



# The Judicial Process (Procedure, Issuance, Recognition and Enforcement of Award) Governing Cyber Arbitrations in Iranian and French Arbitration Systems

Reza Shahidi Sadeghi<sup>1</sup>, Seyed Mohammad Asadi nejad<sup>2</sup> and Seyedeh Maryam Asadinejad<sup>3</sup>

<sup>1</sup>Phd student of private law, Department of Private Law, Faculty of Humanities, Gorgan Branch, Islamic Azad University, Gorgan, Iran

<sup>2</sup>Associate Professor of Private Law, Department of Law, Faculty of Literature and Humanities, Gilan University, Rasht, Iran

<sup>3</sup>General practitioner, private law faculty member, law department, Ahrar University Institute of Higher Education, Rasht, Iran

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**\*Corresponding author:** Seyedeh Maryam Asadinejad, General practitioner, private law faculty member, law department, Ahrar University Institute of Higher Education, Rasht, Iran

## Abstract

Considering that resorting to cyber arbitration in international disputes saves time and increases the effectiveness and speed up the handling process, the litigants can raise a dispute, defend their claims and exchange bills by accessing the website of an institution providing electronic arbitration services (such as the International Chamber of Commerce and the World Intellectual Property Organization) and completing the forms related to the cyber arbitration process. The method of this research is descriptive-analytical. Document filing systems allow parties to present and exchange multiple documents with considerable speed, from any geographic location, at minimal cost in cyberspace. Although there has been no explicit mention of this type of arbitration in Iran's judicial system, but the need to pay attention to the holding of arbitration hearings and the procedure related to it in the recent situation, even in Iran, is felt more and more. Also in French law, there is no supranational or EU-related instrument that has approved and enacted regulations on the judicial process governing cyber arbitration independently of traditional arbitration. This issue is true even in relation to the agreement setting of other online dispute resolution methods. However, some considerations are necessary for the proper implementation of the judicial process governing cyber arbitration, and it seems that such considerations and principles should be observed and taken into consideration by the parties and arbitrators when preparing electronic arbitration requests.

**Keywords:** Cyber arbitration; Judicial process; Arbitration of Iran; Arbitration of French; Legal prohibition

## Introduction

Settlement of disputes concluded between parties in different societies through international commercial arbitration has been accepted by the majority of legal systems since the past years as one of the dispute resolution methods. Today, the increasing progress of new technologies has caused the of arbitration of hearings through cyber technology to be raised with the involvement of electronic tools. Cyber arbitration is one of the novel dispute resolution methods that allows arbitrators to announce their awards on the subject of the arbitration agreement in all parts of the world. This method of dispute resolution in terms of the involvement of scientific tools has features that have made it to be welcomed in most countries and used as a relatively

appropriate, fast and advanced method to deal with disputes and make legal decisions. Ease of access to electronic tools and low costs of the handling process are considered opportunities of this type of arbitration. Before entering the main discussion, it is necessary to provide a definition of arbitration in Iranian and French law; "Ritual arbitration is based on the agreement of the parties to the dispute, which is expressed in the form of an arbitration agreement or contract. "An arbitration clause is also a type of contract that is based on the agreement of the parties and is included alongside another contract based solely on the views of the parties [1]. In French law, the term "arbitrator" refers to a person who is chosen by the parties to the dispute to resolve the dispute between them [2].

### Basics of Research

In order to write this research in Badi Amr, some related research works were studied and analyzed and in general it should be said that it seems that the first, the most comprehensive and extensive research work in the field of international commercial arbitrations in the global cyberspace, the book "Introduction to Cyber Arbitration Law" (5<sup>th</sup> to 8<sup>th</sup> discourses of the second discussion of the third chapter) is written by Mr. Dr. Masoud Akhavan Fard, which was published by Majd Publications in 2018 for the first time.

### Research Methodology

It should be noted that this research work was done using descriptive-analytical method and using library resources. In this research, the author is trying to discuss and investigate the judicial process governing the of cyber arbitration in Iranian and French arbitration systems. The current research seeks to answer the question whether international commercial arbitration in the cyberspace is governed by a special judicial process? And the other question is, what is the order and quality of the applicable judicial process and the way of hearing and issuing and enforcing the award through this innovative method of arbitration in the arbitration systems of Iran and France?

