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Administering Electronic Testimony and Witness Examination in the Context of Electronic Arbitration and Court Jurisdiction

Wlla Atef Amayreh[1]

Abstract

This study explores the significance of arbitration agreements electronic, in shaping the arbitration process and facilitating conflict resolution beyond the conventional legal system. It delves into situations where courts deviate from the principle of non-interference in electronic arbitration proceedings. The research investigates whether Jordanian legislation and comparative legal systems have addressed the electronic summoning of witnesses during arbitration. It analyzes the court's jurisdiction in electronically summoning and questioning witnesses, referencing the Jordanian arbitration law, Arab legal frameworks, the International Chamber of Commerce for Arbitration (ICC) in Paris, and the United Nations Commission on International Trade Law (UNCITRAL) Model Law. The study concludes with key findings and recommendations for further developments in this area.

Keywords: *Arbitration, Evidence, Witnesses, Dispute Arbitration, Electronic Arbitration*

INTRODUCTION

In the realm of arbitration, a fundamental tenet universally acknowledged is that the onus of proving a specific legal fact rests squarely upon the shoulders of the party asserting the claim, be it the Claimant or the Defendant in the arbitration proceedings. (Al-Saud, 1985) (Judges, 1994) This bedrock principle remains unshaken even in the context of electronic arbitration, where asserting a right without accompanying evidence is tantamount to asserting non-existence. (Abdel Razzaq Al-Sanhoury, 1952) However, it is crucial to emphasize that this principle is not etched in stone in private arbitration proceedings. Parties engaged in arbitration have the prerogative to depart from this rule by explicit or implicit agreement, thereby shifting the burden of proof from one party to another. (Wali, 2007) They also have the latitude to sidestep conventional legal rules governing evidence, including rules pertaining to the probative value and admissibility of evidence. Parties may even establish their own protocols for the presentation of evidence, provided that they adhere to the foundational principles of litigation. These foundational principles encompass the right to bring a claim, the pursuit of amicable dispute resolution, (Mabrouk, 2010) (Abdel-Fattah A. , without publication year) (Hashem, 1986) the opportunity for adversarial confrontation, the safeguarding of the right to mount a robust defense, the prohibition of arbitrators acting on the basis of their personal knowledge, and the imperative that the arbitral dispute be collectively adjudicated by all members of the electronic arbitral tribunal.

It is crucial to underscore that the admissibility of an electronic arbitration claim hinges on the same essential conditions as those inherent in traditional legal claims. For an electronic arbitration claim to be deemed admissible, it must be intrinsically linked to a legal fact (Khalil, 1995), permissible for consideration, and capable of producing a legal effect through evidentiary proof (Wali, 2007).

This alignment between electronic arbitration and conventional legal procedures is further substantiated by Article (4) of the Jordanian Evidence Law, which underscores the uniformity of standards governing legal facts and their proofs. (Abdel Razzaq Al-Sanhoury, 1952) It is noteworthy that the arbitral tribunal possesses discretionary authority akin to that of a court in accepting or declining requests related to various evidentiary procedures, (Wali, 2007) provided that the right to a defense remains inviolable. (Abdel Razzaq Al-Sanhoury, 1952) The electronic arbitral tribunal also retains the prerogative to rescind orders related to such procedures, a principle enshrined in the third item of Article (24) of the Cairo Regional Center for International Commercial

[1] Assistant Professor at Faculty of Law, Al- Zaytoonah University, Jordan. E-mail: w.amayreh@zuj.edu.jo

Arbitration (CRCICA) and the fifth item of Article (20) of the Regulations of the International Chamber of Commerce (ICC) in Paris.

