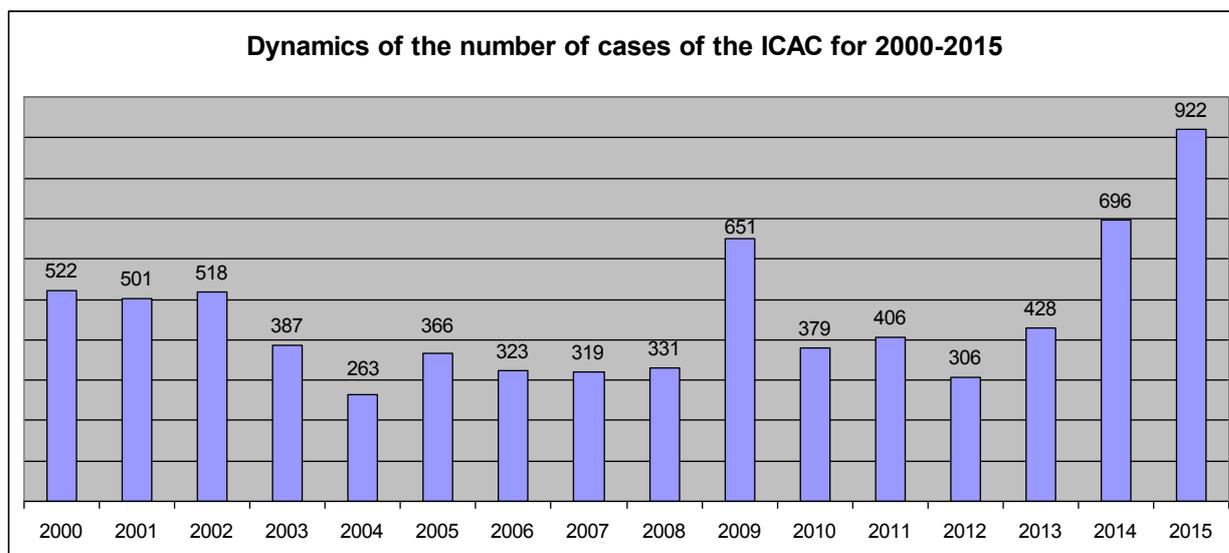
2. INTERNATIONAL COMMERCIAL ARBITRATION COURT AT THE UKRAINIAN CHAMBER OF COMMERCE AND INDUSTRY ACTIVITY 2015

§ 1. Number of cases registered by the ICAC at the UCCI in 2015

Summarizing the results of 2015, the great intensification of the ICAC at the UCCI activity is worthy of note, as the following factors bear witness to.

During the period from 1 January till 31 December 2015 the ICAC at the UCCI registered 922 cases, which is 226 cases more than in 2014. The related trend is brought about by business entities, especially Ukrainian ones, experiencing economic upheaval, acceleration of efforts aimed at recovering counterparty's debt arising out of foreign economic contracts, including by a referral to the ICAC at the UCCI.

The dynamics of the number of cases registered in the ICAC at the UCCI from the year 2000 till 2015 is as follows:



§ 2. Consideration of cases in 2015

The intensification of the ICAC at the UCCI activity is also evident in the number of considered cases and rendered awards during the reporting period. In particular, in 2015 the ICAC at the UCCI considered and rendered awards in 549 cases. This trend identifies that in 2015 the ICAC at the UCCI indications of consideration of cases grew up on 193 cases compared with 2014.

Of 549 cases, 167 cases (30.42%) were considered by the Arbitral Tribunal composed of three arbitrators and 382 cases (69.58%) – by the Arbitral Tribunal composed of a sole arbitrator. In these circumstances, there were five cases in regard of which composition of the Arbitral Tribunal made orders for the termination of the arbitral proceedings.

From the general amount of cases that have been considered, 291 cases were registered in 2015, 250 cases - in 2014, 1 case – in 2013 and 7 cases - in 2012.

From the general amount of cases that have been registered in 2015 (922 cases) the arbitral proceedings in 192 cases were terminated without consideration by the orders of the President of the ICAC at the UCCI mainly for non-payment of the arbitration fee by the Claimant or upon the Claimant's application.

From the total amount of cases that had been registered in 2015, 119 arbitral proceedings were conducted in Ukrainian, 12- in English and the remaining ones – in Russian.