### Cyber Arbitration

Cyber arbitration essentially follows the same basic rules and principles compared to traditional arbitration. For example, the agreement and consensus of the parties has a significant effect on the manner of hearing and the form of the proceedings until the award is issued, and this is not ruled out in principle that proceedings through mediation or negotiation or compromise in the cyberspace To be terminated from leading to the issuance of a valid decision. Of course, the presence of technical mediators due to communication requires the intervention of experts, and this and some other issues sometimes lead to the creation of problems that often have a legal aspect. With the premise that in terms of substance, there is not much difference between cyber arbitration and its traditional type, and these two methods differ from each other mainly in terms of "judicial formalities", and on this basis, the validity and reliability of cyber arbitration and its judicial process are necessary. Respecting the fundamental rights of the parties and the principles of fair proceedings is a violation of these principles and rules, leading to the invalidity of the judicial proceedings and a violation of the decisions issued in the arbitration tribunals [3]. The settlement of international commercial disputes in the vast cyberspace is the result of applying information technology and communication technologies to non-judicial settlement methods. [4] arbitration in cyberspace is also referred to under other titles such as: virtual arbitration, online arbitration, electronic arbitration and... Commercial arbitrations are [5], although the term cyber arbitration is more accurate and precise.

In international cyber arbitrations, the arbitration agreement must be in writing. Article (2) 2 of the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards states that: "the term of the written agreement must be included as a clause in the contract or arbitration agreement signed by the parties and in the exchange of letters and telegrams. "The virtual judicial institution is the first service in line with the implementation of the judicial process of cyber arbitration of its kind, which was established in March 1996. In the Cyberspace Rights Organization and the National Center for the Study of Automated Information in the United States of America, they established this institution, which aimed at quick resolution and free management of the arbitration process. Virtual proceedings have been limited to users of electronic systems, those claiming damages from electronic messages, letters or folders, and also system employees (Vma.org.www). In cyber proceedings, technology has provided alternative methods; In this general sense, alternative methods mean resolving disputes in a way other than the court, which includes other methods of legal proceedings such as arbitration.

In other words, litigation in cyber space uses information technology and remote communication methods for the process of cyber litigation such as mediation, conciliation and arbitration. Therefore, this method of proceedings is necessarily considered a development in the realm of alternative methods and has opportunities such as more impact on the proceedings, authority and control of the parties on the proceedings, lower costs and speed of proceedings. In fact, the emergence of new technologies has added to the benefits of alternative methods in some aspects. Although proceedings in the mentioned space, according to a concept, is the management of proceedings through new means of communication, but it should not be forgotten that the change of means has also led to a change in the way of implementing the judicial process of dispute resolution. Therefore, it should be acknowledged that litigation methods through cyberspace, including arbitration, introduce and bring to the fore a new policy in resolving disputes (Elsan, 2015).

### Cyber Arbitration Agreement

The first step in implementing the judicial process of cyber arbitration is to conclude an arbitration agreement between the parties and the arbitrators. Given our presence in the age of communication, today arbitration agreements instead of traditional forms that often include hard-copy or handwritten reports signed by the parties to commercial disputes. They are mainly concluded using modern means of electronic communication such as computers and in cyber space. This is despite the fact that the legal frameworks related to such agreements, including the 1958 New York Convention, were approved and formulated in the years before the spread of cyber space [6]. One of the conditions for the validity of cyber

arbitration agreements, like traditional arbitrations, is to be in writing, which is referred to in Article 72 of the UNCITRAL Model Law. This article stipulates: "... the arbitration agreement must be in writing...". Also, regarding the written condition of paragraph 2 of Article 9 of the United Nations Convention on the Use of Electronic Communications in International Agreements of 2005, he stated: "Whenever the law deems the writing of the message or contract necessary, or provides an executive guarantee for its lack of writing, this requirement will be fulfilled by the electronic message. "If the information contained in it is accessible in a way that can be used for future reference, in this way, it is possible to address the main analytical debates in the field of validating various forms of presenting electronic documents, as well as all the doubts raised by jurists regarding the issue. He responded in a competent and appropriate manner and paved the way for the presence of technology in modern law, and in addition, it should be known that the regulations related to the procedure of cyber arbitration in the current era, it is mainly regulated and enacted by the legislators of the legal system in a way that is consistent with future developments in the field of business communication [7].

