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Implementing Turkish Arbitration in North Macedonia: Statutory Convergence, Institutional Design, and an Incremental Reform Roadmap

Muratcan Işıldak

Abstract

The globalization of commerce has increased the importance of effective, predictable, and internationally respected mechanisms for resolving disputes. Arbitration, particularly international arbitration, has become a pivotal and attractive feature of transnational business regulation, given its flexibility, neutrality, and the ability, under widely adopted international treaties, such as the New York Convention of 1958, to gain quick and effective enforcement of arbitral awards. While many countries, including North Macedonia and Türkiye, have modernized their arbitration laws by adopting provisions from the UNCITRAL Model Law on International Commercial Arbitration, differing levels of institutional development and variations in legal traditions tend to produce significant disparities in arbitration performance and capacity in emerging legal systems (International Arbitration Law No. 4686, 2001, Art. 4). This article considers the potential benefits, as well as possible pitfalls, of selectively borrowing elements of the Turkish arbitration system for application in North Macedonia, suggesting that a progressive process of legal harmonization and gradual institutional development is preferable to wholesale transplantation (New York Convention, 1958, Art. V). The Turkish experience is worthy of close examination, given Türkiye's unique history of legal development, civil law tradition, and position as a gateway between Europe and Asia, all of which offer promising parallels for the fast-changing market-oriented legal system of North Macedonia. Drawing on comparative law methodology, theories of institutional development, and concepts of policy sequencing, this paper assesses how improvements in arbitration practice and law may contribute to greater court efficiency, foreign direct investment, and regional economic integration in the Western Balkans, ultimately proposing a comprehensive reform strategy based on legal harmonization, institutional education, and professional community building (Law on International Commercial Arbitration, 2006, art. 10).

Keywords: Modern Law, international arbitration, Turkish Arbitration Law, North Macedonia.

Introduction

The globalization of economic relations has also accelerated the process of economic dispute resolution in different jurisdictions. With growing global trade and capital flows, states are now evaluated not only on their macroeconomic indices, but also on the credibility of their enforcement mechanisms. Arbitration has become an important aspect of transnational business, for it offers a distinct combination of flexibility, party autonomy, neutrality, confidentiality, and enforceability under the 1958 New York Convention. For small and open economies, arbitration is not only a useful dispute resolution mechanism; it is also a vital institutional signal of the credibility of a country's legal system as it seeks deeper regional and global economic integration. North Macedonia, located on the path of the Western Balkans and its European integration prospects, is under pressure to improve efficiency and increase investor confidence (New York Convention, 1958, Art. V). While arbitration is recognized and the country is a party to major international conventions on the enforcement of arbitral awards, arbitration in North Macedonia remains a small and relatively inactive institution. Even though it is recognized at law, it is not actively utilized. How can arbitration reform gain credibility beyond a mere symbolic harmonization? Türkiye presents a useful comparison. Similar to North Macedonia, it shares the civil law tradition and has experienced significant law reform during its economic liberalization (Law on International Commercial Arbitration, 2006, Art. 10). Türkiye's adoption of an International Arbitration Law in 2001, based broadly on the UNCITRAL Model Law on International Commercial Arbitration, shows a successful effort at harmonizing international arbitration practice with domestic standards without sacrificing internal harmony (Acar, 2006). More notably, it exemplifies the need for coordinated institutional development, expertise development, and regional strategic thinking to accompany legislative reform in arbitration. In this regard, the creation of the Istanbul Arbitration Centre in 2015 represents a successful follow-up to legislative reform.

With the growing importance of global trade, dispute resolution has become crucial. As court litigation in many countries is ill- equipped to deal competently and expeditiously with complex disputes arising from international trade, arbitration has emerged as the preferred method of dispute resolution. The credibility of dispute resolution mechanisms has great significance for the economic competitiveness of small and open economies, such as North Macedonia. Apart from taxation and the cost of labor, foreign investors also scrutinize the credibility of domestic enforcement regimes. Arbitration practice can send a strong signal in this regard.