In 2015 the consideration of cases of the ICAC at the UCCI has been conducted with the participation of foreign arbitrators from Germany, Moldova, Poland, Russian Federation, Serbia and Switzerland.

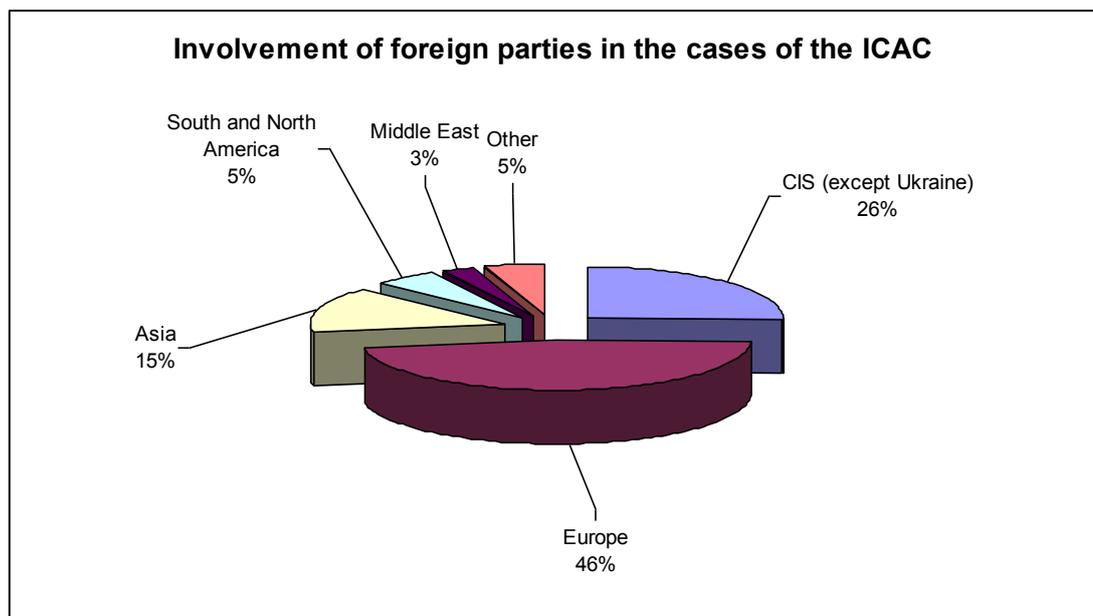
§ 3. Origin of the parties

During the course of 2015, the ICAC at the UCCI registered a total of 922 cases, where the Parties to the cases were represented by 55 countries, including 46 from far-abroad countries, 8 CIS (Commonwealth of Independent States) countries and Ukraine.

The range of far-abroad nationalities of the parties bringing their disputes to the ICAC at the UCCI is listed below:

Austria - 5 cases, Argentina - 1 case, Belize - 1 case, Belgium -1 case, British Virgin Islands - 29 cases, United Kingdom - 91 cases, Hungary - 3 cases, Vietnam - 1 case, Germany - 17 cases, Greece – 2 cases, Georgia - 6 cases, Estonia – 2 cases, Israel – 2 cases, India – 4 cases, Jordan – 2 cases, Iran – 2 cases, Iceland - 1 case, Italy – 6 cases, Canada – 1 case, Qatar – 1 case, China – 25 cases, Cyprus – 91 cases, Korea - 1 case, Latvia – 1 case, Lithuania – 2 cases, Malta – 3 cases, Marshall Islands – 1 case, Netherlands – 4 cases, Norway – 1 case, United Arab Emirates - 19 cases, Panama – 6 cases, Poland – 67 cases, Portugal – 1 case, Romania – 2 cases, Seychelles – 14 cases, Senegal – 1 case, Slovenia - 1 case, Serbia - 2 cases, Singapore – 1 case, USA – 39 cases, Tunisia - 1 case, Turkey – 6 cases, Czech Republic – 9 cases, Chile - 1 case, Switzerland – 206 cases, Japan – 1 case.

The following CIS countries appeared as the Parties to the cases: Azerbaijan - 11 cases, Armenia – 5 cases, Belarus – 62 cases, Kazakhstan - 19 cases, Kyrgyzstan – 2 cases, Moldova – 15 cases, Russian Federation - 100 cases, Uzbekistan - 24 cases.

