

Civil Liability of Arbitrators in Virtual Arbitration in Cyberspace

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Abstract

Arbitration is one of the most common methods of peaceful dispute resolution in domestic and international disputes out of state courts. Today, the issue of international commercial arbitration has become more important among businessmen due to the speed of processing, and saving the costs imposed on the parties to resolve disputes, and therefore, the access of global communities to new communication technologies has caused the issue of arbitration to be brought up and become relevant in the virtual global space. Therefore, the arbitrator accepts duties according to the arbitration agreement concluded between the parties, which in case of non-fulfillment of the aforementioned contractual obligations and duties, and as a result, causing both material and moral damage, and establishing the relationship of causation, will result in his civil liability. In general, the legal system of common law has accepted the principle of immunity (exemption) from liability for international arbitrators, and the principle of civil liability of arbitrators has been accepted in the legal systems of written law and the arbitration system of Iran. Now, the question that arises in my mind is, what effects and rulings does the civil liability of the arbitrator in virtual arbitrations bring? In response, it should be said that due to the lack of approval of independent, clear, comprehensive, and consistent laws and regulations regarding the civil liability of the arbitrator in the virtual arbitration in cyberspace in the domestic and international spheres, and that virtual arbitration has the same effects as traditional arbitration in terms of substance and they are distinguished from each other only in formal issues and formalities governing the proceedings, it seems that the issue of civil liability of the arbitrator in traditional and virtual arbitrations in terms of effects and rulings do not differ much from each other.

Keywords: Arbitration, Cyberspace, Virtual Arbitration, Civil Liability, Civil Liability of Arbitrator

1. Introduction

With the expansion of trade in the international scene, arbitration has been developed as a method of peaceful settlement of international commercial disputes, and in the present era, it is considered a desirable method in the resolution of international disputes. However, by examining the process of international arbitrations and the decisions issued by these authorities, it can be seen that some arbitration organizations commit violations in the performance of arbitration duties and, as a result, cause damage to the parties to the arbitration agreement. Therefore, the emergence and increase of such challenges in the international arbitration process have caused organizations and institutions such as the International Bar Association (IBA) to put detailed plans in their agenda to prepare and compile guidelines and codes of conduct for arbitrators [1].

In addition to arbitration institutions and organizations,

arbitrators are also required to declare their impartiality and independence as well as the lack of common interests with each of the parties to the dispute at the time of accepting the arbitration position. The increase in the number of lawsuits related to civil liability against arbitrators emphasizes the need to examine the challenges arising from the civil liability of arbitration organizations; arbitration organizations today have found their real credibility regarding this issue so that it can be determined which of the mentioned organizations are qualified enough to handle the arbitration [2].

Usually, the two main criteria of reliability and expertise of the arbitrators in the field desired by the parties are used for choosing arbitrators by the parties to the arbitration agreement. However, sometimes it is possible that during the proceedings, the initial trust of the parties towards the competence of the arbitrators is taken away, or the arbitrator does not perform his duties

according to the arbitration agreement due to negligence or bad faith. In some of these cases, according to the regulations of the internal systems and the regulations of arbitration institutions, the parties can remove the arbitrator from his position before taking the decision and if the proceedings have led to the issuance of a decision, annul the issued decision. On the other hand, if the proceedings of the arbitrator lead to material, moral, or even physical damages to one

- Margaret, L. Moses, IBA Rules of Ethics for International Arbitrators 1987, Published online by Cambridge University Press: 05 June 2012: <https://www.cambridge.org/core/books/abs/principles-and-practice-of-international-commercial-arbitration/iba-rules-of-ethics-for-international-arbitrators-1987>.
- Aini, Sajjad, Arbitrator's Responsibility in Cyber Arbitration in Iranian Laws and UNCITRAL Model Law, Supervisor: Akhavan Fard, Massoud, Master's Thesis, Department of Private Law, Islamic Azad University, Damavand Branch, 2016, p. 108.

Party, the aforementioned party can file a civil liability lawsuit against the arbitrator or the panel of arbitrators³, and in this regard, there can be no difference between these two situations, whether the arbitration was held in person or through the virtual universal space.

