



Article

Electronic Arbitration in E-Commerce Contracts

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Abstract: This search title the issue of electronic Arbitration in e-commerce contracts, as one of the most prominent contemporary legal and technical challenges brought about by the digital revolution and the rapid expansion of commercial activities online. The study aims to clarify the concept of electronic Arbitration in digital contracts, define its legal nature, and examine its impact on the contractual balance between the parties, especially in light of the dominance of automated systems and artificial intelligence in modern contracting processes. The research further analyzes the legal dilemmas posed by electronic Arbitration , particulaly with regard to conditions of contract formation ,consent, and the degree to which the principle of equality between contracting parties is upheld. moreover , it investigates the legal protection mechanisims that can be activated to safeguard the weaker party in such contract , such as the digital consumer or end-user. The research concluded with a set of recommendations, most notably the need to obligated e-commerce platforms to provide full disclosure of contractual terms and tob offer technical tools that allow users to review and understand the contract prior to its conclusion.

Keywords: Electronic Arbitration, Electronic Contracts, E-Commerce, Digital Will Artificial Intelligence, Contractual Balance, Electronic Consumer Protection

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1. Introduction and Division

Due to the unique nature of e-commerce, across various dimensions, its impact on the legal rules governing it is both clear and inevitable. Therefore, any attempt to explore its legal framework surrounding e-commerce must begin with a precise well- defined concebt of what e-commerce entails [1], [2]. This is issential ,as the law cannot effectively regulate any social phenomenon unless it is clearly identified and delineated [1].

in the context of Iraqi legislation ,commercial arbitration has gone through two distibct phases: the first: domestic arbitration, restricted in form and substance by the Iraqi Court Law; and the second: the preparatory stage for the adoption of international commercial arbitration, which is not restricted in form and substance by the Iraqi Court Law. This stage is still in its formative stages [3]. The first phase focused solely on resolving commercial disputes under existing Iraqi legislation- primarily the repealed civil and Commercial Procedures Law No. (88) of 1956 (repealed), which stipulated in Article (149) that arbitration should be limited to matters that are permissible to settlement and that do not violate public order, provided that the arbitration award and the parties to the dispute are subject to Iraqi law in form and substance [4], [5]. The second phase, however, is still in its formative stages, and its role is limited to preparing for the resolution of disputes through international commercial arbitration mechanisms. Investment Law No. (13) of 2006 reflected this role in Articles (27/4 and 5) of the Law, which allowed foreign investors

hosted by us to resort to arbitration to resolve their disputes at the time of contracting. The phrase "at the time of contracting" restricts the foreign investor's will to declare his desire to resolve the dispute through an arbitration clause, which is a condition included within the provisions of the contract concluded between him and the Investment Authority. However, it certainly excludes the stipulation of arbitration, as agreement on it occurs later [6], [7]. The commercial agreement includes an arbitration clause, and it is certainly included in a contract separate from the arbitration contract. Thus, it is necessary to define the concept of e-commerce and explain its nature. This is what we will attempt to discuss first. If this is possible, we will then move on to discussing electronic arbitration, through the efforts made to establish specific legal rules for this trade. Parties to commercial transactions have found the Internet to be a convenient means of achieving countless advantages, the most important of which is saving time, effort, and money in concluding commercial deals and contracts over the Internet [8], [9]. However, despite the advantages offered by electronic arbitration and despite the need for it, it is worth discussing the concept of the electronic commercial contract, the advantages and obstacles of electronic arbitration, and arbitration centers. This is what we will address in this research. The Importance of the Research and Reasons for its Selection [10].

Scientific progress in the field of electronics, the subsequent development of information technology, and the shift from international trade toward international e-commerce, which is based on the speed of concluding and implementing contracts, has impacted many aspects, whether in transactions between individuals or on legal positions and others. This has led to the consideration of settling e-commerce disputes through mechanisms based on the same technology used in concluding these transactions [11]. Thus, settlement is electronic, relying primarily on the electronic communications network without the need for the parties to the dispute to be present in one location. The idea of resolving electronic disputes has been accepted by many countries, including the European Union. This was evident in Article 1 of Directive No. 31 of 2000, which urged member states to allow information service providers and their clients to settle their disputes outside the courts by using technological means to resolve disputes [12], [13].