Despite the positive reforms of the judiciary in the processes of European Union (EU) integration, North Macedonia's arbitration system is still underdeveloped compared to similar countries. Although arbitration is domestically regulated, there is little practice, and it has a low profile (Law on International Commercial Arbitration, 2006, Art. 10/1). This article argues that drawing upon the example of Türkiye could help substantially modernize the system without the need for drastic changes.

Theoretical Foundations of International Commercial Arbitration

There has been written in comparative law about the prospects of borrowing institutions, specifically rules of law, from other systems. Early advocates of this practice asserted the relative independence of rules of law from their social environment. Detractors of this view stressed the embeddedness of law in culture, politics, and other structures, within which rules of law cannot be simply imported. More recently, the discourse has moved beyond these extremes, observing that there is an organic process of selective convergence, impacting legal reform more than wholesale borrowing. Arbitration law is a prominent case of transnational convergence, given its inherently commercial context, which demands predictability and interoperability. The UNCITRAL Model Law on International Commercial Arbitration has been a central harmonizing source. But despite the fact that the Model Law helps various states harmonize fundamental attributes of arbitration, such as party autonomy, the power of the arbitral tribunal to rule on its own jurisdiction, limited court review, and the recognition and enforcement of arbitral awards, it provides room for variation. Studies show that mere transplantation of the Model Law has not led automatically to vigorous arbitration (United Nations Commission on International Trade Law [UNCITRAL], 1985). Some emerging markets in Central and Eastern Europe reflect a gap between formal harmony and actual practice. Negative court attitudes toward private dispute resolution, inexperience, and the lack of promotion of arbitration centers limit the use of arbitration even when the law is harmonized.

Sequencing is illustrated by Türkiye's experience in reforming arbitration. Arbitration in Türkiye, before 2001, was governed by a hodgepodge of procedural provisions, and arbitration there had no credibility with foreign parties. The enactment of the International Arbitration Law was a great step forward, articulating well-regarded principles and specifying the scope of court support and supervision. But

the subsequent creation of the Istanbul Arbitration Centre was crucial for cementing those reforms in the institution required to attract disputes from the region. Indeed, scholars of Türkiye's experience highlight issues of institutional credibility, training, and positioning as much as legal reform (Acar, 2006). Arbitration reform in the Western Balkans has primarily revolved around bringing the national laws in line with European and international standards. But arbitration centres in the region are dwarfed by arbitration centers such as Vienna, Paris, or London, as the parties will opt for these cities to resolve their disputes due to their neutrality and well-established procedures. This implies a lack of trust and legal gaps in the local centres. Therefore, North Macedonia faces a challenge not only to improve its law, but also to create a credible arbitration environment that would enable it to keep domestic disputes and attract disputes from the region (International Arbitration Law No. 4686, 2001, Art. 4).

The Structural Context of Arbitration Law in North Macedonia

North Macedonia has a formal structure for arbitration, complying with international standards. It has adopted arbitration law based on UNCITRAL Arbitration Rules and is a signatory to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, providing enforcement procedures for awards across jurisdictions. Party autonomy, the validity of arbitration agreements, and courts' assistance are also provided by its legislation. From a textual standpoint, the law seems adequate (New York Convention, 1958, Art. V). On the other hand, practices within the institutions show limitations. Arbitration is still relatively small compared to litigation, and the domestic arbitration institutions have limited international exposure. Companies still resort to foreign arbitration seats for substantial cases, indicating a confidence issue. Courts are paying better attention to arbitration-related issues, although there is some inconsistency in the courts' understanding of the limits of their intervention. The number of experienced arbitration practitioners and arbitrators is still limited, creating a lack of market vibrancy. Rather than reflecting a lack of legitimacy, these problems appear to be symptoms of infancy. A potential legal framework is present and awaits activation by institutional development (United Nations Commission on International Trade Law [UNCITRAL], 1985). The upcoming European Union membership processes also represent a source of further reform pressure, as judicial efficiency and rule-of-law indicators directly correspond to the modernization of arbitration practice. Developing the arbitration system can decrease burdens on the courts,

increase the predictability of enforcement, and enhance the country's attractiveness in global investment indices.

