



Journal of Research in International Business and Management (ISSN: 2251-0028)
Vol. 10(2) pp. 01-04, April, 2023
Available online @ <https://www.interesjournals.org/research-international-business-management.html>
DOI: <http://dx.doi.org/10.14303//jribm.2023.006>
Copyright ©2023 International Research Journals

Review Article

The value of electronic arbitration in today's legal system

Mostafa Al Dirani*

Department of business and management, Skema University, Lille, France

E-mail: md.lb@outlook.com

Abstract

Electronic Arbitration (E-Arb) is a private method of resolving disputes with the assistance of a neutral and impartial arbitrator. This individual oversees the arbitration by listening to the arguments of both parties and issuing a binding decision. With the development of ICT, the popularity of online arbitration has increased, and it is currently employed by Internet-based enterprises as a more efficient and cost-effective alternative to traditional court proceedings and traditional arbitration. Electronic arbitration (E-Arb) is a method for resolving disputes using internet-based companies that offer arbitration services. As demonstrated in earlier chapters, E-Arb is intrinsically linked to the rise of e-commerce, cross-border, and transnational trade. The parties to such contracts and agreements anticipate a rapid, efficient, and cost-effective dispute resolution system. Electronic submission is possible for the request for arbitration, the proposal for the nomination of the arbitrator, the exchange of arguments between the parties, and the production of documents.

Keywords: Electronic Arbitration (E-Arb), Advantages of E-Arb, Disadvantages of E-Arb, ODR, The American Arbitration Association (AAA), World Intellectual Property Organization (WIPO), Rules for Uniform Domain Name Dispute Resolution Policy

INTRODUCTION

The online approach is appealing due to its simplicity; for instance, a claimant can fill out a form on the online arbitration website Cyber Tribunal¹ and transmit it to the opposing party. If the other party agrees to arbitration, they are requested to respond to the claim. When both parties consent to arbitration, they undertake to abide by the award regardless of the outcome or ultimate decision. In the event of disobedience, the aggrieved party may pursue enforcement of the award in accordance with existing laws and conventions (Ardagna et al., 2006). There are now three primary methods for bit rational process:

1. The convention arbitration procedures;
2. The use of the Internet for initial sub missions with in a conventional procedure;
3. Thee-process involving an electronic arbitration agreement with digital signatures, video conferencing and an electronic arbitral award.

In partially online arbitration, modern ICT is combined with offline aspects of arbitration such as in-person hearings, computers, printers, fax machines, handheld devices such as Smartphones, and traditional postal services for communication between arbitrators, submission of evidence, and deliberations on the final decision and the award. In response to the acceptance and usage of ICT in the arbitration process, a rising number of local and international legislation and regulations have been enacted to regulate E-Arb.

Consequently, the advantages of electronic arbitration include the parties' capacity to select the arbitrator, the applicable rules and regulations, and the ability to achieve an internationally enforceable final decision. In addition, they emphasize that, unlike mediation, internet arbitration permits a more straightforward communication approach. As a result, developing software to adjudicate online disputes is considerably easier than developing software to facilitate mediation. They propose that instead

Received: 14-Feb-2023, Manuscript No. JRIBM-23-89376; **Editor assigned:** 16-Feb-2023, PreQC No. JRIBM-23-89376(PQ); **Reviewed:** 02-Mar-2023, QC No. JRIBM-23-89376; **Revised:** 27-Mar-2023, Manuscript No. JRIBM-23-89376(R); **Published:** 03-Apr-2023

Citation: Dirani MA (2022). The value of electronic arbitration in today's legal system. JRIBM. 9: 006.

of mediation, an online marketplace can adopt arbitration because it contains the fear of exclusion as a method of enforcing the verdict's criteria (Goldman, 1987).

Consequently, one of the most significant benefits of arbitration is that arbitral decisions can be enforced overseas if certain conditions are met (Chauhan, 2003). Electronic arbitration eliminates the stress and trauma associated with face-to-face (F2F) arbitration and litigation processes. Face-to-face arbitration can easily become hostile, aggressive, and disrespectful, especially in Gulf Arab nations. Consequently, utilizing E-Arb for international arbitration offers numerous benefits, such as the protection of confidentiality, the protection of intra-state connections, and the security of electronic data exchanged between disputing parties and the tribunal via secure sites and networks. In a conversation with a law professor headquartered in the United Arab Emirates, the academic claimed that while there was no fundamental difference between traditional arbitration and E-Arb, the procedures and modalities of arbitration were separate (Dwan, 2002).