Given the inability of the judiciary to keep pace with the electronic boom and provide rapid means for resolving e-commerce disputes, the need to find ways has become urgent. More successful in resolving disputes that are compatible with the mechanism that resulted in the disagreements between the contracting parties, while at the same time maintaining confidentiality and speed in resolving these disputes. Accordingly, electronic arbitration centers were established to undertake the process of resolving disputes arising from international electronic commerce [14], [15], [16].

The Concept of E-Commerce Contracts

Introduction and Classification: The term "e-commerce" has become widely used as a result of globalization and commercial and economic openness. This is due to the development of the international trade system with the emergence of the Internet and modern communications networks, especially in recent years. It has become generally accepted that it refers to the conduct of commercial transactions and deals via modern electronic means and information networks.

This phenomenon has attracted attention on multiple levels and across various fields, including the legal domain. In understanding the legal provisions governing this type of commerce, it is essential to first define the concept and its legal implications. This requires clarifying the nature of electronic commerce and identifying its legal characteristics, thus highlighting the specific features that distinguish it.

In reality, establishing a comprehensive definition of e-commerce is not an easy task. This is due to several reasons, most notably the large number of definitions of this term, as well as their diversity due to different perspectives. Some of these definitions are found in legislation, others are provided by international and national organizations and yet

others by legal scholars . for instance, Article 2 of the Tunisian Electronic Commerce and Exchanges Law No. 83 of 2000 stipulates that e-commerce is "transactions conducted via electronic exchanges"

Article 2 of the Electronic Commerce and Exchanges Law No. 1 of 2002 in the Emirate of Dubai stipulates that e-commerce is transactions conducted via electronic correspondence. Article 1 of the Egyptian E-Commerce Draft Law stipulates that e-commerce is the exchange of goods and services via an electronic medium.

It is noteworthy that these legislative definitions are not precise terminological, but rather an interpretation of the meaning of this term for the purposes of these laws. This is confirmed by the fact that they are all included within the framework of texts intended to interpret or clarify the meanings of phrases and words contained in these laws. In this context, some international bodies and organizations have attempted to define the term e-commerce. Among these definitions is the Organization for Economic Co-operation and Development (OECD), which states that e-commerce generally refers to all forms of transactions related to organized and individual commercial activities, conducted through the exchange and transfer of (digital) data, including text, sound, and images. A definition issued by the E-Commerce Committee of the Information and Decision Support Center of the Egyptian Cabinet stated that e-commerce is the implementation of some or all commercial transactions in goods and services between one business enterprise and another, or between a business enterprise and a consumer, using information and communications technology [4].

Some definitions also link the concept of e-commerce to business entities or commercial enterprise, including that e-commerce is "the sum of an enterprise's communications conducted via digital networks."

It becomes clear that these various definitions, whether legislative or doctrinal, generally agree that electronic commerce involves transactions conducted via information network. However, most do not explicitly exclude other electronic means from the concept of electronic commerce.

In the narrower sense electronic commerce refers to exchanges conducted via the Internet, which has become a global network and accessible to peoples around the world.

2. Materials and Methods

Therefore, we find that e-commerce is of three types:

- First: Material product trade. Companies engage in this by displaying their goods on their websites, where payment is often made by credit card and the purchased goods are sent via traditional transportation methods.
- Second: Digital product trade. This involves purchasing products whose nature allows them to be converted into digital form. Here, the payment and delivery processes are carried out electronically, such as the purchase of computer software, films, photos, books, and magazines.
- Third: Services Trade (STC), such as providing legal, medical, or engineering consultations, whether traditional or new, specifically online services, which can only be provided via the internet, such as email services, information searches, and online advertisements [5].