2. Research Background

To carry out this research, several research works related to the subject of the current research were studied and reviewed, and in general, it should be said that the aforementioned research have mainly discussed the issues of civil liability of arbitrators in traditional arbitration and civil liability in virtual space or the absolute responsibilities of arbitrators in virtual space, but the subject of the present research is "Civil Liability of Arbitrators in Virtual Arbitration in Cyberspace", regardless of the fact that it is a completely specialized issue and only examines the civil liability of the arbitrator in the virtual space, but it is completely applicable in the field of international arbitration and it is considered as one of the innovative and new legal issues, which according to the investigation in Internet research environments and the like, this research work is not repeated and has no similar. Mafi, Homayoun, The concept and scope of civil liability of arbitrators, the legal research journal of Shahid Beheshti University, volume 17, number 67, autumn 2014. Malakouti, Rasool, Civil liability in Cyber Space, Majd Publications, first edition, 2016. Aini, Sajjad, Arbitrator's liability in Cyber Arbitration in Iranian Laws and UNCITRAL Model Law, Supervisor: Akhavan Fard, Massoud, Master's Thesis, Department of Private Law, Islamic Azad University, Damavand Branch, 2016, p. 108.

3. Research Methodology

It should be noted that this research work was done through the descriptive-analytical method.

Considering the above explanations, arbitration is one of the most common dispute resolution methods in domestic and international disputes; accordingly, today, along with the growth and development of new technologies, including cyberspace

3 - See, *ibid.* pp. 109 and 110. technology, we are faced with numerous quantitative and qualitative developments, the most important of which is the civil liability of arbitrators in cyberspace. According to this, the first question is whether the arbitrator in virtual arbitration is facing civil liability in case of damage to the parties? The first hypothesis is that in different legal systems regarding civil liability, the principle of absolute civil liability of arbitrators (including both virtual and non-virtual) has been noticed and clarified by the legislator. The second question is whether the laws and regulations of civil liability governing traditional arbitration can be extended and generalized to virtual arbitration as well, or whether specific and independent laws and regulations have been formulated and enacted for virtual arbitration that must be implemented? To express the second hypothesis, it should be stated that until now no explicit and independent laws have been established in the field of civil liability of arbitrators in cyberspace, and it seems that to prove and fulfill the civil liability of the arbitrator until the approval of the appropriate laws, we have no choice but to extend the current regulations governing traditional arbitrations to virtual arbitrations.

4. The Concept of Civil Liability

"Civil liability" in terms of legal terminology refers to the obligation of the person causing damage to the injured or damaged person to compensate, and it should be relevant when a person commits a harmful act (a specific term of the German legal system) or fault (the special term of the major legal systems of the world, including the legal systems of England and France), has caused the loss and damage to another person, and naturally, rationally and legally, the amount of compensation should be proportional to the amount of the damage caused to the person or persons who suffered while examining the relevant circumstances [4]. Among the effects of civil liability is the restoration of the situation to the previous state; according to the provisions of the Civil Code of Iran 1934, the Iranian Civil Liability Code approved in 1960 and other relevant laws, in the case of material affairs, compensation for damages is through the payment of a certain amount of cash (money) and in the case of non-material damages and damage to a person's dignity and reputation, is through the obligation of the person causing the damage to apologize so that the lost credit and dignity of the injured person can be restored through it. At the 4 - Katouzian, Nasser, (2020), Extra-Contractual Obligations, Civil Liability, first volume: general rules, Ganj Danesh Publications, second edition, p. 87. same time, it should be added that the loss can be realized in two ways: reducing the property and assets of others and also preventing the increase of the property and assets of others (lack of benefit or loss of benefit) [5].

5. The Civil Liability of The Arbitrator in Traditional Arbitration

Of course, just as the judges of the state courts, are obliged in line with the implementation of their legal and judicial duties to perform their duties without any fault and with the full application of their expertise and skills in the relevant field, so that there is no possible damage to the parties of the dispute referred to the courts, and in case of damage caused by the negligence or fault

of the judges, they will be legally obliged to compensate for the damage caused by their fault, the arbitrators in international commercial arbitrations, as well as domestic arbitrations, have the same status as court judges and in the event of damage occurring around the arbitration agreement, they are obliged to pay for damages to the injured party.

According to the opinion of some researchers, the civil liability of the arbitrator in the general sense is the contractual obligation resulting from the arbitration agreement that the arbitrator has towards the parties to the arbitration agreement, and the opposite of it is the criminal liability of the arbitrators in case of committing criminal acts such as fraud, receiving bribes and issuing decisions intentionally and knowingly to the detriment of the parties. The civil liability of the arbitrator in a special sense is a contractual obligation that if the arbitrator causes damage to a party or parties as a result of committing a violation in arbitration, such as fault, lack of skill and expertise, non-compliance with the confidentiality of the arbitration process, etc., he must compensate for the damages. In other words, in the civil liability of arbitrators in the special sense of the word, we are dealing with the damages caused by the arbitrators to the parties [6].