In the French legal system, Book IV of the Civil Procedure Code of 1981 is dedicated to arbitration. Articles 1442 to 1491 deal with domestic arbitrations, and Article 1443 of this law considers a written agreement as one of the validity conditions of an arbitration contract. In relation to the cyber arbitration agreement, article 1443 of the new French procedural law has declared: "To be considered valid, the provisions of the original arbitration agreement must be in writing or incorporated in writing in a contract or document to which reference is made." According to the provisions of Article 7 of Iran's International Commercial Arbitration Law 1997: "The arbitration agreement must be a document signed by the parties, or an exchange letter, telex, telegram, or the like indicates the existence of the aforementioned agreement, or one of the parties claims its existence during the exchange of requests or defenses, and the other party actually denies it. accept A reference to a document in a written contract that includes an arbitration clause will also be regarded as an independent arbitration agreement. Electronic means such as: e-mail and website can somehow be considered as an equivalent for the performance of traditional means of communication such as telegraph and letters. Of course, it should be noted that due to the advancement of technology, the concept of electronic devices will also be developed in the future. This is referred to in Article 2 of the New York Convention, Article 72 of the UNCITRAL Model Law of 1985, Articles 1449 and 1677 of the Belgian Arbitration Law of 2013 [8]. Article (2) 7 of the UNCITRAL Model Law provides a more general concept of the word written. A treaty is written if it includes a document signed by the parties or an exchange of letters, telex, telegram or other means of remote communication that provides a recorded record of the agreements

[9].

### Judicial Process of Cyber Arbitration

The implementation of the cyber arbitration process in the arbitration systems of Iran and France requires the observance of some considerations and also the guarantee of the basic principles of arbitration, which we will discuss and examine each of them in this section:

#### Ascertainment of Identity / Authentication and Digital Signature in Cyber Arbitration

One of the doubts that arise in the process of cyber arbitration is that the identity of the person you are dealing with is not always and easily known, and the identity of the parties must be verified in the documents that are exchanged. One of the best solutions is to use encryption, which is often done in the form of digital signature. This is where digital signatures can play a very important role. The fact of the matter is that digital signatures play an important role in ensuring authenticity, integrity and, as a result, increasing trust. Fortunately, in our country, after the approval of the e-commerce law in 2012 and the requirement of government agencies to use the e-government process instead of traditional systems, there have been positive developments in this field, including the creation of electronic signature and identity and the use of It mentioned in banking. In Europe, the electronic signature directive has considered this category of signatures as a suitable alternative to manual signatures and has established criteria for their safety. In any case, the authentication of the parties and the witnesses and informants introduced by them is with the arbitration authority, and this authority can use an expert and specialist in communication and information technology, in order to ensure the accuracy of electronic documents and reasons (Elsan, 2006).

Many countries have taken basic measures to achieve this goal by approving the law of electronic commerce and the law of digital signatures and electronic exchanges and by amending their civil laws, including the amendment of Article 1319 of the French Civil Code of 1807 known as the Code Law. Napoleon and articles 2827 and 2838 of the Civil Code of Quebec, Canada, 1982. The French Civil Code in the sixth paragraph of the second part of Article 1319, after defining the signature, in accordance with the European Directive approved on December 13, 1999, defines the electronic signature as follows: "If the signature is electronic, this signature in practice is a secure procedure that guarantees the identification of the relationship between the signature and the document it is attached to, the principle is that this procedure is secure, unless there is a reason to the contrary. "When the electronic signature is done, it guarantees the identity of the signer and the integrity of the document according to the conditions stipulated in the decree of the State Council [10].