Compatibility between Turkish and North Macedonian arbitration regimes is informed by common civil law heritage, analogous patterns of economic development, and similar dynamics of European integration. Both countries have undergone transitional reforms as part of integrating with wider economic systems. The development of arbitration in Türkiye exemplifies how a medium-sized country can improve its arbitration environment without needing to emulate major established centres. Selective convergence would encompass improvements in such areas as scope of judicial intervention, method of appointment of arbitrators, enforcement of interim measures, and a more active role for the national arbitration organisation. It would also have to accommodate the need for domestic constitutional harmony. Convergence is not mimicry but harmonious adaptation for better functionality (Acar, 2006). The rest of the study will proceed with the comparative analysis of the arbitration legislation, focusing on the similarities and differences between Turkish and North Macedonian arbitration laws, and will attempt to devise a roadmap of institutional change based on gradual implementation and consultation with relevant stakeholders. Thus, arbitration reform will be examined not only from a purely legal perspective but also as an instrument of economic governance and regional development.

Comparative Statutory Analysis: Turkish and North Macedonian Arbitration Frameworks

Meaningful convergence can only be achieved through a detailed comparison rather than a wholesale affirmation of convergence into national law. For instance, both Türkiye and North Macedonia base their arbitration frameworks on the UNCITRAL Model Law on International Commercial Arbitration; yet, differences exist in the approach to drafting, the role of courts, and the use of arbitral institutions. Such differences, whether they are compatible or not, define the order and extent of potential convergence. Türkiye enacted the International Arbitration Law No. 4686 in 2001 as a stand-alone and specialized law for international arbitration with a foreign element where the seat of arbitration is in Türkiye. Domestic arbitration is still governed by the provisions of the Turkish Code of Civil Procedure. The differences between those two arbitration types clearly mark the distinction that Türkiye tries to draw between purely domestic disputes and international commercial disputes. International law includes the UNCITRAL principles of party autonomy,

kompetenz-kompetenz, separability of the arbitration agreement, limited court intervention, and enforceability subject to annulment under limited grounds. On the contrary, North Macedonia follows a more abbreviated structure for the regulation of arbitration in one single set of rules derived from the UNCITRAL Model Law on International Commercial Arbitration without any difference between domestic and international arbitration. This may lead to a simplification and potentially less latitude for differentiation as regards cross-border dispute resolution. The lack of a specific law for international arbitration leaves a potential for overlap between the country's civil procedure and international arbitration, especially as it relates to court involvement and procedural autonomy.

The most significant point of comparison is the principle of kompetenz, or the authority of the arbitral tribunal to rule on its own jurisdiction. Turkish law explicitly recognizes this principle and empowers arbitral tribunals to rule, as a preliminary matter, on any objections to the existence or validity of the arbitration agreement. This preliminary decision is subject to judicial review only at the award stage, barring exceptional circumstances. This well-established deference to the arbitral tribunal minimizes dilatory tactics and bolsters arbitral autonomy. North Macedonian law also empowers arbitral tribunals to assess their own jurisdiction, but the courts sometimes display a willingness to entertain jurisdictional disputes at earlier stages in the arbitral process. While these occurrences are not the rule, the perception of potential judicial interference may undermine confidence among foreign parties. Harmonization in this respect would not require wholesale legislative reform but may simply require clarifications to emphasize minimal court interference and provisions to reinforce the timing of jurisdictional challenges. Parties' appointments of arbitrators is another aspect that can be developed further. Turkish law also provides wide freedom to the parties to agree on the method of appointment, and, if the parties fail to come to an agreement, the civil court "competent for in rem jurisdiction over the place where the seat of arbitration is located" shall appoint the arbitrators. The law contains definite time limits and procedural rules with respect to this court appointment, thus eliminating that risk of uncertainty. Also, where the arbitration is administered by the Istanbul Arbitration Centre, the IAC's administration can assist with the appointment of arbitrators, further reducing the role of the courts (Saidov, 2019). North Macedonia similarly provides equal freedom to the parties to agree on the appointment of arbitrators, and again the courts can assist if the parties fail to agree, but here, due to the absence of a well-established national arbitration institution, the IAC option almost does not exist at all, and courts must more regularly intervene to appoint arbitrators. The difference