Accordingly, an e-commerce contract can be defined as a contract in which offers of goods and services are accepted by persons in the same country or in other countries, through various electronic media, particularly the internet, with the aim of concluding the contract.

From this definition, we can identify the characteristics of an electronic contract, which distinguish it from a traditional contract, the most important of which are:

- It is concluded without the physical presence of its parties and using electronic means of communication.
- It uses electronic cash payment methods instead of traditional cash.
- It is often executed online ,typically through downloading.
- It is generally characterized by an international, commercial, and consumer- oriented nature.

Legal Nature: Determining the legal nature of e-commerce is essential to determining the legal system governing it. However, this issue appears somewhat thorny given the distinctive characteristics of this trade, which make it linked to more than one legal system.

If e-commerce is defined as the practice of commercial activity through electronic means, it can be discussed commerce, and the many terms this concept entails. Therefore, attempting to define the legal nature of e-commerce may require forming a conception of its transactions, which take the form of requests for goods or services in which the requester is located in a location other than the source of these goods and services, whether in the same country or in another country.

it can thus be concluded that e-commerce is characterized by several features that govern its legal nature. These are contracts executed through modern electronic means, with their obligations and effects being implemented through traditional or electronic means, whether regarding the delivery of goods or payment. Moreover, electronic transactions and contracts may occur within a single country, and thus be subject to its legal rules, or they may occur across national borders. This raises controversy, especially since the two parties to the commercial transaction each belong to a different legal system. This raises the issue of the applicable law, in addition to the differences in financial and tax legislation, administrative and criminal laws, and other rules of public law [6].

After discussing the concept of an e-commerce contract, the advantages of international e-commerce contracts are discussed (first section), followed by the obstacles to electronic arbitration (second section), and finally, electronic arbitration centers (third section).

First section: Advantages and Benefits of International E-commerce Contracts

The use of information network technologies as the most important medium in e-commerce has almost radically changed the face of trade and business. E-commerce has become an aspiration for all commercial institutions, as well as customers, through its distinct advantages, which can be summarized as follows:

First: The Economic Advantage: E-commerce achieves efficiency on multiple fronts - costs, time, and effort. Cost perspective ,e-commerce benefits both parties to the transaction by minimizing the (economic) distance between the producer and the consumer, eliminating many redundant files, such as intermediaries, product representatives, wholesalers, and distributors. In addition to the ability to transcend geographical boundaries frees businesses from many physical and regulatory constraints. this in turn offers customers a broader range of options, as they can easily search for products and services offered by companies located outside their home countries-often without incurring any significant costs .this international competition among suppliers ultimately benefits the buyer.

3. Results and Discussion

Time Efficiency

transactions and operations in the realm of e-commerce are conducted at record speed, starting negotiations to the finalization of contracts . parties able to exchange offers—acceptances—as quickly as possible. Therefore, these contracts are sometimes considered contracts between two parties present in time, due to advanced technological means, especially the Internet, where service providers compete with each other to eliminate or reduce the time required for the exchange of electronic data and information

in the field of e-commerce. Moreover, many of these contracts and transactions are executed immediately and rapidly. Goods and services that can be delivered electronically—such as software, ebooks, and digital media—are made available to the buyer instantly. Payments are often processed just as quickly through various electronic means, such as digital wallets, prepaid cards, and other instant online payment systems.

Business-to-business transactions: A significant portion of e-commerce transactions occur between businesses themselves—commonly referred to as Business-to-Business, abbreviated as “B2B”—their combination accounts for the lion’s share of the value and volume of commercial exchanges in the field of e-commerce [7].

Second: The emergence of new forms of commercial activities: This does not refer to the mere practice of traditional commercial activities through electronic means. Regardless of the scale of e-commerce in this field, this only means, from a macroeconomic perspective, that traditional commerce has lost this amount of business in favor of conducting the same business, but through electronic means and methods. This includes the emergence of electronic banks instead of traditional banks in payments and transfers, or the management of financial exchanges in electronic securities trading, as well as electronic trading in goods and services. The goal of creating new business models would not have emerged without the emergence of e-commerce.