6. Civil Liability in Cyberspace

In this part, at first, virtual space must be defined; "virtual space" is sometimes translated and used by some experts as cyberspace (while virtual space has a wider scope than cyberspace and is everything that uses information technology in its 5 - See, *ibid.* pp. 88 and 89. 6 - Mafi, Homayoun, (2018), a collection of selected articles on international trade law, Majd Publications, second edition, p. 93. production and application), is a space where many non-face-to-face communications and interactions take place. Some people take the word "virtual" as equivalent to "cyber", but because it is an expression of real and visible but untouchable issues, it cannot be carried over the word "virtual" which refers to mental and imaginary issues [7]. In this period, the use of the World Wide Web (WWW), networks, and digital telecommunication is growing rapidly, and the term virtual space can direct and represent many emerging ideas and phenomena in direct and indirect ways. Today, due to the growth of current world developments, one of the sciences that can connect and intersect with the virtual space is the "science of law" and among the important and practical topics in the science of law is the issue of "civil liability" and how to realize it [8].

It should be known that fault-based civil liability in Iran's legal system is derived from the provisions of some laws, such as the Iranian Civil Liability Code approved in 19609 and also the labor law approved in 19901 , in such a way that so0 me prominent jurists such as Dr. Seyed Hossein Safaei and Dr. Habibollah Rahimi1 , as well as Dr. Amir1 Nasser Katouzian, and many Iranian professors of law faculties in Iran, consider fault or harmful action, to which Dr. Katouzian has added the term "illegitimate" (illegal), as the most important basis for realizing civil liability. In addition, the mentioned basis is also confirmed by the rational principle of "everyone's responsibility

for his (her) wrongful act", but especially in recent decades, it seems that this idea is expanding that relying based on fault as a necessary pillar in the realization of civil liability is not always appropriate and sufficient. 12 Of course, it should be noted that in Islamic jurisprudence (Fiqh), in principle, there is no clear example of compulsory guarantee based on fault, and the criterion of civil 7 - Qajar Qionlu, Siamak, (2012), An Introduction on Cyber Law, an Introduction to the Sociology of Development Rights and Prerequisites of Law Writing in the Cyber Space, Mizan Law Foundation, first edition, pp. 21 and 22. 8 - See, *ibid.* p. 24. 9 - Article 1 of the Iranian Civil Liability Code 1960 states that, "Any person who intentionally or due to his negligence, injures the life or health or property or freedom or prestige or commercial fame or any other right established for the individuals by virtue of law, as a result of which another one sustains materially or spiritually losses, shall be liable to compensate the damages arising out of his action".

1 - Articles 29 to 33 of th0e Labor Law of the Islamic Republic of Iran 1990.

1 - Safaei, Seyed Hossein1 & Rahimi, Habibollah, (2018), Comparative Civil Liability, Shahr Danesh Institute of Legal Studies and Research, first edition, p. 105.

1 - Katouzian, Nasser, (22010), Civil Law Preparatory Course; Legal events, Civil Liability, Enteshar publication, fourth edition, new edition, revised, pp. 65 and 66.

liability in Islamic jurisprudence and also in the Iranian Civil Code approved in 1934 is "verifying the causation and attribution relation". Based on this, it seems that the inadequacy of relying based on fault as a necessary element in the realization of civil liability in the virtual space1, due to its differen3t and new characteristics and requirements compared to the traditional space, will be faced with more acceptance of businessmen on the world stage.

7. Basics of The Civil Liability of Arbitrator in Cyberspace

Considering that the arbitrators get the permission and authority to deal with disputes between the parties through the arbitration agreement that the parties to the dispute have drawn up or agreed upon in some way (either in the form of an independent arbitration agreement or in the form of a condition in a contract included in commercial and non- commercial contracts other than arbitration),1 and these contracts a5re concluded in virtual arbitration in the form of virtual contracts, it can be said that one of the foundations of the civil liability of arbitrators in arbitration proceedings is the contractual foundations1 , the most common of6which, one is in the form of an implied condition of the arbitrator's obligation derived from the general spirit governing the rules and regulations of arbitration, as well as the arbitration agreement concluded between the parties and the arbitrators1, and the other one is 7the specification of the contractual liability of the arbitrators in the international commercial arbitration

1 - Talati Fadafan, Shaha3b Al-din & Akhavan Fard, Masoud,

Civil Liability in Cyber-Space,

Islamic Azad University. статья в журнале - материалы конференции. Английский. 2019, pp. 43 and 44.