### Information Security and Confidentiality of the Cyber Arbitration Process

Among the other challenges related to identity in the cyberspace is the security and confidentiality of information; In most of the arbitration proceedings that take place in the cyber space, the parties or one of them tends to keep the entire arbitration process confidential. The Internet is a World Wide network, and communication by e-mail or database may be inherently less secure than by fax, mail, or telephone. There is a risk that unauthorized persons may gain access to electronic data that is exchanged before or during the cyber proceedings, or hackers may break into computers and reveal secrets and information related to the case to others. Therefore, encryption plays an important role in ensuring the confidentiality and security of information. Encryption provides this possibility to the arbitrator and the parties involved in the dispute to provide secure information communication without accepting the risk of unauthorized persons accessing their information.

For a formal cyber arbitration process to be successful, confidentiality is considered necessary, if not fundamental; All correspondence in cyber communication takes place in written form in non-secure networks, and for the transmission of information on the Internet, there are several versions that are made temporarily during the proceeding process, and in fact, the mechanism of the Internet is inherently like this [11]. So, it seems that the best way to protect information is to use encryption technique. Encryption is an automatic process of making information inaccessible to unauthorized people using an algorithm and a password. Decryption is the reverse process that occurs when it is reused (haman). Confidentiality of arbitration proceedings is considered as a principle in international commercial arbitration. Confidentiality as a principle in choosing this alternative method is also presented in the priority of the judicial system of Iran. In some states of England and France, the judicial procedure explicitly emphasizes the confidentiality of arbitration proceedings [12].

Otherwise, the obligation of confidentiality is based on the agreement and consent of the parties. The parties as well as arbitration institutions are obliged to observe the principle of confidentiality of arbitration proceedings. Confidentiality is related to all documents and documents provided by the parties during the proceedings in the cyber space and should not be presented or disclosed to third parties under any circumstances. When an electronic arbitral award is issued by an arbitration institution, the negotiations and legal arguments of the arbitration panel must remain confidential and must not be disclosed by the parties or the secretariat of the arbitration institution. Finally, the obligation of confidentiality also includes the electronic award issued by the arbitral tribunal; And it can only be made available to the public by obtaining full and written consent from the

parties [13] proceedings at each stage of the cyber arbitration process require that cyber communications be guaranteed for confidentiality; Because electronic evidence is more vulnerable than paper evidence.

In addition, one of the challenges of using cyberspace is that a confidential piece of information may be widely disseminated. The slightest breach of confidentiality can have many unavoidable consequences for parties. Therefore, the arbitration institutions must guarantee the security process, to ensure that the confidentiality of the arbitral files is protected from the dissemination of information resulting from the improper use of information technology. It is recommended that e-mails and data exchange on the respective website are protected, especially when filling out forms on the websites. A recent study by researchers shows that cyber arbitration bodies rarely enforce email security. They only guarantee the security of electronic forms using the "SLS" protocol. However, securing e-mail using encryption and electronic signature techniques is considered essential, especially when written statements and attachments are exchanged. Secondly, every organization should be equipped with sufficient information technology resources to protect its databases from external attacks. In practice, it seems very difficult to evaluate the firewalls of cyber arbitration institutions (ibid).

### Privacy in the Cyber Arbitration Process

One of the other basic criteria is privacy, which should be taken into account in the process of dealing with cyber arbitration. Parties must be informed of the locations (folders) where their personal information is protected and the ways in which their personal information is used or stored by the arbitrators or the arbitral institution handling the case. With the strategic use of network security facilities, it is possible to guarantee the privacy of all parties involved in the dispute resolution process in the cyber space. Here too encryption plays a key role. In the privacy policy, the parties should also be informed that online dispute resolution (ODR) organizations use cookie technology to store information; because this technology is as useful as it can be in network security issues, it is challenging and may be misused and act like a double-edged sword [11].

### Issuance of Cyber Arbitration Award

In terms of the governing procedure, cyber arbitration may be enforcement in different ways; It seems that one of the easy access methods is to use applicable and common procedures in traditional arbitrations. Like he used the UNCITRAL model arbitration rules. Another way is to establish a ritual appropriate to modern communication tools in cyber arbitration. It seems that the fact should be accepted that in cyber arbitrations, there is no escape from all the rules governing the formal process of traditional arbitration, and the cyber nature of the proceedings will, in any case, bring some of the attributes of traditional



arbitration, Even if the entire formal process and arbitration proceedings are carried out in the cyber space, certain formalities and rituals must still be followed, otherwise, there will be no guarantee for a fair trial or the commitment of government courts to enforcement the decisions issued (Elsan, 2006).