Third: Providing better shopping options: The ability of e-commerce to help commercial institutions better understand customer’s needs and preferences enables them to offer the best services and exert efforts to achieve customer satisfaction. This directly benefits the customer by offering a wide range of options, allowing them—through direct electronic communication, or by browsing through institutional websites, they can gather information about products and services and then choose the best from all specifications and aspects, in a manner that suits their personal circumstances. E-commerce facilitates shoppers’ access to accurate and detailed information about the specifications of the goods and services they wish to purchase, using data and information available on the store’s website, rather than relying on the employee—the seller—who may not be able to fully comprehend all the details and inform the shopper. Modern technologies sometimes even allow shoppers to contact the manufacturer to obtain more precise, even technical, details about the goods, so they can be informed before proceeding with the contract.

Fourth: Developing Standards of Commercial Competition and Commercial Performance: Based on the fact that e-commerce eliminates the geographical and spatial boundaries of markets, and thus largely eliminates barriers between customers and commercial establishments around the world, this leads to the provision of endless options for customers to shop for goods and services. All of this is in favor of providing optimal service and offering the best products at the best price, which leads to the creation of new and advanced standards in commercial competition, with the goal of attracting customers, given that this issue is the crux of commercial competition and its most important element. Thus, the important thing in engaging in e-commerce is not to create a website for the establishment, but rather to find convincing methods for customers to ensure their continued dealings with the establishment, by providing the best [8]. To achieve this, it is necessary to employ methods that allow them to learn more about customers. Therefore, we note that successful commercial establishments are keen, every time they complete a transaction with a customer, to gather information about them and their actions, and then use this information to present and provide the best to meet customer desires. In short, competition is fierce and intense, but its gains are many if e-commerce technologies are properly utilized. Therefore, each institution should develop its own e-commerce strategy.

Fifth: Supporting and Developing Financial and Banking Business Technologies:

Financial and banking businesses are fundamental to supporting and backing e-commerce, and they are themselves the embodiment of e-commerce. The process of transferring money is at the heart of any e-commerce transaction, whether between a

customer and a business institution, or between institutions themselves. While e-commerce is characterized by speed of performance and the provision of a rapid mechanism for fulfillment and financial performance that is consistent with the nature of this trade [7], if this trade primarily means establishing contracts electronically, through the electronic exchange of data and information, it must also mean the possibility of paying the price of these contracts in the same manner. This is expressed by electronic payment, which simply means the process of transferring funds representing the price of goods and services electronically. Indeed, many e-commerce contracts are themselves related to financial and banking services, such as electronic money transfer, traditional and smart credit cards, electronic checks, electronic currency, or through an intermediary, or payment by electronic wallet. Thus, it has become necessary for most financial institutions, especially banking institutions, and most commercial institutions in general, to direct and develop their methods in this direction with electronic methods and ways that are compatible and consistent with the phenomenon of e-commerce [9].

The Second Requirement: Obstacles to Electronic Arbitration

While electronic arbitration offers some advantages that encourage parties to resort to it in their disputes, it also entails some drawbacks that discourage e-commerce practitioners from adopting it as a means of resolving their disputes.

We find that some legal systems have not yet enacted rules specific to electronic transactions, while others suffer from the rigidity of legal rules regarding litigation and arbitration procedures. They may not even recognize the validity of arbitration conducted by electronic means. This raises a real problem regarding the recognition and enforceability of electronic arbitration awards. Therefore, we will address the drawbacks of electronic arbitration.

Among these drawbacks, we find that electronic commercial arbitration allows for the possibility of excluding the application of laws related to public order to the dispute before the court. As is well known, these rules cannot be agreed upon by the parties [8]. The seriousness of this matter is evident, given that these rules often affect the fundamental economic, political, and social interests upon which society is based. These interests, as such, are relevant to every individual interest. Therefore, care must be taken to ensure that these interests are not violated or violated, otherwise it will be difficult to enforce the arbitration award.