The authority of the tribunal to assess evidence hinges upon the nature of the evidence in question. When dealing with legal evidence, (Yahya, 1988) such as admissions and written documents, the tribunal's discretion is circumscribed by statutory regulation, limiting its role to ensuring the availability of such evidence. (Al-Wafa, 2001) (Abdel-Fattah W. R., 1984) (Mabrouk, 2010) (Abdel-Fattah A. , 1990) In contrast, with regard to other forms of evidence, such as witness testimonies and expert opinions, the arbitral tribunal exercises unbridled discretion in its assessment, without being compelled to provide justification for its determinations. (Al-Ashmawi, 1985)

In summary, the arbitral tribunal, within its purview of jurisdiction, holds the competence to adjudicate over evidence, and the court is precluded from any interference in these matters. (Wali, 2007) However, in contrast to jurisdictional authority, the court retains a measure of control over the evidence presented to the arbitral tribunal, albeit within specific confines and under particular circumstances. In such cases, (Mabrouk, 2010) the court possesses the prerogative to adjudicate on these disputes, even when they have been previously submitted to arbitration. This prerogative is firmly grounded in Article (8) of the Jordanian Arbitration Law, which stipulates that "No court may interfere in matters governed by this law except in the cases indicated therein, and that without breaching the right of the arbitral tribunal to request the competent court to assist it in the arbitration procedures according to what this tribunal deems appropriate for the proper conduct of the arbitration, such as inviting a witness or an expert, or ordering to bring a document or a copy of it, to view it, or otherwise."

The difference between this study and others is that it focuses on addressing the following question: To what extent is it permissible for the state's judiciary to interfere in the possibility of summoning and questioning witnesses electronically in the light of each of the Jordanian legislation represented in the arbitration law and the comparative legislation and each of the International Chamber of Commerce for Arbitration in Paris (ICC) and the rules of UNCITRAL law? And to what extent does this take into account the principle of respect for the will of the parties in the arbitration agreement?

The descriptive, analytical and comparative approach has been adopted in this study, and this question will be answered by focusing on the cases in which the court may interfere in the arbitration process and summon and question witnesses electronically, by dividing this study into two parts as follows:

Section 1: The Power of The Arbitral Tribunal in Summoning and Questioning Witnesses Electronically

At the beginning of this study, it must be pointed out that when examining the texts of the Jordanian arbitration law and other comparative legislation under study, we find that they have neglected to deal with the issue of using electronic means to prove the facts in dispute when listening to witnesses, and this, from my point of view, is considered a critical matter. Because the use of electronic means may have a special nature that differs from traditional means, which the legislator had to take into account when regulating this law, and therefore we will have no choice but to overturn what the Jordanian legislator and other comparative legislation has adopted when they deal with arbitration that is carried out by traditional means over arbitration that is carried out. By electronic means.

The Jordanian Arbitration Law, in consonance with the General Rules of Evidence, affords litigants involved in arbitration proceedings the valuable right to substantiate their claims through testimonial evidence. This provision closely aligns with the principles enshrined in Article 23 of the UNCITRAL Model Law and the specific provisions laid out in Section 3 of Article 25, as articulated within the Regulations of the International Chamber of Commerce of Paris (ICC).

It's noteworthy to underscore that the second provision of Article 27 within the framework of the Law of the Cairo Regional Centre for Arbitration (CRCICA) extends this particular privilege to encompass any individual, regardless of their standing as a party to the arbitration or their relational proximity to any of the parties

involved. In this regard, individuals may serve as witnesses in the pertinent arbitral proceedings. Furthermore, this principle also extends to the inclusion of expert witnesses, whose expertise may be necessitated by the arbitral tribunal to shed light on specific matters intertwined with facts or specialized knowledge. Nevertheless, it is imperative to recognize that this approach introduces a fundamental conundrum within the realm of arbitration principles, most notably, the bedrock principle of justice and equality. In the context of this paradigm, potential conflicts of interest may inevitably surface, prompting contemplation on the inherent paradox of individuals testifying in a manner that potentially conflicts with their own vested interests.