According to the analysis of some cyber law researchers, arbitration can be implemented in any way, including in the cyber space. It must always be conducted in accordance with the general principles of the arbitration rules and follow the rules and regulations and under no circumstances, even if the parties agree, these principles cannot be breached; because the principle of sovereignty of the will cannot be in conflict with the rules of arbitration and be indifferent to it. The principles of impartiality and equal treatment of the parties, which are stated in Articles 12 and 18 of the UNCITRAL Model Law, are of particular importance among binding arbitration rules. If the parties violate the principles governing the arbitration process, just like when these principles are violated in a traditional arbitration process, cyber arbitration will also be invalidated [11]. According to the provisions of Article 27 of Iran's International Commercial Arbitration Law:

i. The arbitrator will make a decision according to the legal rules chosen by the parties regarding the nature of the dispute. Determining the law or legal system of a specific country, however it is done, will be considered as a reference to the substantive laws of that country. The conflict resolution rules will not be subject to this ruling, unless the parties have agreed otherwise.

ii. In case the governing law is not determined by the parties, the arbitrator will deal with the nature of the dispute based on the law that he deems appropriate according to the conflict resolution rules.

In order to guarantee justice and comply with the mandatory principles of the arbitration procedure, the use of electronic devices, regardless of the scope of its activity, should be appropriately accompanied by the agreement of the parties in the proceedings by the arbitration court and in no way be incomplete with the binding principles of arbitration, so that it is recognized and formalized. Therefore, the parties have some freedom of action to agree on the use of electronic devices in order to implement the arbitration process, provided that this agreement does not conflict with the mandatory principles of the arbitration procedure, and it is the arbitration board or arbitrator who can decide on the use of electronic devices. Despite the opportunities of cyber arbitration, it may have unavoidable challenges in terms of summoning witnesses, questioning and answering (cross examination) from the jury, and authentication of the jury. In principle, the exchange of evidence and the holding of hearings require the agreement of the parties, and the arbitrators must also decide on the time and place of the arbitration procedures.

One of the main goals of holding a cyber arbitration process is to reduce the costs incurred by the parties and speed up the

private proceedings of the parties to the dispute, but in this way, the procedures that guarantee a fair trial (ceremonies) should not be ignored [14]. The way of issuing an electronic verdict in the French judicial system is that after hearing the testimony of the witnesses through audio or video conference and reviewing all the documents submitted to the arbitral tribunal by the parties through electronic means, the arbitrators, if formed The composite committee holds informal meetings to reach a single point of view in making a decision, which naturally, considering the subject of the research, can be through the aforementioned electronic means [5]. However, no specific model and rules for electronic noise have been established yet, However, legal or judicial opposition and prohibition has not been done with it as far as it is specified in French law that such methods of agreement, even electronic ones, will be considered correct and valid (Ibid).

### Communicating and Recognition and Enforcement of Cyber Arbitration Awards

The importance of communicating the decisions issued by the arbitrators stems from the fact that the act of communicating the decision to the litigating parties will have significant effects, both in terms of substance and in terms of creating judicial procedure (form), in cyber arbitration. This issue allows the parties to the dispute to analyze the provisions of the issued decision and then take the necessary next steps, depending on the case, in order to participate in the stage of protesting and recourse of the decision; Because in an arbitration process, the judgment issued in the arbitration will be valid immediately after its issuance [15]. Therefore, the recognition of the vote without change will be very important and effective, ensuring the conditions of communication through electronic communication and using the newly approved international rules is accurate and relatively easy, and as a result, it will facilitate this matter; Because the communicate of an award through secure email can easily record and the challenges raised in this field, such as: being dated, the time of receipt and even the time of reading the relevant provisions [4]. It seems that one of the best and most liberal national laws that can also be considered as a suitable model in this context is the Arbitration Act of 1996 of England, which in paragraph (1) of section 55 explicitly stated: "The parties to agree on the terms awarding is free. In such cases, the litigants can easily agree that the arbitration award will be communicated to them by e-mail or uploaded to a secure operating system that is accessible to them." (Ibid).

