

## The Attitude of New York Convention on Recognition and Enforcement of Electronic Online Arbitrations (The Comparative Study Electronic Commercial of Iran and the Law of Member States of Convention)

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### Abstract

The New York convention about recognition and enforcement of foreign arbitration awards yet accepted by 156 countries and prepared the huge network all around world for enforcement of arbitration awards. Nevertheless, the unique status of it in sphere of international commercial awards, the convention simultaneously with technologies development don't updated and how utilization of it for enforcement of online arbitration awards caused the legal challenges. however, in national level, the most countries, take validation to electronic documents and recognize the arbitration according to electronic transactions but ulterior to it in international sphere and when the debate of enforcement of such arbitration poses in other countries base on New York convention, the matter has no clear legal status.

The present article we study the mentioned matter that enforcement of electronic arbitration awards in framework of New York convention encountered with legal challenges. With study the trend of New York convention and other codes of countries namely. The code of commercial electronic, this article come

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to this result that notwithstanding to immense challenges, with some facilities, there is the possibility of recognition and enforcement of electronic arbitration awards in framework of New York convention.

**Keywords:** Electronic Arbitration; Electronic Agreement; Electronic Proceeding; Electronic Award; New York Convention.

## Bibliography

### A) Book & Articles

- Abdel Wahab, Mohamed (2004). "The Global Information Society and Online Dispute Resolution: A New Dawn for Dispute Resolution' 21(2)", *Journal of International Arbitration*, Vol. 22, No. 2, pp. 142-168.
- Abuturabi Zarchi, Mohammad Hassan (2008). *Online arbitration and its Legal issues*, Master Thesis, Supervisor Hamidreza Nikbakht, Shahid Beheshti University. [In Persian]
- Crawford, Victoria (2002). "A Proposal to Use Alternative Dispute Resolution as a Foundation to Build an Independent Global Cyberlaw Jurisdiction Using Business to Consumer Transactions as a Model, 25 HASTINGS", *International & Comparative Law review*, Vol. 25, No. 3, p. 297.
- Elsan, Mostafa (2006). "Examining how to Determine The Law Governing Electronic Contracts", *Journal of Pablicts*, Issue 19, Vol. 8, p. 141. [In Persian]
- Elsan, Mostafa (2018). *Electronic Commerce Law*, Fifth Edition, Tehran: SAMT Publications. [In Persian]
- Fouchard, Philippe; Emmanuel Gaillard; Berthold Goldman & John Savage (1999). *Fouchard, Gaillard, Goldman on International Commercial Arbitration*, The Hague: Kluwer Law International.
- Joneydi, Laya & Reza Masoudi (2016). "A Comparative Study of the status of Written Conditions in electronic Arbitration", *Journal of Comparative Law Studies*, Issue 1, Vol. 7, p. 82. [In Persian]
- Katsh, Ethan & Janet Rifkin (2001). *Online Dispute Resolution: Resolution conflicts in cyberspace*, San Fransisco: Jossey-Bass.
- Kubikova, Katartya (2010). *Actions after The a ward on The ICSID*, LLM Thesis, Central European University, School of Legal Studies. [In Persian]
- Nigel, Blackaby; Constantine Partasides; Alan Redfern & Martin Hunter (2015). *International Arbitration*, 16 Edition, Lodon: Law Oxford.
- Nikbakht, Hamidreza (2012). *Recognition and Enforcment of Arbitration in Iran*, First Edition, Tehran: Publications of the Institute of Business Studies and Research. [In Persian]
- Sadeghi Neshat, Amir (2014). "Validated electronic documents", *Journal of private Law Research*, Third Year, No. 8, pp. 84. [In Persian]
- Schneider, Michael & Christopher Barth Kuner (1997). "Dispute Resolution in International Electronic Commerce", *Journal of International Arbitration*, Vol. 14, No. 3, p. 24.

- Shiravi, Abdolhossein (1996). "Arranging an Arbitration Agreement in Accordance with the International Commercial Arbitration Law of Iran", *Journal of Qom Higher Education Complex*, First year, No. 3, pp. 68. [In Persian]
- Shiravi, Abdolhossein (2010). *International Trade Law*, First Edition, Tehran: SAMT Publications. [In Persian]
- Shiravi, Abdolhossein (2014). *International Commercial Arbitration*, Third Edition, Tehran: SAMT Publications. [In Persian]
- Van den Berg, Albert Jan (1981). *The New York Arbitration Convention of 1958 towards a Uniform Judicial Interpretation*, Deventer Boston: Kluwer Law and Taxation Publishers.
- Yu, Hong-Lin & Motassen Nasir (2003). "Can online Arbitration Exist within the Traditional Arbitration Framework?", *Journal of International Arbitration*, Vol. 20, Issue 5, pp. 455-473.

**B) Website**

- "International Commercial Arbitration in cyberspace: Recent Developments", (last visited on 14th December, 2014), Biukovic, Ljiljana (2002). Available at: <http://scholarlycommons.law.nortwestern.edu/njilb/>.
- "International Commercial Arbitration: Electronic Arbitration", (New York: United Nations Conference on Trade and Development), Cachard, Olivier (2003). Available at: [http://www.unctad.org/en/docs/edmmisc232add20\\_en.pdf](http://www.unctad.org/en/docs/edmmisc232add20_en.pdf).
- "Online arbitration: A vehicle for dispute resolution in Electronic Commerce", Jaberi, Mohammad Saleh (2014). Available at: [www.academic.edu/1842719/online\\_Arbitration\\_A\\_Vehicle\\_for\\_Dispute\\_Resolution\\_in\\_Electronic\\_Commerce](http://www.academic.edu/1842719/online_Arbitration_A_Vehicle_for_Dispute_Resolution_in_Electronic_Commerce)