Some believe that this flaw no longer represents an obstacle following efforts to reconcile arbitration rules with rules related to public order, despite the contractual nature of commercial arbitration. These efforts are based, in particular, on the distinction between international public order and domestic public order.

What is considered international public order is not necessarily domestic public order, and vice versa.

In addition to the obstacle of rules related to public order and public morals, there are national laws that limit the use of electronic arbitration due to the formal restrictions they impose, which relate to the arbitration agreement and the requirement that it be in writing and signed by both parties to the arbitration, as well as the inability of some disputes to be resolved by arbitration. Furthermore, electronic arbitration is not recommended for disputes that raise significant legal issues, when one party to the arbitration dispute has financial capabilities that are not available to the other parties, or when these parties need to obtain decisions that can be implemented quickly.

Finally, one of the obstacles to electronic arbitration is the arbitrator's failure to apply the mandatory rules stipulated in national law. Parties (especially weaker parties) often fear resorting to electronic arbitration, particularly because it does not guarantee the benefit of the mandatory protective rules stipulated in national law. For example, if one of the parties to the dispute is a consumer and the arbitration award is issued without taking into account the provisions of national consumer law, this award is subject to nullity and cannot be enforced [10].

The Third Requirement: Electronic Arbitration Centers

There have been numerous bodies practicing electronic arbitration, and almost all international arbitration centers currently allow for the resolution of e-commerce disputes electronically. Some scholars argue that with the spread of the concept of electronic arbitration, multiple centers and organizations have begun to resolve disputes and conflicts via the Internet, within specific rules established by each center to determine the course of the arbitration process. In reality, this view may be somewhat flawed, as the concept of electronic arbitration originated with these same centers, which popularized the concept of electronic arbitration. Arbitration requires speed, efficiency, and reduced burdens on both parties. This led to the establishment of electronic arbitration centers, where procedures are conducted online, creating online arbitration [11].

First Section: The International Chamber of Commerce

The Net Case system aims to modify the use of the rules and services established by the International Chamber of Commerce regarding international commercial arbitration. It is a system created by the International Chamber of Commerce, intended to facilitate communication between all parties involved in the arbitration process. This speeds up communications and reduces procedures by assigning a website to each individual case. Each party to the arbitration process has a password for the site where the process is taking place, through which documents related to the arbitration process can be sent and delivered. If one of the parties to the arbitration refuses to continue using this system, the arbitration continues according to the traditional method, with a copy of the documents previously sent using this system retained. Therefore, we will discuss the origins of this system and the advantages it offers [12].

The Origins of the Net Case System: When this system was created, some thought it was a dream, but it has become a reality thanks to the tremendous development in communications technology, which has changed the global concept of communication between parties. This tremendous technological development no longer requires the physical presence of the parties, as it has enabled them to resort to computers to resolve disputes arising between them, according to pre-determined systems. There is no longer a need for the parties to appear before the court to hear the case. Advantages of this system: The advantages of this system, as explained by some jurisprudence, are as follows:

First: This system provides distinguished services without any costs or special requirements for hardware or software. It is a system that can be used from anywhere in the world, in the shortest possible time, for both the parties to the arbitration and the arbitrators.

Second: This system enables the parties to the arbitration process to send all documents online via the electronic communication network immediately to the parties to the arbitration process, retaining their value throughout the arbitration.

Third: This system includes secure, confidential websites, whose passwords are only held by the parties to the arbitration process and can be used 24 hours a day. It also includes deceptive websites and even viruses to protect the parties to the arbitration process from attacks.

Fourth: Given the importance of documents in the arbitration process, this system provides a unified system for storing all documents in the arbitration process, and even a sufficient system for retrieving documents. Not only that, but access to these documents is easy and convenient by using the file title or date [13].

Fifth: This system provides those who agree to use it with guidelines they must follow, namely:

- The Net Case Guidelines, which include procedures for using this system.
- Guidelines on it in arbitration, which include three elements:
 - A. Operating regulations for using the Internet in international arbitration.
 - B. Rules for using this network.