Advantages of E-Arb

Faster process

There is no need for parties and arbitrators to travel great distances to attend hearings, which expedites the process. Using cutting-edge audio and video conferencing technologies, the disputing parties are able to conduct meetings and hearings remotely. This reduces the arbitration's travel and administrative costs. Using asynchronous communication, parties can also exchange information, present evidence, and upload and review pleadings, papers, and evidentiary submissions. Using the Internet to conduct E-Arb and transfer and exchange required documentation accelerates the process and reduces delays. This expedites the procedure and the resolution of the dispute. In a private conversation with the researcher, a renowned UAE legal scholar disclosed that E-Arb will become the shutdown's principal justification (Friedman & Currall, 2003).

Cost-effective

Due to the fact that the parties are not needed to travel to meet and discuss matters relevant to the arbitration, the materials can be read and studied whenever it is most convenient for them to do so. It is no longer necessary to mail paper documents, which removes the associated expenses and waste.

Efficient case management

Parties are able to file and defend claims by going to specialized websites and filling out the necessary forms online. This is possible due to the fact that web-based

document filing systems enable them to transfer needed documents immediately, regardless of the distance or expense involved. E-arbitration is favored over traditional arbitration and litigation as a method of alternative dispute resolution (ADR) due to the fact that it may be completed quickly and at a lower cost, according to (Kaufmann-Kohler & Schultz, 2004) (Garner, 2018).

Availability and accessibility

Because the content of the websites is always accessible, both the arbitrators and the parties to the dispute can view the material that pertains to the arbitration without having to physically attend sessions or provide paperwork to the arbitrators. This eliminates the need for travel. Because the incentive is communicated and enforced online, the procedure makes it possible for decisions to be made quickly.

Adequate and convenient

Websites such as Virtual Courthouse can provide disputing parties with a secure online electronic environment in which to file claims, select neutral arbitrators to resolve their dispute, and submit exhibits and supporting materials for their cases to the arbitrators who have been assigned to them because the Internet is so widely accessible. After the parties have finished presenting their side of the case, the arbitrators will review the evidence and arguments presented, and then they will issue a decision that is legally binding within twenty hours (Rustambekov, 2021).

Disadvantages of E-Arb

When it comes to elaborating on the flaws of E-Arb, the viewpoint of the vice secretary of Dubai Arbitrators is very illuminating. He brings up the fact that an official arbitration body has found a potential risk, which is as follows: It is possible that E-Arb will result in an increase in the number of disputes concerning the authenticity of the evidence that is provided. For instance, Walden and Hornle remark that there are significant concerns over the transmission of data, confidentiality, privacy, and validating information through E-Arb. This is due to the fact that people are concerned about cybercriminals utilizing the Internet as a platform to commit crimes.

Regulation of E-Arb

In addition, due to the existing legal ambiguity that surrounds E-Arb, clients are uncertain and anxious about the legal authority to enforce awards. This worry is also reflected in the choice and consensus regarding the "seat" from which the business would be run.

The impact of ODR adoption and use led to the European Union (EU) Directive 2000/31/EC of the European Parliament and of the Council of June 8, 2000 re: Certain

Legal Aspects of Information Society Services, in particular Electronic Commerce, in the Internal Market (Directive on Electronic Commerce), which states in article 17, paragraph 1, that Member States shall ensure that, in the event of a dispute between an Information Society Service Provider and a service user, the service user shall have access to an online dispute resolution mechanism (Mokhinur, 2020).

The 2002 EU Green Paper drafted and implemented this directive, which strongly promotes the use of ADR procedures. 1 A business group, the Global Business Dialogue on Electronic Commerce (GIBED), the International Union of Consumer Organizations (Consumers International (CI)), and the Global Business Dialogue on Electronic Commerce (GIBED) have recently issued recommendations for addressing consumer issues arising from e-transactions. This paper legalized online arbitration, mediation, and negotiation and specified the basic principles for ODR processes (Hornle, 2001).

According to a recent analysis by Ernst & Young¹, the regulatory environment for traditional arbitration has become stiffer and more inflexible, resulting in an increase in the number of institutions offering e-Arb services. With the development of e-commerce and other e-based services, new cyberspace-exclusive organizations have formed. Consequently, they operate on a global scale and in numerous jurisdictions. The Virtual Magistrates Project, which was formed in 1996 to handle instances of character defamation, personal libel harm, and fraud and deception, is one of the most well-known examples. In 1996, the same year that the University of Montreal was formed, the University of Montreal Law School established the Cyber Tribunal (Katsh, 2007).