in practice, then, between both countries is not in the laws, but in the support provided by the arbitral institutions. The Turkish experience helps show how such frameworks help to reduce frictions and increase certainty when appointing arbitrators in multi-party or more complex disputes.

Interim measures are a sensitive and important part of the arbitration law, because they require interaction between arbitral tribunals and state courts. Turkish International Arbitration Law allows arbitral tribunals to order interim measures and also allows the parties to apply to state courts for interim measures before or during the arbitration without harm to the arbitration agreement. The law strikes a balance between arbitral autonomy and the enforcement power of courts, and provides that tribunals cannot exercise coercive power on their own, but need the assistance of the courts. Turkish courts seem to have developed a jurisprudence that is increasingly friendly towards arbitration in this respect. In North Macedonia, the law provides for interim measures, but, in practice, challenges arise in their enforcement due to procedural formalities prescribed under the domestic civil enforcement law. As a result, the interface between arbitral interim measures and the judiciary's enforcement machinery is not optimal. Aligning these would not require any fundamental overhaul of the existing laws but, rather, a harmonization of the enforcement procedures. Greater clarity regarding the enforceability of interim measures issued by the tribunal, and a more direct process of recognition, would greatly contribute to the attractiveness of arbitration without entailing any fundamental change in the legal regime (Heywood, 2013). Annulment and judicial review Another basis for consideration is the standards of annulment and judicial review of foreign awards.

In Türkiye, annulment is limited to the grounds enumerated in the UNCITRAL Model Law on International Commercial Arbitration, including invalid arbitration agreement, deprivation of due process, excess of authority, irregular composition of the tribunal, and violations of public policy. Courts hearing annulment applications do not conduct a merits-based reexamination of the case. Several decisions evince a trend of narrowly construing exceptions to public policy, thus ensuring greater finality of awards. In North Macedonia, the restricted grounds for annulment are similarly codified, but larger transitional system judicial cultures may sometimes include a tendency to expand the narrow public policy exceptions. Even a few instances of broad interpretation may be cause for concern among investors. This area of reform would not require changes to the law, but instead could be addressed through judicial training, the publication of relevant precedent, and

guidance advocating restrictive annulment review. Recognition and enforcement of foreign arbitral awards under the New York Convention are governed by the relevant provisions in each country and are recognized as binding in both Türkiye and North Macedonia, which are parties to the Convention. Turkish courts have developed a strong pro-enforcement reputation, at least in commercial cases involving foreign investors (Acar, 2006). North Macedonia has a compliant track record for enforcement, though with less international exposure, which is partly due to a relatively low volume of cases. Increased visibility into enforcement rulings and the publication of anonymized awards could increase confidence without a need for any change in the laws. A further structural difference concerns the presence of an institutional arbitration infrastructure. The Istanbul Arbitration Centre has a dedicated statute, provides administrative support, procedural rules, a fee schedule, and an international list of arbitrators. It represented a serious commitment to institutionalising arbitration in addition to modernising the relevant law. North Macedonia has arbitration institutions affiliated with chambers of commerce, but they lack the branding, scope of cases, and regional ambition. Convergence of laws cannot make up for a lack of institutional visibility. The roadmap for reform also needs to consider strengthening these institutions alongside the laws.

