



## Arbitration in legal dispute resolution: Practical considerations for annulment of judgments in Iran

Mokhtari Rahim<sup>1</sup>, Azizi Ali<sup>2</sup>

<sup>1</sup> Assistant Professor, Faculty of Law Department, Shiraz Branch, Islamic Azad University, Shiraz, Iran

<sup>2</sup> Department of Law, Shiraz Branch, Islamic Azad University, Shiraz, Iran

### Abstract

This paper provides a comprehensive analysis of the utilization of arbitration as a convenient and effective method for resolving legal disputes, emphasizing the pivotal role of an arbitrator in facilitating peaceful negotiation and resolution between the disputing parties. It also elucidates the process how authorized individuals can refer their disputes to an arbitrator, and how parties can assign judges to investigate and resolve disputes in certain contracts, such as construction contracts. Furthermore, the paper examines the outcomes of referee disputes, emphasizing the binding nature of the decisions made by the arbitral, as well as the procedures for challenging such decisions. Also, it delves into the practical considerations entailed in the annulment of an arbitrator's award, with a specific focus on issues encompassing the admissibility and validity of the award, formulation and duration of the legal application, and the procedural aspects of the trial. By addressing these practical facets, the paper aims to provide insights into the annulment process and its implications for legal disputes, offering a comprehensive analysis of the role of arbitration in legal dispute resolution.

**Keywords:** Arbitration, dispute, annulment, arbitrator's judgment

### Introduction

Arbitration, a method commonly utilized for resolving legal disputes outside of traditional court proceedings, involves the referral of disputes to an arbitrator or panel of arbitrators agreed upon by the involved parties or appointed by the court (Lew, Mistelis, & Kröll, 2003<sup>[7]</sup>; Sadrzadeh Afshar, 2013)<sup>[11]</sup>. This method is frequently employed in various contracts, particularly in the realms of construction and pre-sales construction agreements, where the assignment of a referee to address disputes is commonplace and, in some cases, obligatory. The utilization of arbitration in legal disputes is widely acknowledged, providing a convenient and definitive approach to conflict resolution (Redfern & Hunter, 2004<sup>[10]</sup>; Katozian, 1990)<sup>[6]</sup>.

Notably, the decisions rendered by an arbitrator carry the same authoritative and binding status as those issued by a court and are generally not subject to appeal or annulment. Despite the widespread acceptance of arbitration in settling disputes, there remains a gap in research regarding the practical aspects of annulling an arbitrator's judgment, including the legal considerations and procedural requirements involved. While legal systems, including Iranian laws, endorse the principle of the independence of arbitration and the use of arbitration to resolve disputes, the specifics of the annulment process and the implications for legal disputes have not been extensively explored. Consequently, this paper seeks to address this gap by offering insights into the practical dimensions of annulling an arbitrator's judgment, shedding light on the legal intricacies and procedural necessities that warrant attention.

### Criteria for the Selection of Arbitrators

- When seeking the approval of both parties for the appointment of an arbitrator, it is essential to consider the legal requirements for the selection of an arbitrator or panel to resolve disputes between the involved

parties. Certain individuals are ineligible to be appointed as arbitrators by individuals or legal authorities to handle disputed cases between the parties, such as;

- Individuals who are below the age of 25
- Individuals who are beneficiaries of the dispute
- Individuals with a direct interest in one of the parties involved in the dispute
- Individuals serving as legal representatives, advocates, or agents for one of the parties in the dispute
- Individuals in a conflict of interest, or their spouses and children
- Court employees and judges
- Individuals lacking the necessary qualifications and legal eligibility for arbitration
- Individuals legally prohibited from serving as arbitrators

The implications of selecting an arbitrator who does not meet the legal requirements can be significant. An arbitrator who is not impartial or lacks the necessary qualifications may render a decision that is unfair or biased, leading to further legal disputes. Therefore, it is essential to carefully consider the legal requirements for the selection of an arbitrator to ensure that the appointed arbitrator is competent, impartial, and capable of rendering a fair and impartial decision. By observing to these criteria, parties can ensure that the arbitration process is conducted in a transparent and unbiased manner, leading to a satisfactory resolution of the dispute.