C. Explanatory notes. These references are intended to regulate the arbitration procedures.

Section Two: The Virtual Magistrate: The Virtual Magistrate system is based on accepting complaints regarding published messages or files that allegedly involve copyright infringement or commercial relations, embezzlement and trade secrets, defamation, fraudulent, deceptive trade practices, inappropriate content (obscene, lewd, or otherwise in violation of the rules of the system), invasion of privacy material, and other unlawful content. This system may decide whether it would be reasonable for the system operator to delete or restrict access to the appeal file or submission. Other situations may require decisions regarding the disclosure of an individual's identity to a person other than a government agency. In extreme cases, a virtual judge may rule whether it is appropriate for a system operator to deny someone access to the Internet. Private issues of billing or financial obligations between users and system operators are not considered.

The origins of this system stem from a meeting between the Private Law Institute on Electronic Disputes and the Villanova Center for Information in Law and Policy on October 25, 1995, in Washington, D.C. From that date until the announcement of this project, work to establish this project continued with the participation of the American Arbitration Association. On March 4, 1996, this project was officially announced through a press release distributed via email and other online platforms. The project received widespread attention and response, with newspapers commenting on it, including The New York Times and The New York Post. There were two basic documents upon which the project was based: the Concept Document and the Terms of Use Document. The Concept Document included the project's objectives, and they were amended and revised to fully clarify this system [14].

Conditions for Implementing This System: The conditions for implementing this system are determined as follows:

- First: The parties agree to apply the rules of this system.
- Second: The courts' approval of the validity of this agreement.
- Third: The courts' approval of this system and the penalties stipulated in the judgments issued.

Applicable Law

The truth is, there was a problem with the applicable law to disputes in this system. One solution to this problem was to apply the rules of law chosen by the parties. This was a bad idea, given its vagueness, as no national law would govern this particular dispute. Even modern laws are inadequate for other disputes, and are even less capable of governing such disputes.

Whether it is possible to establish a legal system for these disputes in this system, similar to the Rome Convention on the Law Applicable to Contractual Obligations of 1980, is also rejected, given its impossibility. Furthermore, the stability of this system is inconsistent with developments occurring in such disputes.

Procedures of this system:

Procedures under this system begin when the plaintiff submits his complaint to the court on the prescribed form, including a full explanation of his claim and his objections against the other party. The complaint is then reviewed by the American Arbitration Panel, which may request any explanatory information about the complaint. After obtaining the consent of the participating parties and submitting all necessary documents, virtual judges are randomly selected [15].

Section Three: WIPO ECAF: The WIPO ECAF is one of the entities accredited by ICANN to resolve domain name disputes. Judicial proceedings are not the only procedure for resolving such disputes. Therefore, we will discuss the definition of domain names, the rules established by ICANN regarding those rules, the other procedures for resolving such disputes, and finally, judicial proceedings as the final procedure.

Definition of Domain Names: A domain name is a unique name for its owner on the Internet, whose function is to identify websites and pages on the Internet. It is part of the Uniform Resource Locator (URL), which deals with the server that tracks the page or website request. In terms of form, it is a series of words separated by dots that identify the Internet Protocol address. It is also the method used and characterized by ease when establishing a (natural) relationship between websites using the Internet. An example of this is writing the following domain name: www.arado.org.eg, where a map to access a site is determined using a specific domain that acts as a path address for a website on the Internet. The DNS translates Internet names (letters) into Internet Protocol numbers necessary for transmitting information across networks. From a legal standpoint, a domain name is a mark that takes the form of a combination of numbers and letters, such that this appearance identifies the location of a computer, website, or page on the Internet. It consists of three parts: the top-level or generic TLD, which identifies the nature of the entity being contacted; a second level, which deals with the trademark or chosen name, such as ARADO, or the name of an individual, etc. The third level deals with identifying a specific host server that is treated like a web server (www). Comparative jurisprudence has recognized this importance when it determined that a domain name is more than just an online address; it also indicates the identity of the website to those seeking to access it, just as a person's name refers to a specific individual, or more precisely, to the validity of a trademark for an institution or company. A company name indicates the identity of a specific company [16].