In this way, it can be concluded that the use of electronic tools for the purpose of communicating arbitration decisions is considered correct and valid with regard to the principle of sovereignty of the will; Because Article 458 of the Civil Procedure Law of Iran 1379 stipulates: "As the parties in the arbitration agreement did not foresee specific methods for the recognition of the award, this will be done by the court, in which case the recognition of the award will be in accordance with the provisions of the civil procedure. "The meaning of the above mentioned article is that if a special

way of communicating the award is foreseen, or the arbitrator is given the authority to do so, the principle of sovereignty of the will requires that the same special way be recognized as valid and the criterion of action with the arbitrators' judgment [16,17].

In organizational arbitrations, if the parties have not agreed on the manner and authority of the recognition of the arbitration decisions, the recognition will be done based on the foreseen regulations, and the recognition can also be done by using e-mail. Of course, if the email clearly determines the time and date of communication and all the appropriate security considerations are observed and no changes are made in the text [15]. But in case arbitrations, the arbitrator can determine the manner and authority of recognition. Therefore, it seems that the sending and delivery of arbitration documents and even notices by electronic means of communication such as fax and e-mail, regardless of the lack of legal prohibition in this field, is also considered possible from a judicial point of view. This is despite the fact that in advanced countries, Internet correspondence, mail, courier and telephone are used explicitly in arbitrations to deliver documents and trial dates [18]. recognition of the decision in electronic format, according to the judicial requirements of the arbitration proceedings, which deems the text of the award necessary to enforcement or consider the recognition valid, must be stored in the archive of the arbitration tribunal (haman).

### Seat of Judicial Process of Cyber Arbitration

**By scrutinizing the main laws and regulations of international arbitrations**, including Iran's arbitration law, it is concluded that in cyber arbitration, the disputing parties and arbitrators can communicate with each other from different places. Both in cyber arbitration and in traditional arbitration, the opportunity is provided for the arbitrators to receive statements and claims of the parties and settle the disputes without a face-to-face hearing, unless the parties agree otherwise. Therefore, the arbitrators are not required to hold hearings and issue a award regarding the dispute referred to arbitration, only in person. When the parties decided the seat of arbitration, it seems that according to the application and generality of the legal standards of commercial arbitrations in the national and international arenas, most of the formalities of the arbitration process and hearings can be done in the Sabiri space and the arbitrators should only be in the place of arbitration. (The website or the arbitration system of the institution) in the same way that the parties have determined, mention it in the issued award and sign it. If the parties have not agreed on the place of arbitration, in that case, the arbitrator or arbitrators will determine the place of arbitration (according to the provisions of paragraph 1 of article 20 of Iran's International Commercial Arbitration

Law approved in 1997) [19].

In French arbitration, if the arbitration process is carried out entirely in cyber space, the discussion about the place of arbitration is raised. If the parties have agreed on a specific place, naturally, there will be no special problem. However, in the case of traditional arbitration, if no agreement is reached on the seat of the arbitration, a national court is required to hear the dispute referred to arbitration, which usually determines the seat based on the location of the arbitration hearings, as the case may be. It is used that this regulation will have the ability to extend and generalize to arbitrations heard in the cyber space as well (Cole, 2014).

### Access to Judicial Justice in Cyber Arbitration

Another challenging feature of the cyber arbitration process is related to access to judicial justice and fundamental rights of the disputing parties during the proceedings. In traditional arbitral tribunals, the applicable arbitration procedures should give the parties the same right to be heard in state courts. This does not mean that the procedure of the proceedings should be the same as the procedure of the state courts, but any judicial procedure that is accepted and becomes the governing body of the proceedings will not have the power to subvert justice. However, one of the special attractions of cyber arbitration is the opportunity to save time and reduce the cost of proceedings. According to the opinion of some lawyers specializing in cyber arbitration, due to the lack of appropriate methods in checking the accuracy and completeness of electronic evidence presented to reputable online dispute resolution institutions and organizations, on the occasion of non-face-to-face arbitration, most of the electronic methods of proceedings are given to the parties. They argue that legal guarantees do not apply favorably to the formal process of arbitration (Ibid).