### Annulment of Arbitration Awards

Annulment of arbitration awards is a crucial aspect of the dispute resolution process. When parties agree to resolve potential contractual disputes through arbitration, they include an arbitration clause in the contract, specifying that

any disagreements will be settled by an arbitrator rather than through the court system (Moazi, 2009; Gharavi, 2002<sup>[3]</sup>; Born, 2014)<sup>[2]</sup>. The arbitrator's decisions are binding and serve as the final resolution of the dispute, unlike court judgments. However, if an arbitrator's decision contradicts the law, the possibility of annulling the judgment arises. Specific conditions are outlined by the legislator for the nullification of an arbitration award.

Therefore, it is important to thoroughly understand the process of annulling an arbitration award. The ability to annul an arbitration award is essential for ensuring that arbitrators adhere to the law and legal requirements when making decisions. Annuling an arbitration award serves as a safeguard against unfair or unlawful decisions, contributing to the integrity and credibility of the arbitration process. It also provides parties with a means to address situations where the arbitrator's decision does not align with legal standards, ultimately upholding the principles of justice and fairness in dispute resolution.

### **Objections and Annulment of the Referee's judgment**

Understanding the legal grounds for challenging and annulling an arbitrator's decision is crucial for upholding the integrity and fairness of the arbitration process (Moslehi, 2005<sup>[9]</sup>; Gharavi, 2002)<sup>[3]</sup>. It provides a mechanism for parties to address situations where the arbitrator's decision is not in compliance with legal standards. By having clear legal criteria for objections and annulment, the arbitration process can maintain its credibility and ensure that decisions are made within the boundaries of the law.

In any event, to nullify the referee's judgment, one must follow certain procedures and conditions, in accordance with the laws and regulations governing each legal system. Several legal issues can lead to the objection and annulment of the arbitrator's decision, including:

1. The arbitrator's decision contradicts legal principles and constitutional laws.
2. The arbitrator makes a decision on a matter that falls outside their jurisdiction.
3. Submitting the arbitrator's decision to the legal authority after the deadline for issuing the decision has expired.
4. Issuing a judgment contrary to the matters that are officially recorded or accredited in the register's records.
5. The arbitrator makes a decision on a matter for which they are not authorized to judge.
6. Issuing judgments by an individual who lacks the right to judge or authority under a court order and has been prohibited from acting as an arbitrator.

### **The appropriate authority to consider an application for the annulment of an arbitrator's decision**

The appropriate authority to review and potentially invalidate an arbitrator's decision is the judicial courts, as specified in Article 490 of the civil procedure code of the general and revolutionary Iran courts. This article outlines the specific process and timeline for parties to request the annulment of the arbitrator's decision and designates the judicial courts as the competent authority for this purpose. According to this legal provision, parties have the right to request the annulment of an arbitrator's decision within twenty days since being notified of the decision. If the arbitration was court-mandated, the same judicial court will

handle the annulment process. Furthermore, if the parties or any injured parties wish to challenge the arbitrator's decision, they can file an application with the appellate court, which is considered the most competent authority for such matters. The appellate court will then assess the case's circumstances and issue a final judgment, which will be sent back to the original judicial court for review and implementation.

### **Application Points of Dispute Ruling Claimant:**

The points of dispute ruling claimant are supported by legal principles and procedural rules, such as those outlined in the Civil Procedure Code. These rules provide the framework for addressing disputes, annulment procedures, and the role of the court in arbitration-related matters:

1. If a dispute is referred to a court judgment, there is no need to file a petition for annulment; however, if the referral is not from the court, a petition for annulment is required.
2. Annuling the referee's judgment does not halt implementation; the court has not excluded strong objections to disbanding the judge. If necessary, the court can provide adequate relief to the protesters. Temporary orders do not prevent the implementation of a verdict, only a restraining order can suspend such actions.
3. A request for an interim order does not prevent the implementation of the sentence, unless authorized by the court.
4. After the annulment of the judgment, the parties may agree to refer the matter to arbitration again.
5. If the arbitration decision affects the rights of third parties not involved in the arbitration, these individuals will have the opportunity to decide on the judgment of the third parties.
6. The Court only addresses the absence of legal arbitration requirements, not the method of investigation and the value of evidence in the arbitrator's inference.
7. The referee's judgment must be sound and credible according to article 482 of the Civil Procedure Code of Iran. However, the court procedure still considers the judgment undocumented and the reason correct.