Institutional Design and Ecosystem Development

The creation of a working arbitration center requires more than legislative tuning. According to institutional design literature, there is a complementary relationship between formal rules and the capacity of an institution. In Türkiye, the establishment of a vibrant arbitration practice followed not only the legal reform but also the branding of the arbitration center and the establishment of a professional community. The specialized arbitration center offered not only administrative support services but also a signal to investors that the country can be trusted. In contrast, the overall scale of institutions in North Macedonia is smaller. Arbitration institutions affiliated with chambers of commerce are also limited in their geographic and sectoral scope. The heavy caseload in certain industries limits diversification and international exposure. It is a move beyond symbolic harmonization; it is necessary to attune three domains of institutional structure to the said reform: administrative capacity, professional specialization, and international standing and outreach. Building administrative capacity, such as setting up a central and professionally staffed arbitration centre with the capability to administer complex cases, ensure transparent processes, and provide modern online filing systems;

Developing professional expertise, such as training arbitrators, judges, and counsel in specialized areas of arbitration practice, such as multi-party arbitration, construction arbitration, or investor-state arbitration; and enhancing international profile, such as outreach to regional businesses and integration into international arbitration networks (Pekcanıtez, 2010). The more gradual approach to implementing reform through institutional innovation might involve building upon the existing arbitration institutions in the country, instead of attempting to establish a completely new one. Effective rebranding, the introduction of new arbitration rules based on best practices, transparency through the publication of procedures, and cooperation with established ADR centers in the region could promote prestige-building initiatives with relatively limited costs when compared to judicial reform. Arbitration reforms could thus be presented as part of a broader package of judicial reforms (Born, 2021). Embedding the reforms for arbitration within the ongoing judicial reform process may help avoid opposition and ensure consistency. Indeed, research on foreign investors in Central and Eastern Europe indicates that the reliability of dispute resolution is as important as taxation stability and regulation clarity for investment determinations. Improving arbitration infrastructure can be used as an economic instrument.

Foreign direct investment, export-oriented manufacturing and services, and supply-chain linkages with the rest of Europe are the backbone of North Macedonia's economy. These activities inevitably give rise to complex contractual obligations that frequently have cross-border dimensions. Inefficient or unreliable dispute resolution mechanisms increase the transaction costs of doing business. Higher risk is reflected in the cost of contracts or in the stipulation of foreign seats of arbitration, both of which divert the benefits of dispute resolution outside the country. Localizing arbitration and other forms of alternative dispute resolution would curtail these costs and affirm, to some degree, the country's jurisdiction over commercial relations. Türkiye exemplifies the signaling effect of arbitration modernization. The UNCITRAL-based statute adopted in 2001 was part of a wider sweeping move towards economic liberalization and EU accession negotiations. While the arbitration reforms were not the sole cause of investment growth, they did contribute to a sense of broad institutional upgrading. The establishment of the Istanbul Arbitration Centre later on contributed to this image, signaling administrative capacity and professional expertise. For North Macedonia, this signaling could complement ongoing reforms to commercial legislation, digital governance, and judicial efficiency (Lew et al., 2003). Arbitration takes a load off the court system itself. Transitional countries' courts are often swamped with cases awaiting timely

resolution. Removing complex commercial disputes from the courts' dockets will relieve congestion and permit courts to address matters in the public sphere more thoroughly. This benefit requires that arbitration awards are enforceable and receive the courts' unwavering support. Therefore, reform efforts must also enhance the interaction between courts and arbitration to prevent possible conflicts between the two jurisdictions.