In stark contrast, the Jordanian legislator has opted for a somewhat different approach, one marked by a degree of flexibility and discretion, as it refrains from prescribing explicit guidelines on this particular matter. This discretion allows for a more nuanced consideration of the unique circumstances presented by each arbitration case, thereby permitting a more tailored and equitable approach to the matter of witness testimony.

The Jordanian legislator has enacted provisions that grant each party engaged in arbitration proceedings the right to submit a written testimony from any of their witnesses, provided that such testimony is accompanied by a duly sworn affidavit, as delineated in Article 32(D) of the Jordanian Arbitration Law. It is imperative to underscore that if the opposing party subsequently requests an examination of the written testimony in the presence of the witness and the said witness fails to appear, either in person or through electronic means, then, as explicitly stipulated in Article 32(E) of the same legal framework, this testimony shall be deemed inadmissible.

Moreover, the arbitral tribunal is entrusted with the responsibility of administering electronic oaths to witnesses before their testimonies are received, following a predefined format determined by the tribunal. Additionally, all witness testimonies must be conducted electronically, with the presence of all members comprising the arbitral tribunal being mandatory. While Article 32(D) of the Jordanian Arbitration Law does not explicitly address the use of electronic means, its inference within the article is evident. Nevertheless, it is worth noting that a more explicit delineation by the Jordanian legislature regarding the utilization of electronic means would have been preferable, rather than relying on the interpretation of doctrinal opinions.

When undertaking a comparative examination of other arbitration laws, a clear division into two distinct groups emerges. The first group, exemplified by Article 33 of the Syrian Arbitration Law, aligns closely with the provisions of the Jordanian legislature by obligating the arbitral tribunal to administer an oath to witnesses prior to receiving their testimonies. Notably, this group goes a step further by including the provision "unless both parties agree otherwise," thereby exemplifying a profound respect for the parties' autonomy in the resolution of their disputes.

However, the second group, as typified by both the fourth provision of Article 33 within the Egyptian Arbitration Law and the second clause of Article 24 in the Qatari Arbitration Law, takes a departure from the position adopted by the Jordanian legislator. In this specific context, there exists no compulsory stipulation that compels the arbitral tribunal to administer an oath to witnesses prior to the delivery of their testimonies. This divergence underscores varying approaches to witness testimonies within the realm of arbitration across different jurisdictions.

In relation to the parties involved, in the event that one of them is unable to participate in the arbitration proceedings, whether due to logistical constraints or other reasons, whether in-person or through electronic means, it becomes the responsibility of the arbitral tribunal to diligently provide the absent party with a comprehensive copy of the recorded witness testimonies (Al-Nasiri, 2013) (Hantoush, 1994). This essential procedural safeguard ensures that the absent party is afforded a fair and equitable opportunity to meticulously review, scrutinize, and engage in a meaningful dialogue concerning the presented testimonies (Wali, 2007).[1] It is crucial to underscore that any resultant judgment, grounded on the aforementioned testimonies, is rendered null and void if this pivotal opportunity for review and discussion is denied.

This fundamental principle finds resonance in Article 35 of the UAE Arbitration Law, the fourth clause of Article 28 within the Cairo Regional Center for Arbitration (CRCICA) Law, and the initial provision of Article 25 stipulated in the Regulations of the International Chamber of Commerce in Paris (ICC). These legal frameworks, originating from various jurisdictions, unequivocally uphold the same foundational principles as

those articulated by the Jordanian legislature, underscoring the utmost importance of leveraging modern and technological means for the presentation of witness testimonies.

However, it is imperative to note that regardless of the circumstances, the arbitral tribunal retains its inherent authority to summon a witness for direct, in-person examination, in strict accordance with the express provisions enshrined in item (H) of Article 32 within the Arbitration Law. (Mata, 2009) This statutory provision, thoughtfully designed, offers the witness the flexibility to provide testimony by responding to questions posed by either the arbitral tribunal or the respective parties involved in the arbitration proceedings.