4. Conclusion

When a dispute arises over e-commerce contracts, e-arbitration is the most appropriate means of resolving the dispute, given its rapidity, high confidentiality, and minimal expense.

Conducting arbitration using electronic communication means, in light of current agreements and legislation, remains legally feasible, especially given the frequency with which countries have issued modern laws pertaining to international trade.

However, it appears that the difficulties facing e-arbitration in Iraq are more technical than legal.

We must provide an appropriate environment for e-arbitration to ensure that the disputants are convinced of it. We must also provide a highly secure computer network that allows for encryption. Data and information enable the use of electronic signatures.

On the other hand, the Ministry of Justice must begin the process of converting judicial files, including all their papers, into electronic files and adopt the concept of electronic courts and implement it on the ground. Once this is implemented, we can benefit from all the advantages of electronic arbitration, as this is the only way to ensure that all stages of arbitration are conducted using electronic means of communication, including the implementation of the electronic arbitration award.

The following are the most important findings we reached through our research.

Results

- The electronic arbitration agreement is an electronic contract, which makes it a modern and advanced method for developing appropriate solutions to the problems of e-commerce contracts, given its speed, the possibility of contracting remotely, the expression of will, and the electronic exchange of documents. Therefore, consent and capacity are necessary conditions for the conclusion of the electronic arbitration agreement. Thus, its nature is consistent with the nature of the traditional arbitration agreement, in that each is a legal transaction concluded between two parties. However, the difference between them is evident in the fact that the Internet is the environment or medium through which the electronic arbitration agreement is concluded.

- The electronic arbitration agreement is valid. The parties' will is the basis that determines the applicable law to the subject matter of the dispute. In its absence, conflict of laws rules represent the appropriate solution for determining the applicable law. The will in electronic acceptance must be explicit. Implied will is insufficient, as the arbitration process is conducted via electronic devices that lack the ability to infer or investigate. This will be limited within the scope of institutional arbitration when determining the applicable law to the procedures of the electronic arbitration agreement. Conversely, it is free within the scope of private arbitration.
- For the legitimacy of the electronic arbitration agreement, the French Code of Civil Procedure does not require an arbitration clause for its validity. However, some agreements and legislation require it to be in writing as a condition for its validity, otherwise it is void.
- The Iraqi Code of Civil Procedure No. 83 of 1969, as amended, lacks specific provisions for electronic arbitration agreement matters. Chapter Two of the Code of Civil Procedure defines arbitration matters in Articles 251-276, which leaves Iraqi legislation out of step with developments in international legislation in this area.

Recommendations

- The novelty of electronic arbitration and the shortcomings of the law regulating arbitration matters in Iraq, which fails to take into account the specificity of electronic arbitration agreements, highlight the need to urge the Iraqi legislator to expedite the enactment of an arbitration law that addresses issues related to traditional arbitration in general and includes specific provisions for electronic arbitration agreements. This is particularly true given that the Iraqi Electronic Transactions Law No. 78 of 2012 did not address the subject of electronic arbitration agreements.
- Expand the use of electronic arbitration as an important means of settling disputes arising from e-commerce contracts, especially after Iraq's opening up to the world and the expansion of trade exchanges. This requires raising awareness of the importance of electronic arbitration as a means of resolving disputes, after law schools at Iraqi universities assume their role in spreading the culture of electronic arbitration through academic conferences held annually.
- Since online arbitration facilitates communication between countries, Iraq's accession to some agreements, including the 1965 Washington Convention on the Settlement of Investment Disputes, ratified by Law No. 64 of 2012 on Iraq's Accession to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, represents a step forward for the Iraqi legislator to join other agreements on arbitration, particularly the 1958 New York Convention on International Commercial Arbitration.

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