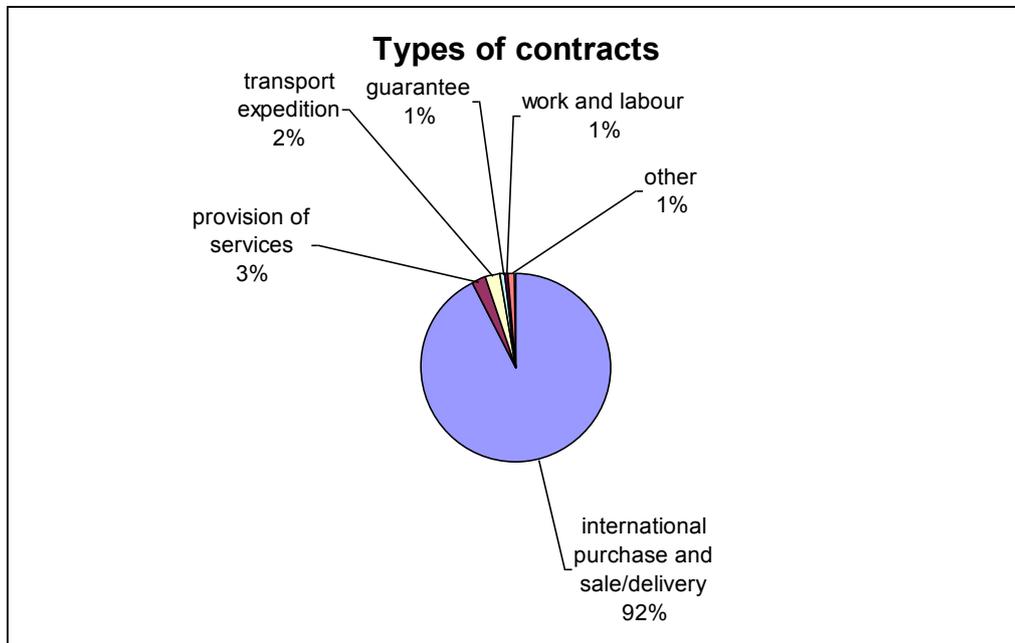


§ 4 Nature of contracts

In 2015 the nature of the contracts out of which referrals to the ICAC at the UCCI arose mainly concerned international purchase and sale (delivery) of goods,

the breach of contractual obligations as to the opportune payment or delivery of goods. This tendency overlaps with previous years insights. It is worthy of note that the number of disputes relating to the quality of delivered goods, provision of services, transport expedition dominated. To a lesser extent, submitted disputes deal with construction contracts, guarantee, loan.

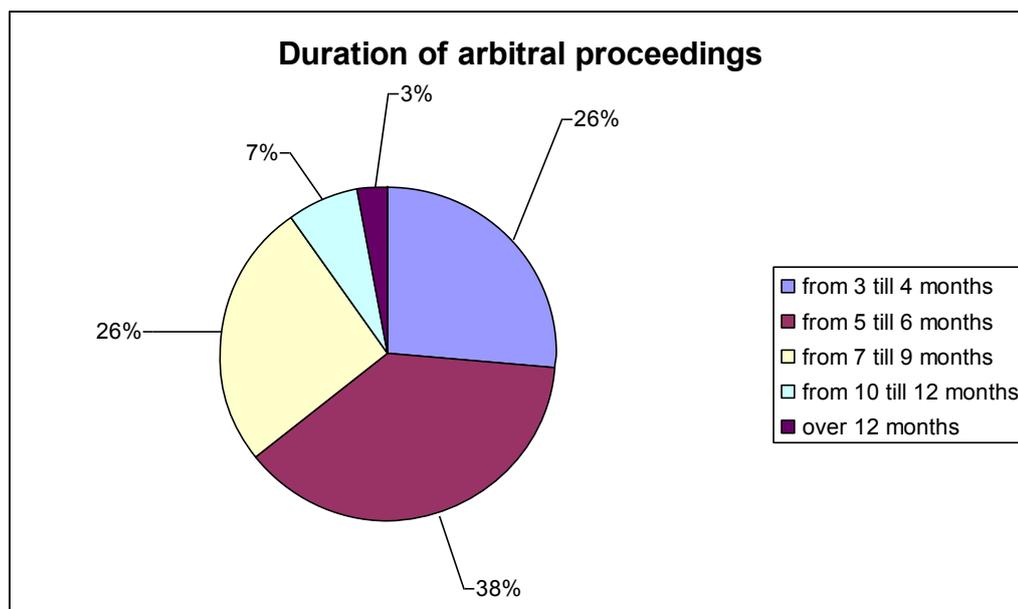
From the total amount of cases registered by the ICAC at the UCCI in 2015 (922 cases), 852 cases (i.e. almost 92%) related to the contracts of international purchase and sale/delivery of goods, 25 cases related to the contracts of provision of services, 21 cases – to contracts of transport expedition, 6 cases – to contracts of guarantee, 5 cases – to construction contracts, 3 cases - to contracts of loan, 3 cases - to contracts of commission agency, 2 cases – to contracts of pledge, 2 cases – to dealership contracts and 1 case – to a contract of cooperation, exhibition holding and transportation.