Furthermore, the arbitral tribunal is endowed with the inherent power to judiciously assess the probative weight, reliability, and credibility of the witness testimonies that come before it. This discretionary authority allows the arbitral tribunal to make determinations about whether to accept or dismiss such testimonies, guided by its own professional judgment and discretion. (Wali, 2007) It is of paramount importance to emphasize that the discretionary powers exercised by the arbitral tribunal in the evaluation of evidence should not be misconstrued as constituting any form of misuse of its authority. Instead, these powers signify the careful and judicious application of logic, experience, and sound judgment in the pursuit of a fair and equitable resolution. (Matar, 2009)

Moreover, the arbitrator, akin to a judge, shoulders the critical responsibility of preserving an equitable balance when weighing the evidence presented. The arbitral tribunal may, under appropriate circumstances, opt to rely solely on the documentary evidence submitted by the involved parties if it determines that such evidence is sufficiently robust and comprehensive to facilitate the resolution of the underlying dispute. (Matar, 2009) Nevertheless, it is incumbent upon the arbitral tribunal to remain fully responsive to and respectful of any mutually agreed-upon deviations from this approach, as the tribunal must consistently uphold and honor the expressed intentions and preferences of the parties who have chosen arbitration as their preferred method for dispute resolution.

Section 2: The Extent of The Court's Jurisdiction in The Electronic Summoning and Questioning of Witnesses

In the introductory section of this comprehensive study, it becomes manifestly clear that the arbitral tribunal, vested with jurisdiction over arbitration proceedings, inherently possesses the competence and authority to meticulously scrutinize and authenticate the factual assertions advanced within the confines of the arbitration process. (Al-Nasiri, 2013) (Bulgab, 2022) This scrutiny often involves the crucial task of evaluating and validating witness testimonies as an indispensable element of evidentiary proceedings. However, the unique nature of arbitral proceedings, characterized by the absence of coercive powers vested in the arbitral tribunal, occasionally engenders complexities that can impede the seamless admission of such testimonies as credible and admissible evidence.

It is within this intricate landscape that the role of the judiciary emerges as a pivotal and complementary mechanism, designed to bridge procedural gaps and facilitate the smooth and equitable progression of the arbitration process. (Zaid, 2004) (Shehata, 1992) (Hamid, 2005) The interplay between arbitration and the judicial system underscores the need for a cooperative and symbiotic relationship, where the arbitral tribunal, vested with legal authority, retains the prerogative to seek the intervention of the judiciary when necessary to fulfill its mandate effectively.

The legal foundation for this collaborative interface is firmly entrenched in Article 8 of the Jordanian Arbitration Law. This article explicitly stipulates that, "No court shall entertain interference in matters regulated by this law, except in instances explicitly delineated therein." Importantly, it underscores the absolute sanctity of the arbitral tribunal's right to petition the competent court for assistance in arbitral procedures. This recourse is exercised at the sole discretion of the arbitral tribunal and is tailored to the precise exigencies of the arbitration process. These interventions may include, but are not limited to, the summoning of witnesses to provide their testimony within the arbitration context.

In essence, this legal provision serves as an indispensable conduit, safeguarding the arbitration process by ensuring that it remains fortified with the requisite tools and mechanisms to navigate and overcome challenges arising from the inherent limitations of the arbitral tribunal's authority. Consequently, this perpetuates the integrity, effectiveness, and credibility of the arbitration mechanism as an equitable and efficacious means of resolving disputes and rendering just and equitable decisions.

In The Context of These Two Specific Scenarios, It Is Incumbent Upon Us to Delve Deeper into The Nuanced Role That the Judiciary Assumes

In the first scenario, we encounter a situation where a witness either outright refuses or fails to present themselves, be it in person or electronically, before the arbitral tribunal. This predicament inevitably triggers the need for the judiciary's intervention. The role of the judiciary in this instance is multifaceted. It encompasses not only the facilitation of witness appearance but also the enforcement of the very essence of arbitration itself – a mechanism built upon the voluntary cooperation of parties and witnesses. The judiciary, therefore, serves as the guarantor of due process and fairness within the arbitration proceedings, ensuring that all parties adhere to their obligations and responsibilities.