North Macedonia's aspiration to accede to the EU offers a unique window of opportunity. The process of accession includes various requirements related to strengthening the rule of law, independence of the judiciary, and enforcement efficiency. Although arbitration is not explicitly addressed in the acquis communautaire chapters, it touches upon several areas of reform, including judicial efficiency, harmonisation of commercial law, and standards of investment protection. Enhancing arbitration can be envisioned as complementary to the accession goals, rather than tangential. A comparative study of arbitration-related metrics across EU member states shows that the vitality of arbitration is significantly connected to the predictability and discipline of court enforcement. Although arbitration is a private law process, it requires public law enforcement confidence in upholding arbitration agreements and awards free from unwarranted court intervention. The European Court of Justice (ECJ) has consistently ruled that arbitration is compatible with EU law, provided public policy safeguards are respected**.** Harmonizing national laws with internationally accepted arbitration principles aligns with EU legal and economic integration. Türkiye's arbitration system has not been developed in the context of its EU membership, but it nevertheless conforms to European standards due to the harmonization process (Acar, 2006). North Macedonia could learn from this similar modernization experience. Including arbitration reform in the country's accession-related policy documents would allow policymakers to use external pressure to improve law and practice as a means to maintain domestic commitment. Gradual alignment would be consistent with both economic and geopolitical goals. Institutional change is not afoot in a vacuum. Political economy realities determine the feasibility and viability of changes. In a transitional context, it is predicted that court lawyers used to resolving disputes through litigation may see the development of arbitration as a challenge to their entrenched interests. (Born, 2021) Judges may be reluctant to forego their jurisdictional monopoly over disputes, particularly when they consider arbitration merely as private litigation with diminished transparency. Overcoming such resistance requires a messaging campaign that emphasises substitutability.

Secondly, a lack of demand for arbitration could pose serious limitations. If local businesses are not aware of the benefits of arbitration or are sceptical about local institutions, case growth may be limited even if there is reform in the law. Thus, part of the reform process must involve increasing awareness and local buy-in. Efforts should be made to contact relevant professional organisations, chambers of commerce and law schools to educate them on the benefits of arbitration and the protections in place. Another risk relates to the interpretation of the public policy. In emerging legal cultures, it is possible that courts may sometimes interpret the exceptions of public policy on a broad scale when conducting the review of arbitral awards, which may jeopardize the finality and discourage the use of arbitration. This risk can be addressed through proper training for judges, and the accumulation of consistent jurisprudence emphasizing the courts' narrow scope of review in line with international practice. Finally, there are geopolitical considerations to consider (Saidov, 2019). Arbitration reform may tie into a larger strategy of regional positioning. If North Macedonia wants to establish itself as a hub for resolving commercial disputes originating in the Balkans, it will need to set itself apart through efficiency, neutrality, and low costs. Strategic clarity in positioning will have a bearing on the design of the reforms. Hereby, International Balkan University has the potential to establish the "Balkan Arbitration Center".

Incremental Reform Roadmap

The credible roadmap for reform must consider the sequencing of key elements such as legislative refinement, institutional strengthening, and ecosystem development. Sudden and wholesale overhaul could engender strong resistance and create instability. Incrementalism would provide scope for feedback and adaptation by stakeholders. Clarification and resolution of all these aspects should be the first step, via amendments to the legislation that should include provisions on limited court interference, the binding nature of interim measures issued by the arbitral tribunal, and the annulment procedure, without further altering the rest of the arbitration law and thus requiring a complete overhaul of the current arbitration regime (Lew et al., 2003). The explanatory notes for the amendments must specify a very limited scope for variance from the international standards. The second phase will be devoted to institutional consolidation, which means that the existing arbitration institutions in chambers of commerce may be organized into a centralized and well-staffed institution with new arbitration rules based on the best international practices. Case management technologies will be implemented to ensure

transparency and efficiency (Born, 2021). Advisory boards with international arbitration experts can be established to enhance credibility and to help the transfer of knowledge. The third step should be directed towards professional capacity building. Training of judges on arbitration-friendly jurisprudence with emphasis on minimal intervention and the narrow scope of public policy review, and the incorporation of advanced arbitration courses into the curricula of the faculties of law, as well as certification of practicing lawyers on arbitration specialization through continuing legal education programmes, can be promoted. Structured exchange programmes with Turkish institutions such as the Istanbul Arbitration Centre may also be envisioned (Acar, 2006). The fourth phase could involve international positioning. Marketing to regional companies in key areas, such as construction, energy and logistics, could attract disputes with cross-border elements. The Centre could elevate its profile by taking part in regional arbitration associations and conferences. Publishing anonymized case studies and statistics would increase transparency and attract the interest of investors (Gaillard, 2010). The Evaluation mechanisms must accompany each phase. Performance indicators such as caseload growth, enforcement timeframes, and user satisfaction surveys should guide iterative refinement. Incremental sequencing does not imply passivity; it requires active monitoring and adaptive adjustment.