### Procedural law governing the judicial process of cyber arbitration in France

There has been no explicit and systematic discussion about the process of proceeding through cyber arbitration in the French legal system. In addition, the European Union has not specifically established rules on cyber arbitration. In November 2011, following an EU-wide consultation, the European Commission adopted a proposal, pursuant to Article 114 TFEU (formerly Article 95 TEC), on online consumer dispute resolution and other deficiencies in refund systems. (compensation) consumer of member countries raised. The proposal focused on gaps in coverage of alternative dispute resolution methods, insufficient awareness of these tools in the context of consumer contracts, and changes in the type and quality of such schemes. After the political agreement on the legal proposal, Regulation 2013/524/231 (Regulations on Online Dispute Resolution) was approved and published on June 8, 2013, alongside Authorization 2013/11/EU on Alternative Dispute Resolution Methods (Cole, 2014).

The purpose of the Online Dispute Resolution Regulations is to provide an online dispute resolution program for consumers and businesses that sell electronically. Article 2 states that: "This rule refers to the resolution of disputes concerning disputes related to online contractual obligations between a consumer in the EU and a trader established in the EU, through the intervention of a dispute resolution unit established in accordance with Article 20 (2) From the directive 11/2013 of the European Union and the agent in the online settlement program mentioned above (Article 2 Online Dispute Resolution Act 2013 [4]).

Online Dispute Resolution is designed as an entry point for international consumers and merchants; It is an interactive website that can be accessed electronically and free of charge in all official languages of the Union. During this process, the parties can complete an electronic petition form, which is subsequently submitted to the Dispute Resolution Certification Office, which is responsible for resolving disputes. When the parties do not reach an agreement within 30 days from the date of appointment of a dispute resolution institution, its administrative unit will refuse to handle the dispute and subsequent petitions will not be accepted, and the claimant will be denied the possibility of communicating with an online dispute resolution consultant from public information. He will be informed about other compensation methods. Cyber arbitration in the current situation is not the subject of a legal regime that is completely or partially different from traditional arbitration. In fact, arbitration commentators are unanimous that cyber arbitration and traditional arbitration generally share the same basic features, and even the provision of this method, which is related to the resolution of disputes arising from the online purchase of products and services, does not limit the use of traditional arbitration. Instead, these regulations provide an online dispute resolution program that aims to select petitions and refer cases to competent dispute resolution institutions (Cole, 2014).

### The Basic Requirements for the Implementation of the Judicial Process of Cyber Arbitration

Regardless of the necessity of establishing cyber arbitration tribunal and approving the appropriate law to grant a license to implement the cyber arbitration process, one of the basic requirements for the success of the cyber arbitration judicial process is access to cyber technology and the need to increase internet bandwidth World Wide. In order to introduce cyber arbitration as a useful method, above all, electronic equipment and facilities of cyber space should be made universal and available to the public. Fortunately, this case has been welcomed by the public in our country, so that according to the statistics of World Stats in 2008, the number of people who used the Internet in Iran reached seven and a half million people, and Iran ranked second in the use of the Internet in The Middle East won. but this growth is not equally distributed in different parts of Iran.

Another requirement in this regard is the need to reduce the fluctuations and disruptions of the country's cyber network by the relevant custodians, which, of course, in recent years, a positive step has been taken in reaching global standards [10]. Electronic communications in international contracts do not apply to consumer contracts (Article 2(1) of the ICCPR). Therefore, it is still unclear whether international arbitration agreements involving consumers are valid under the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. which seems to cause the lack of validity and legal validity. This is a function of inconsistent national fulfillment of the Directive on Unfair Terms in Consumer Contracts, which relates the validity of arbitration agreements in consumer contracts to national arbitration schemes. For example, Article 2061 of the French Civil Code does not allow arbitration in internal consumer contracts. However, the provisions of Article 2061 do not apply to international arbitration.