Thus, understanding the points of dispute ruling claimant is crucial for navigating the legal processes related to arbitration and court judgments. It provides clarity on the requirements for annulment, the role of the court in addressing objections, and the rights of third parties affected by arbitration decisions. By having a clear understanding of these principles, parties involved in disputes can ensure that their rights are protected and that legal procedures are followed in the resolution of their disputes. Additionally, it highlights the importance of sound and credible judgment by the arbitrator and the role of the court in upholding legal standards in arbitration proceedings.

### **Deadline to appeal judgment annulment**

The legal basis for the deadline for appealing the annulment of an arbitration decision is provided in the Civil Procedure Code of Iran. This code outlines the specific timeframe within which a dispute over an arbitration award can be adjusted and defined the competent authority for filing the petition. The deadline for petitioning the annulment of an

arbitration decision is a crucial aspect of the legal process. It is important to note that there is a clear deadline for annulling an arbitral judgment and it cannot be initiated at any time. According to the Civil Procedure Code, a dispute over an arbitration award can be adjusted within 20 days since the notification of the award. If the petition is filed outside of this timeframe, the claim will be rejected. If a party is located outside of Iran, they have two months to register in the Judicial Electronic Services' offices, highlights the accessibility and inclusivity of the legal system, allowing for efficient resolution of disputes regardless of geographical location to protest the cancellation of the arbitrator's decision and submit the appeal. It should be noted that the importance of a well-prepared statement of claim is highlighted, and it is recommended to delegate the preparation of the claim to specialized attorneys. It is crucial to ensure that the original contract, arbitration agreement, arbitral award, and evidence of notification of the arbitral award must be attached to the statement of claim in registering at the judicial services offices.

### Discussion

The validity and enforceability of arbitration awards are fundamental aspects of the arbitration process, as they are rooted in the contractual agreement and the mutual consent of the parties involved. This ensures that both parties are bound by the decisions made through arbitration. The Civil Procedure Code of Iran provides specific regulations regarding the appointment and removal of arbitrators, as outlined in Article 472, which stipulates that arbitrators can only be removed by mutual agreement of the parties once they are appointed. Additionally, Article 481 establishes that the termination of the arbitration process necessitates written consent from the disputing parties, emphasizing the importance of mutual agreement in all stages of the arbitration process.

Thus, the termination of an independently established arbitration agreement can also be achieved with mutual consent, highlighting the significance of voluntary agreement in the arbitration process (Gharavi, 2002<sup>[3]</sup>; Kamyar, 2007<sup>[5]</sup>; Mistelis & Brekoulakis, 2009)<sup>[8]</sup>. If the arbitration clause is a condition of the original contract, it can be terminated due to the termination of the original contract or independently and exceptionally from other contractual terms. Moreover, in the unfortunate event of the death or incapacitation of one party, the arbitration process will be terminated, requiring the pursuit of an alternative resolution method.

In addition to these provisions, the Civil Procedure Code outlines the conditions under which an arbitration award may be considered invalid, providing a legal framework for challenging the validity of such awards. However, it is important to note that the court's role in this process is not to interfere with the substance of the arbitration award, but rather to assess objections and claims for annulment based on specified legal grounds. This underscores the supervisory nature of the court's jurisdiction in arbitration matters, emphasizing the principle of non-interference in the contractual nature of the arbitration award. These legal provisions and principles serve to uphold the integrity and enforceability of arbitration awards while also ensuring that the arbitration process is conducted fairly and in accordance with the law.

In a specific case, a claimant's attorney has argued that the dissolution of the original contract renders the arbitration clause null and invalid, thereby questioning the arbitrator's authority to arbitrate on the principle of the contract. This argument forms the basis of the request for the annulment of the arbitrator's decision. However, the court has rejected this argument, emphasizing that the arbitration clause, as an integral part of the contract, remains independent of the original contract. The court asserts that the arbitrator's power to settle disputes related to the interpretation and enforcement of the contract is not undermined by the dissolution of the original contract, as both parties had initially agreed to resolve such disputes through arbitration (Gola, Götz Staehelin & Graf, 2009)<sup>[4]</sup>. This highlights the court's recognition of the autonomy and validity of the arbitration agreement, irrespective of developments in the underlying contract.