The American Arbitration Association (AAA) is a 1926-founded non-profit public service organization and a global leader in conflict resolution. Individuals and companies can utilize its services to settle disputes outside of court. When all required evidence has been presented, the AAA appoints sole arbitrators in consultation with the parties, and a decision can be issued five days following the conclusion of the proceedings. They predict that it will take between five and thirty days to settle internet disputes thoroughly.

The American Arbitration Association (AAA), formed in 1926 and a global leader in the resolution of disputes, is a non-profit public service organization. Individuals and companies can utilize its services to settle disputes outside of court. When all required evidence has been presented, the AAA appoints sole arbitrators in consultation with the parties, and a decision can be issued five days following the conclusion of the proceedings. They predict that it will take between five and thirty days to settle internet disputes thoroughly (Yu & Nasir, 2003).

In October 2006, AAA and Cyber Settle announced a strategic collaboration to provide exclusive access to their dispute resolution systems for their respective clientele. CyberSettle clients who were unable to reach a settlement through online conversation can now utilize the AAA's dispute resolution methods, which include conciliation, mediation, and arbitration (Bakhramova, 2022).

World Intellectual Property Organization (WIPO). The World Intellectual Property Organization (WIPO) developed the Arbitration and Mediation Centre, a domain-name resolution mechanism, in the 1990s (AMC). This strategy eliminated the necessity for the presentation of physical evidence and established the viability of a cyber tribunal (Katsh et al., 2001). The AMC is a recognized provider of dispute resolution services, and its decisions are governed by ICANN's "Rules for Uniform Domain Name Dispute Resolution Policy," which can be enforced by any registrar (Kaufmann-Kohler & Schultz, 2004).

CONCLUSION

In conclusion, it should be mentioned that developments in information and communications technology are producing both technological gains and the possibility of engaging in a larger variety of commercial and financial transactions online. As a direct consequence of this, the development of technologies for online dispute resolution (ODR) has advanced in lockstep with the expansion of online business transactions and legal proceedings. It is feasible to investigate the possibility of developing a variety of ODR strategies, such as electronic negotiating. Possible courses of action to pursue before the necessity of arbitration comes into play (E-Arb). This demonstrates how far technology has come in terms of the arbitration process, which is highlighted by the fact that. ODR technology has made it possible to take pre-arbitration activities like discussion and reconciliation, which were previously unavailable.

REFERENCES

- Ardagna CA, Damiani E, di Vimercati SD, Samarati P (2006). A web service architecture for enforcing access control policies. *Electron Notes Theor Comput Sci.* 142: 47-62.
- Bakhramova M (2022). E-Arbitration and Its Role in Modern Jurisprudence. *J Eth Div Int Commun.* 1: 15-20.
- Benyekhlef K & Gelinat F (2005). Online dispute resolution. *Lex Electronica.*
- Chauhan J (2003). Online dispute resolution systems: Exploring e-commerce and e-securities. *Windsor Rev Legal & Soc Issues.* 15: 99.
- Dwan B (2002). Avoiding email blunders even after the email is sent. *Comput Fraud Secur.* 7-9.
- Friedman RA & Currall SC (2003). Conflict escalation: Dispute exacerbating elements of e-mail communication. *Hum Relat.* 56: 1325-47.

- Garner BA (2018). The Year 2017 in Grammar, Language, and Writing. 8: 89.
- Goldman B (1987). The applicable law: general principles of law-the lex mercatoria. Springer Sci Rev.
- Goldsmith J & Lessig L (1996). Grounding the Virtual Magistrate, NCAIR Dispute Resolution Conference, Washington DC.
- Hornle J (2001). Disputes Solved in Cyberspace and the Rule of Law', 2001 2. J Inf Law Technol. 01-2.
- Katsh E (2007). Online dispute resolution: some implications for the emergence of law in cyberspace. Int Rev Law Comput Technol. 21: 97-107.
- Katsh EE, Katsh ME, Rifkin J (2001). Online dispute resolution: Resolving conflicts in cyberspace. John Wiley & Sons, Inc.
- Kaufmann-Kohler G, Schultz T (2004). Online dispute resolution: challenges for contemporary justice. Kluwer Law International BV.
- Mokhinur B (2020). A thorough review of the common law concept of "arbitrary termination" and "unfair dismissal"(including DIFC&ADGM. Rev Law Sci. 77-89.
- Rustambekov I (2021). Uzbekistan: The New—and First—International Commercial Arbitration Law. ICC Dispute Resolution Bulletin. 22.
- Yu HL & Nasir M (2003). Can online arbitration exist within the traditional arbitration framework. J Int'l Arb. 20: 455.