In fact, French state courts have up to now confirmed at least twice that consumer arbitration provisions have been valid in the international arena (Cole, 2014). Cyber arbitration is particularly attractive in the field of consumer; Because many consumer disputes involve large sums of money that make offline arbitration impractical. For this reason, in line with the implementation of the rules of international electronic commerce, cyber arbitration seems very useful; Because it allows consumers to be safe in cases such as disputes raised in court and language differences, the use of a foreign language, and features of civil justice, which are often considered as major obstacles to access to justice in the field of consumer contracts (Ibid) [20].

### Discussion and Conclusion

The results of the discussions and legal analyzes presented in the current research can be summarized in the following points:

1) With the expansion of the use of electronic tools for the purpose of concluding electronic commercial agreements, it is naturally necessary to consider methods in order to resolve possible disputes arising from the interpretation of the provisions or the fulfillment of these types of agreements. One of these methods is to deal with the disputes concluded between them through arbitration in the global cyber space. After conducting research and using the opinions of some legal scholars, it seems that the main principles and rules of proceedings that the parties and arbitrators are required to follow in traditional arbitration are also considered necessary in the judicial process governing commercial arbitrations in the cyberspace.

2) One of these basic principles is the written arbitration agreement, which is mentioned in several laws, including the Iranian and French arbitration laws. Observance of the principle of impartiality (no bias) and independence (absence of servant-servant relationship) of arbitrators towards the parties as

binding rules and among the certain principles of internal and international judicial proceedings, should be respected, otherwise, they can be a reason for violating the judgments. be issued in arbitration tribunal. The electronic award issued according to the cyber arbitration method are also valid and enforceable, just like the award issued in traditional arbitration, and for this purpose, they must be communicated to the parties electronically through the arbitration system of the referral arbitration institution.

3) In the arbitration systems of Iran and France, there is no explicit reference to the validity and implementation of the judicial process and the procedure for dealing with disputes through arbitration in the cyberspace, However, by paying attention to the generality and application of provisions in some relevant laws, including Iran's International Commercial Arbitration Law 1376, it is possible to implied and implicitly observe appropriate hints and solutions in line with the implementation of the cyber arbitration process. France amended its arbitration laws with Decree No. 2011-48 of January 13, 2011, part of which is the Code of Civil Procedure. Therefore, most of the regulations and legal principles governing the process of arbitration proceedings are included in it. A number of articles related to the arbitration procedure can also be found in other related regulations. For example, principles related to arbitrability can be found in the French Civil Code (CC).

4) Among the important considerations in the direction of implementing the cyber arbitration process and solving the judicial gaps and challenges in front of it, is that with the establishment of international commercial arbitrations in the traditional space, the parties to the dispute and the arbitrators in cyber arbitration are always required to be legal. Consider the electronic arbitration agreement, formal rules and procedures governing the arbitration process, arbitration location (website or system of the arbitration institute) and the form of issuing awards (electronically) and the manner of recognition and the attributes and consequences thereof. Compliance with such basic judicial considerations will make the arbitration process in the vast cyber space, within the framework of the current approved laws and regulations such as the New York Convention of 1958, attain a more serious applicability.

5) Based on the opinions of a group of legal authors, it seems that it is not clear that cyber arbitration as a new method of traditional arbitration or as a binding form of online dispute resolution, Appropriately and to a considerable extent, it provides opportunities for arbitration systems and disputing parties, so as a result, we can conclude that cyber arbitration is not necessarily useful and effective or potentially challenging. The legislators of some countries tried to ignore the implementation of the proceedings through cyber arbitration and its legal and judicial validity; Because the technology available today is only in its early stages of development. However, cyber technology is rapidly

improving and developing, and it is recommended that internal and international regulators pay attention to the features that make cyber arbitration unique as a dispute resolution method. However, some challenges may remain in the judicial process of this type of arbitration, such as issues related to the authentication of parties and witnesses, or the attribution of electronic evidence, even in advanced arbitration systems such as France, as a country subject to the Civil Law legal system.

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