The court's stance reflects the importance of upholding the integrity of arbitration agreements and indicating the parties' intention to resolve disputes through arbitration (Lew, Mistelis & Kröll, 2003<sup>[7]</sup>; Amir Moazi, 2009)<sup>[1]</sup>. By affirming the independence of the arbitration clause from the original contract, the court reinforces the principle that arbitration agreements represent a deliberate choice by the parties to referee disputes outside of traditional judicial proceedings. This approach also serves to maintain the efficiency and finality of arbitration, as it prevents challenges to the arbitrator's authority based on developments in the underlying contract. Overall, the court's decision underscores the significance of respecting the sanctity of arbitration agreements and upholding the parties' autonomy in choosing arbitration as the means of resolving their disputes.

In nutshell, arbitration clauses are a significant component of numerous contracts, setting them apart from other contractual provisions that generally pertain to the execution of the of the main subject of the contract. These clauses serve as a means of resolving conflicts outside of the conventional legal process. Due to their intricate nature, it is essential for parties to meticulously deliberate the distinct characteristics of arbitration clauses and the specific regulations that govern them during the negotiation and drafting of agreements. It is important to note that the activation of arbitration clauses is contingent upon the emergence of a dispute between the involved parties. Consequently, these clauses may remain inactive and never be invoked if no dispute arises.

### Conclusion

In summary, the annulment of arbitration awards is a crucial element in the dispute resolution process, providing a mechanism for addressing cases where the arbitrator's decision deviates from legal standards. This ultimately upholds the principles of justice and fairness in dispute resolution. A comprehensive understanding of the legal framework for objections and annulment is essential for navigating the legal processes related to arbitration and court judgments, thereby ensuring that parties' rights and legal procedures are followed in resolving their disputes. The court's role in this process is supervisory rather than substantive, emphasizing the principle of non-interference in the contractual nature of the arbitration award. The court's decision in a specific case underscores the importance of respecting the sanctity of arbitration agreements and

upholding the parties' autonomy in choosing arbitration as the method for resolving their disputes. By affirming the independence of the arbitration clause from the original contract, the court reinforces the principle that arbitration agreements represent a deliberate choice by the parties to adjudicate disputes outside of traditional judicial proceedings. Overall, this paper provides a comprehensive analysis of the role of arbitration in legal dispute resolution, shedding light on the practical dimensions of annulling an arbitrator's judgment and addressing a gap in research regarding the annulment process and its implications for legal disputes. Overall, the annulment of arbitration awards plays a vital role in ensuring that the arbitration process remains fair, valid, and effective in resolving disputes.

## References

1. Amir Moazi A. *International Arbitration in Commercial Lawsuits*, Tehran: Dadakostar Publications, 2009.
2. Born G. *International Commercial Arbitration*, Kluwer, 2014, 6-224.
3. Gharavi HG. *The International Effectiveness of the Annulment of an Arbitral Award*, Kluwer, 2002.
4. Gola P Götz, Staehelin C Graf K (eds). *Institutional Arbitration – Tasks and Powers of different Arbitration Institutions*, Schulthess, 2009.
5. Kamyar MR. *Selection of Judicial Courts*, Third Collection, Tehran, Jurist Publication, 2009.
6. Katozian N. *Civil Law of General Contracts*, Tehran: Behnashr Publications, 1990.
7. Lew J Mistelis L Kröll S. *Comparative International Commercial Arbitration*, Kluwer, 2003, 1-69.
8. Mistelis L Brekoulakis S (eds). *Arbitrability: International and Comparative Perspectives*, Kluwer, 2009.
9. Moslehi J. *Interventions of National Courts in The Arbitration Process*. *Journal of Law and Policy Research*, 2005, 161- 173.
10. Redfern A Hunter M. *Law and practice of international commercial arbitration*, Fourth edition, Sweet and Maxwell, 2004.
11. Sadrzadeh Afshar, S M. *Civil and Commercial Tribunal*, Tehran, Tehran University Press, 2013.