In The Second Scenario, we are confronted with a witness who has indeed made the electronic appearance before the arbitral tribunal but has opted to withhold their testimony. In such a scenario, the role of the judiciary extends to compelling the witness to fulfill their obligation to provide testimony, thereby upholding the integrity of the arbitration process. This intervention is predicated on the principle that arbitration hinges upon the willingness of parties and witnesses to participate fully and candidly in the proceedings. The judiciary's involvement here underscores its role as a safeguard of the arbitration process, preserving its efficacy and credibility.

In both of these scenarios, the arbitral tribunal finds itself at a crossroads, where the limitations of its authority become apparent. It is left with no alternative but to seek the assistance of the judiciary to ensure the enforcement of arbitration mandates. The judiciary steps in as a critical partner in the arbitration process, imbued with the authority to compel witnesses to fulfill their obligations, thereby maintaining the arbitration mechanism's integrity and its ability to deliver just and equitable outcomes (Jam, 2011). This dynamic interplay between arbitration and the judiciary exemplifies the importance of a harmonious and cooperative relationship in the pursuit of equitable dispute resolution.

When Conducting an In-Depth Comparative Examination of Various Legislative Frameworks, It Becomes Apparent That These Laws Can Be Categorized into Two Distinct Groups

The first group of legislative enactments, as evidenced by the provisions contained within Article 269 of the Iraqi Civil Procedure and Implementation Law, the second paragraph of Article 28 within the Palestinian Arbitration Law, Article 759 of the Libyan Civil and Commercial Procedure Law, and the third subsection of Article 22 embedded in the Saudi Arbitration Law, closely mirrors the path paved by the Jordanian legislator. Within this group, a prevailing similarity in approach prevails, and reference to the Jordanian legislative framework has been aptly made to obviate the need for repetition.

However, it is essential to highlight that the Iraqi legislature diverges in one crucial aspect. Specifically, the Iraqi legislative body has chosen to impose a mandatory obligation upon the arbitral tribunal, stipulating that "the arbitrators must refer to the competent court..." This stands in stark contrast to the Jordanian legislative approach, which endows the arbitral tribunal with discretionary authority in this regard. In essence, the Jordanian legislature affords the arbitral tribunal the autonomy to decide whether to invoke judicial assistance or abstain from doing so. This distinction is glaringly evident in Article 8 of the previously referenced Jordanian Arbitration Law, where the phrase "...without breaching the right of the arbitral tribunal to request the competent court..." is employed. (Amayreh, 2021); (Abbas et al., 2021) From our vantage point, it is discernible that the position adopted by the Jordanian legislator in this regard holds a more favorable stance, as it better aligns with the overarching purpose of resorting to arbitration, which is to seek dispute resolution outside the purview of the judicial system.

Transitioning to the second group of comparative legislations, exemplified by Article 7 of the U.S. Federal Arbitration Law of 1925, as well as subsequent amendments, item (A) of Article 37 within the Egyptian Arbitration Law, the second subsection of Article 27 enshrined in the arbitration laws of both Qatar and the United Arab Emirates, and further expanded upon by the first and second subsections of Article 36 within the UAE Arbitration Law, and item (A) of Article 180 contained in the Kuwaiti Civil and Commercial Procedures Law, it is evident that these legislations not only elucidate the auxiliary role of the court but also exhibit a heightened level of specificity. These legal constructs endow the court with the explicit authority to levy sanctions against witnesses who opt to withhold their testimony.