§ 5. Duration of arbitral proceedings

In 2015 the ICAC at the UCCI considered and rendered awards in 549 cases. The duration of considered cases (from the date of initiation of the arbitral proceedings till rendering of the award in the case) was as follows:

- from 3 till 4 months - 145 cases;
- from 5 till 6 months - 207 cases;
- from 7 till 9 months – 143 cases;
- from 10 till 12 months - 38 cases;
- over 12 months - 16 cases.



§ 6. Challenging arbitral awards

As of 4 February 2016, 14 applications for setting aside arbitral awards, rendered in 2015, were lodged before Shevchenkivskyi District Court of Kyiv, which constitutes approximately 2,55% from the total amount of arbitral awards. Given that the provisions of Article 34 of the Law of Ukraine «On International Commercial Arbitration» enables the Parties to recourse to a court against an arbitral award before three months have elapsed from the date on which the party had received the award, the number of challenged awards is not ultimate. That means that the parties are supposed to challenge awards, rendered in December 2015, up to April 2015.

At the time of drawing up this report: one application for setting aside arbitral award was left without consideration; one of the ICAC arbitral awards was set aside by Shevchenkivskyi District Court of Kyiv.

The provision of arbitration clause to the contract, stipulating that the dispute shall be subject to the jurisdiction of the International Commercial Arbitration at the Ukrainian CCI, was indicated as the ground for setting aside an arbitral award of the ICAC. Considering the issue of jurisdiction the composition of Arbitral Tribunal relied on the position that incorrect spelling of the Court's name doesn't effect the content of arbitration clause provision determining the arbitral institution, which the ICAC should be regarded to be, competent to consider the disputes that the parties have agreed to refer to it. However, Shevchenkivskyi District Court of Kyiv stated that the arbitration agreement provided for Third-Party Tribunal, which doesn't exist in Ukraine, and the composition of Arbitral Tribunal interpreted the arbitration agreement on its own initiative, despite the parties' express authorization to do so was absent.

Appeal against a ruling of Shevchenkivskyi District Court of Kyiv, that set aside the arbitral award, is currently under consideration of the Court of Appeal of Kyiv.

3. MARITIME ARBITRATION COMMISSION AT THE UKRAINIAN CHAMBER OF COMMERCE AND INDUSTRY ACTIVITY 2015

In 2015 there were 21 cases in the MAC at the Ukrainian CCI, including 13 cases registered during the reporting period and 8 cases left from the year 2014. Among them 8 cases have been considered, 4 cases have been terminated by the orders of the President of the MAC at the Ukrainian CCI, 7 cases are at the stage of the preliminary preparation for consideration and 2 cases are scheduled for the oral hearing in February 2016.

Foreign respondents in the cases registered in 2015 were parties including: Germany - 3 cases, Belize - 2 cases, Cyprus - 2 cases, Panama, British Virgin Islands, Georgia, Bahama Islands - 1 case each.

There were 2 cases both parties to which were the Ukrainian residents.

Out of the 13 cases registered by the MAC at the Ukrainian CCI in 2015, the price of claim in 1 case was to US Dollar 10,000, in 8 cases from US Dollar 10,001 to US Dollar 50,000; in 3 cases from US Dollar 50,001 to US Dollar 100,000; in 1 case - from US Dollar 500,001 to US Dollar 1 000 000.

Claims registered by the MAC in 2015 arise out of relationships concerning the following matters:

affreightment - 7 cases

shipping - 2 cases

repair of vessel - 3 cases

insurance - 1 case

As of 4 February 2016, Shevchenkivskyi District Court of Kyiv twice has been asked to set aside awards of the MAC, rendered in 2015. Results of consideration are still unknown.

Mykola SELIVON

President of the ICAC and MAC at the UCCI

4 February 2016