Constitutional Compatibility, Sovereignty, and the Legitimacy of Arbitration Expansion

The increased presence of arbitration in domestic legal orders may give rise to constitutional and theoretical issues regarding sovereignty, the powers of the courts, and the privatization of dispute resolution. While arbitration is widely accepted as a legitimate method of adjudicating commercial disputes, transitional legal orders may face normative issues arising from private courts exercising dispute resolution powers hitherto exercised by state courts. So, any proposition for arbitration reform in North Macedonia will need to consider constitutional compliance not only in formal terms but in wider jurisprudential understandings of the public powers. Modern legal theory should view arbitration as a paradox. Although arbitral tribunals have no delegated sovereign authority and derive their power from private agreement between the parties, the execution of arbitral awards depends on the state's coercive powers. Arbitration is situated between private autonomy and the public legal order (Acar, 2006). This is why constitutional systems usually allow

arbitration only when judicial supervision is available to protect against procedural injustice or other violations of public policy.

Civil law countries such as Türkiye and North Macedonia also recognize a constitutional right to access the courts. Some critics of arbitration agreements contend that such agreements violate this right by removing disputes from the public judicial system. But comparative constitutional case law finds that arbitration is a facet of freedom of contract, not a diminishment of the right to access courts. The parties consent to forgoing the right to litigate in exchange for various benefits, and the courts still play a supervisory role, ensuring that the process is lawful and equitable. The growth of arbitration does not reduce the courts' power; it simply changes their role from being the primary decider of disputes to ensuring the legitimacy of the process (Fouchard et al., 1999). For North Macedonia, the constitution does not stand in the way of arbitration development either. The constitution provides for judicial protection of rights but does not provide for exclusively entrusting state courts with adjudicating disputes concerning rights arising out of commerce. As long as arbitration is voluntary, under the supervision of the courts, and protected by the public policy provisions in place, its development will not conflict with the constitution (Born, 2021). The challenge lies in establishing a clear understanding and recognition that arbitration is compatible with fundamental principles in the constitution, not in changing the constitution. Another source of sovereignty concern is the perception that arbitration places authority over disputes in the hands of transnational actors. This is especially worrisome for relatively small states whose legal sovereignty is a key component of national institutional identity. But arbitration does not divest the sovereign of its authority; instead, it internationalizes commercial dispute resolution under regimes that states have autonomously adopted, like the New York Convention. (New York Convention, 1958, Art. V) Participation in such regimes is an act of sovereign cooperation, not an abdication of sovereignty. Indeed, arbitration may further the cause of sovereignty by facilitating greater participation of domestic legal orders in global trade (Carbonneau, 2017). If disputes involving domestic firms are always resolved abroad, all the legal knowledge, procedural use, and prestige accrue to those foreign legal orders. Building domestic arbitration capacity enables states to maintain some measure of normative control over dispute resolution while remaining internationally compatible.