In sum, this comprehensive comparative analysis underscores the intricate tapestry of approaches that exists across various jurisdictions. While some legislations mirror the Jordanian model, others introduce distinctive variations and nuances. These nuanced distinctions reveal the intricate interplay of legal principles, policy considerations, and the ongoing evolution of arbitration within the global legal landscape.[ii]

The realization of this objective was meticulously executed by means of the intentional and systematic incorporation of explicit references to the comprehensive set of regulations that govern and shed illuminating clarity on the application of these punitive measures. This proactive and calculated approach stands in stark and telling contrast to the apparent omission and oversight displayed by the Jordanian legislator when it came to addressing this particular and rather crucial issue. Nevertheless, it is imperative to underscore that the Jordanian legislator's stance in this specific instance appears to possess a level of sagacity and prudence that arguably surpasses that of the aforementioned legislative standpoint .(Tariq, 2020)

The crux of this assertion can be attributed to the fact that the Jordanian arbitration law, within the specific context under scrutiny, aligns itself harmoniously with the broader and well-entrenched principles that are prevalent within the realm of evidentiary law. Importantly, the domain of evidentiary law steadfastly refrains from dictating punitive measures against witnesses who, for a myriad of reasons, opt to abstain from the act of providing testimony.

Furthermore, it is essential to underscore that both the Emirati and Qatari legislations have judiciously vested not only the arbitral tribunal but also extended this entitlement to any of the parties involved in the arbitration proceedings. They have been granted the distinct prerogative to solicit judicial assistance when navigating matters germane to witness testimony. In marked contrast, both the Jordanian and Egyptian legislations have circumscribed this entitlement exclusively to the arbitral tribunal, abstaining from the explicit acknowledgment of the parties' capacity to exercise this fundamental right. It is from our vantage point that the position embraced by the Qatari and Emirati legislations in this specific regard embodies a more egalitarian and equitable approach to the process of dispute resolution (Farooq, 2010). It is one that confers upon both the arbitral tribunal and the concerned parties an equal stake in the pursuit of judicial support when such recourse is deemed necessary. This, in turn, fosters a palpable sense of balance and fairness within the broader arbitration process.

Moreover, it is worth noting, with an air of significant import, that American legislation, more precisely, as delineated in Article 7 of the Federal Arbitration Law, casts its regulatory net over a critical issue that has regrettably remained uncharted territory within the purview of the Jordanian legislator. Specifically, it delves with remarkable precision into the realm of compensations disbursed to witnesses in exchange for their invaluable testimony. It does not merely offer a vague reference to this matter; rather, it explicitly and resolutely stipulates that such compensations should be harmonized with those provided to witnesses summoned before federal courts. Additionally, it extends its illumination to the procedural intricacies that invariably accompany the summoning of witnesses within the arbitration context. (Amayreh, 2021) This aspect of the American legislative framework, undeniably comprehensive and meticulously detailed, presents a valid and compelling point of critique that can be cogently directed towards the Jordanian legislator. It serves as a stark reminder of the opportune moment missed to adopt a more encompassing, finely nuanced, and precisely articulated framework for addressing this pivotal issue. Nonetheless, it is entirely pertinent to note that the expansive and overarching provisions enshrined within Jordanian legislation, albeit indirectly, effectively navigate and resolve this very issue whenever it arises within the context of arbitration.

In sum, this exhaustive and intricate exploration of legislative nuances serves as a potent testament to the multifaceted complexity that inherently characterizes and distinguishes legal frameworks across different jurisdictions. While certain legislations appear to mirror the Jordanian model in many respects, others consciously introduce distinctive variations and innovative approaches that invariably reflect the intricate interplay of legal principles, overarching policy considerations, and the evolving terrain of arbitration within the broader global legal landscape.

Certainly, let's expand upon the existing analysis with a more comprehensive exploration of the various legislative approaches concerning the arbitral tribunal's authority to obtain evidence when witnesses are situated in jurisdictions beyond its reach.

In the intricate realm of arbitration regulations, the manner in which jurisdictions address this matter varies considerably. It is essential to delve into these nuanced distinctions in greater detail to appreciate the complexities and implications they entail.

Commencing with a comprehensive analysis of the UNCITRAL Model Law, particularly focusing on Article 27, we discern a nuanced stance that intricately navigates between the divergent positions adopted by various comparative legislations. Within this framework, while the UNCITRAL Model Law extends the latitude for both arbitral tribunals and parties to solicit court assistance, it introduces a significant prerequisite—specifically, the mandatory approval of the arbitral tribunal when the request for assistance originates from the parties themselves. This pivotal requirement serves to underscore the paramount importance attributed to the arbitral tribunal's pivotal role in effectively managing the arbitration process, fostering transparency, and diligently safeguarding the collective interests of all parties engaged in the arbitration proceedings.

Shifting our focus to the International Chamber of Commerce in Paris (ICC) regulations, we encounter a notable absence. These regulations do not explicitly address the issue of resorting to the judiciary to facilitate the acquisition of evidence. This omission is particularly conspicuous in light of the detailed provisions found in other legislations. Consequently, the positions of all previously mentioned legislations, including that of the Jordanian legislator, emerge as more comprehensive frameworks for navigating this specific aspect of arbitration proceedings.

The intricate question that arises within this intricate legal landscape pertains to the appropriate course of action when a pivotal witness is situated in a jurisdiction beyond the arbitral tribunal's territorial reach. Should the arbitral tribunal proactively engage with this intricate matter? Should it seek judicial delegation to facilitate the witness's testimony? Or, perhaps, does the advent and widespread utilization of electronic means render such traditional procedures obsolete?

A meticulous examination of Article 8 within the Jordanian Arbitration Law uncovers a nuanced implication rather than an explicit mandate concerning the concept of delegation. This implication stems from the inclusion of the phrase "...or otherwise" within the article, suggesting the potential inclusion of delegation within its scope. This interpretation gains credence, especially considering that the article delineates various scenarios where the arbitral tribunal may seek recourse to the judiciary. However, in the era of pervasive electronic communication, inquiries into the feasibility and applicability of delegation are thrust into prominence. Consequently, it becomes increasingly evident that the arbitral tribunal, armed with modern technology and electronic communication tools, can effectively discharge its duties even when a crucial witness is situated beyond the conventional boundaries of spatial jurisdiction. Conversely, in comparative legislations, such as Article 7 of the US Federal Arbitration Law, item (B) of Article 37 in the Egyptian Arbitration Law, item (C) of Article 180 in the Kuwaiti Civil and Commercial Procedures Law, Article 269 of the Iraqi Procedures and Implementation Law, Article 29 of the Palestinian Arbitration Law, Article 759 of the Libyan Civil and Commercial Procedure Law, Article 779 of the Lebanese Civil Procedure Code, the second provision of Article 22 in the Saudi Arbitration Law, and the second provision of Article 36 in the UAE Arbitration Law, the issue of the arbitral tribunal's authority to seek judicial assistance is explicitly and comprehensively addressed. These legislations not only recognize the arbitral tribunal's power to order judicial delegation but also provide detailed guidelines for its implementation. (Amayreh, 2021)

From our comprehensive perspective, these legislative positions represent a significantly more explicit and comprehensive approach when juxtaposed with the Jordanian legislation, which conspicuously did not explicitly address this particular facet of the arbitration process. These discernible variations serve to illuminate the dynamic and intricate evolution evident within the realm of arbitration regulations across diverse jurisdictions, underscoring the nuanced complexities and multifaceted nature of this continuously evolving field.

In comprehensive summation, this exhaustive and thorough exploration of legislative nuances not only reaffirms but also underscores the intrinsic complexity and continual evolution characterizing the arbitration landscape. It becomes evident that legislative frameworks undergo meticulous adaptations to effectively address the nuanced intricacies inherent in modern arbitration practices. Moreover, the discernible approach adopted by each jurisdiction underscores a delicate equilibrium between traditional principles and innovative solutions, all of which are meticulously aimed at fostering a fair, efficient, and equitable arbitration process conducive to resolving disputes effectively within the contemporary legal landscape.