As drafting an Incremental Reform Plan for the Development of Arbitration in North Macedonia, the task of designing appropriate and effective policies for

implementing the reform of arbitration requires converting comparative research and doctrinal compatibility into a dynamic and actionable plan of policy and practice that will produce tangible results (Saidov, 2019). Failure to implement reform projects usually does not occur due to inappropriate or poorly thought-out legal concepts, but instead due to a lack of proper sequencing, coordination of involved parties, and achievable timeframes. An incremental plan for reform must bring together the improvement of legislation, the creation of new institutions, the formation and education of professional practitioners, and international relations and cooperation into a workable and practical multi-step plan (Fouchard et al., 1999). The goal should not be swift change but well-planned and lasting progress. An arbitration ecosystem is not built overnight by passing new laws, but through building credibility over time. As has been seen in Türkiye, even modern legislation does not automatically lead to tangible results unless it is supported by robust institutions and an active community of arbitrators and users. North Macedonia, therefore, should not be pressured to embark on a total reform of its arbitration law but should seek to identify areas where the current law could be improved to unleash its potential. Such a gradual approach would cause less disruption and allow adaptations to be made based on experience.

Conclusion

The foregoing analysis has demonstrated that, even though only through gradual legal convergence, it may be possible to import features of the Turkish arbitration model into the legal and institutional framework governing arbitration in North Macedonia. This article has sought to provide a realistic assessment of the potential and desirability of such improvement measures rather than advocating a radical transplantation of Turkish law and practice. The overall conclusion is that the reform of arbitration law in North Macedonia is not merely a matter of procedural fine-tuning but a comprehensive strategy related to economic policy, judicial reform, and regional integration. In conducting this research, started with the observation that efforts to reform arbitration laws and practices in transitional countries such as North Macedonia often run into problems. Such countries often enact modern laws that conform in form to the standards of international arbitration, but actual arbitration practice, especially international arbitration practice, remains minimal. North Macedonia is a classic case. The legal system already embodies many fundamental principles of the UNCITRAL Model Law on International Commercial Arbitration and the international system of enforcement of foreign arbitral awards

under the New York Convention. But the underdeveloped arbitration institutions, lack of specialized practitioners, and a conservative approach to arbitration by the judiciary have prevented arbitration from acquiring any significant role. (New York Convention, 1958, Art. V) The persistent tension between formal legal provisions and practical realities is the main subject of these reform efforts. Türkiye's parallel evolution in arbitration was likewise worthy of comparison. It demonstrated how a civil law country with a rapidly changing economy and changing institutions could modernize its arbitration. Türkiye did not grow arbitration only because it introduced new laws. On the contrary, it grew through stages of interaction between clarification of laws, creation of institutions, development of a legal community, and international recognition. The ordering of these stages forms the basis for the incremental convergence model proposed in this Article. The constitutional analysis also indicated that the expansion of arbitration is not necessarily in conflict with the protection of judicial authority or even with respect to sovereignty. Arbitration does not undermine state authority; it modifies the relationship between individual freedom and public enforcement. Courts continue to play an indispensable role in safeguarding due process and enforcing arbitral awards. In this regard, arbitration can be viewed as a projection of the sovereign capacity in legal matters within the sphere of transnational commerce and not as a transference of justice to the private sector. For the smaller states seeking greater integration into world markets, building up their domestic arbitration capacity may serve to reinforce their sovereignty by keeping at home the legal knowledge and influence over dispute resolution that could otherwise be lost to foreign entities. To recapitulate, this article maintains that statutory convergence and incremental reform with reference to Türkiye may provide a realistic and well-grounded path toward effective improvement and strengthening of arbitration in Macedonia. It respects domestic legal culture and provides a reliable framework for bringing the arbitration institutions into line with international best practice. The modernization of arbitration is not the imitation of a foreign model but the endogenous development of domestic institutions under the influence of comparative law. Indeed, there is much more to learn from this experience. There is no need for a transitional legal system to pursue a radical reform or leap of transplantation in order to modernize its legal system. Gradual and well-considered convergence based on habitual compatibility and institutional pragmatism may deliver robust legal reform. Arbitration, given its unique combination of private and public elements, is an ideal area for such measured initiative. Through a focus on incremental convergence and thoughtful institutional design, North Macedonia has the potential to develop a dispute

resolution system commensurate with its developmental ambitions, as well as shape the larger evolution of international commercial justice.

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