CONCLUSION

Throughout the duration of this extensive and all-encompassing research endeavor, our primary objective has been to thoroughly delve into and meticulously analyze instances where deviations from the overarching principle, which firmly bars the court from any interference in the evidence presented before the arbitral tribunal, are encountered. This scholarly inquiry has been characterized by a rigorous examination of the positions adopted by the legislative framework of Jordan, with a keen focus on the meticulous delineation provided within its arbitration law. Moreover, our scrutiny has extended far beyond the confines of national boundaries to encompass the nuanced and diverse stances reflected in select comparative legislations. Additionally, we have meticulously scrutinized the intricate rules and regulations governing the International Chamber of Commerce for Arbitration in Paris (ICC) and the universally recognized UNCITRAL model law. This exhaustive exploration has enabled us to gain comprehensive insights into the multifaceted landscape of arbitration, revealing the complex interplay between legal frameworks, international norms, and procedural intricacies.

Through this thorough and comprehensive exploration undertaken with meticulous attention to detail, our overarching objective has been to furnish a nuanced and in-depth comprehension of the diverse array of approaches and perspectives that intricately shape the expansive landscape of arbitral evidence. This scholarly endeavor has been particularly focused on illuminating circumstances where departures from the prevailing norm are deemed necessary, thereby shedding light on the dynamic evolution of arbitration practices. The multifaceted tapestry of arbitration regulations and international norms that envelop this intricate issue has been meticulously unveiled, providing a panoramic view replete with a myriad of legal intricacies and complexities that underscore the nuanced nature of this field.

RESULTS

1. The principle in the arbitration dispute is that the court is not permitted to interfere in the evidence presented to the arbitral tribunal. However, the Jordanian legislator permitted it to include this issue in its jurisdiction, in certain cases.

2. The nature of electronic summoning of witnesses and their questioning in the arbitration case is that it is within the jurisdiction of the arbitration tribunal and the court may not interfere in it. However, contrary to the principle, the legislator authorized the judiciary to interfere in certain cases in some issues related to the evidence in the arbitration dispute.

3. The arbitral tribunal does not have the authority to force the parties of the arbitration dispute to present some evidence electronically, and this is what led the legislator to give the arbitral tribunal the right to resort to the judiciary - by virtue of its authority - to force the dispute parties to present some of the evidence necessary to settle the arbitration dispute.

4. The legislator has limited the cases of judicial intervention in summoning witnesses, regardless of the method, whether it is electronic or not, to two cases; the case of the witness's refusal to appear or his\ her refusal to testify.

5. In the arbitration Law, the Jordanian legislator did not address the issue of delegation to listen to and question witnesses electronically.

Recommendations

1. We hope that the Jordanian legislator follows the Qatari and Emirati legislation in terms of giving the parties the right to request assistance from the court in the electronic summoning and questioning of witnesses as an evidence, and not limit it only to the request of the arbitral tribunal.

2. We hope that the Jordanian legislator will take the same approach as the US federal law in terms of clarifying the mechanism through which witnesses are summoned to that it is commensurate with the nature of arbitration rather than leaving it to the general rules.

3. We hope that the Jordanian legislator will be more detailed and deal with the issue of using electronic means in a more serious way, rather than measuring on general issues.

4. We hope that the Jordanian legislator will address the issue of delegation in the case of listening and questioning witnesses electronically, and be more accurate and detailed in this issue instead of leaving it to jurisprudential opinions.

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[i] However, with reference to the authority of the arbitral tribunal here, it does not mean arbitrariness, but rather the use of experience, logic and sensibility, in addition to balancing the evidence presented before it. (Wali, Fathi, p. 362)

[ii] As the provisions of Articles (28) from Article (39) to Article related to organizing the issue of testimony as evidence in the Jordanian Evidence Law did not refer at all to the issue of imposing sanctions on the witness who refused to give the testimony.