1 - Aini, *ibid*, pp. 76 and 477.

1 - Shiroui, Abdul Hosse5in, (2016), *International Commercial Arbitration*, Publications of

Organization for Studying and Compiling Humanities Books of Universities (Samt), 6th edition, pp. 58 and 59.

1 - Article 226 of the Iranian Civil Code 1934: "In the event of non-fulfillment of an undertaking by one of the parties, the other party cannot claim damages for loss sustained, unless a certain period has been set for the fulfillment of the undertaking and the aforementioned period has expired. If no period has been set for the fulfillment of the obligation, the party can claim damages when the discretion for fixing the period for such fulfillment was vested in him and if he proves that he demanded the fulfillment of the obligation. Article 227 of the Iranian Civil Code 1934: "The violator of the obligation is sentenced to pay damages when he cannot prove that the non-fulfillment was due to an external cause that cannot be attributed to him". 1 - Mafi, Homayoun & Hosseini Moghadam, Seyed Hassan, *The concept and scope of civil liability of arbitrators*, legal research journal, volume 17, number 66, summer 2014, p. 43.

agreement, both of which (an express condition in the contract and the implicit condition in the contract) accordance with the general rules of contracts.¹⁸ On the other hand, the realization of the civil liability of arbitrators is not always based on a contract, and the civil liability of the arbitrator may be based on non-contractual liability or, in other words, non-contractual requirements¹, and of course, in the event of any loss and the existence and verification of the elements of civil liability, and especially the existence of a causal relationship between the loss by the arbitrator and the damage to the parties, they (the arbitrators) are obliged to restore the situation to the previous state and, as the case may be, compensate the parties or one of them.

This issue, according to the provisions of most advanced arbitration systems in the world, such as the arbitration systems of the United States, Germany, England, the Netherlands, France, and the provisions of the UNCITRAL Model Arbitration Law of 1985, amended in 2006, as well as the provisions of the Iranian arbitration system and its related laws, such as Iran's International Commercial Arbitration Law 1997, and implicitly in Iran's domestic arbitrations (taken from the arbitration provisions contained in Iran's Civil Procedure Code 2000), as well as the standards of valid international conventions, including the Washington Convention (establishing the International Centre for Settlement of Investment Disputes (ICSID) in 1965), has been approved and supported by the domestic and international legislator.²⁰ Of course, it should also be noted that according to the standards of Article 16 of the revised UNCITRAL Arbitration Rules of 2010, as well as the general rules of civil liability, if there is an agreement and consent between the parties and the arbitrators, this clause can be included in the arbitration agreement that the arbitrator or

arbitrators are exempt from civil liability in case of fault and as a result of damage and loss to one of the parties, and this cancellation of the obligation or obligations of the arbitrators can be in the form of an exemption clause (non-liability clause) or a clause limiting liability (partial exemption of liability) which is in the form of percentage limitation (for example, payment of damages up to 50% of the damage or the monetary equivalent of 1 - Taghipour, Bahram, *Arbitrator's liability in the laws of Iran and some countries*, *Journal of Comparative Law Studies*, Volume 5, Number 1, Spring and Summer 2014, pp. 51 and 52. 1 - Aini, *ibid*, pp. 72 and 973.

2 - Joneidi, Laya, (19990), *A Critical and Comparative study of the Law of International Commercial Arbitration*, publications of Tehran University, Faculty of Law and Political Sciences, first edition, pp. 30 and 31. the damage) and lump sum limitation (damage whose amount is unchangeable and fixed).²¹

8. Obligation of Arbitrators to Compensate Damages in Virtual Space Arbitration

It seems that in the arbitration system of Iran, as well as the provisions of the UNCITRAL Model Arbitration Law of 1985, amended in 2006, as well as the UNCITRAL Arbitration Rules of 1975-1976, "liability of the arbitrators" is the principle; violation or non-fulfillment of contractual duties by arbitrators can result in performance guarantees for the parties, one of which is civil liability. This type of liability also exists in virtual arbitrations and can be realized; accordingly, if the arbitrator commits violations in the virtual space arbitration, they will be subject to civil liability (obligation to compensate material, spiritual, or physical damages, depending on the case).

By looking at the provisions of Iran's International Commercial Arbitration Law, it is found that the law is silent on the issue of the civil liability of arbitrators, but Article 501 of the Civil Procedure Code of Iran², in the field of domestic arbitration, foresees the civil liability of the arbitrator and has put the principle on the responsibility of the arbitrators; according to the above article as well as the general rules governing the contracts², the arbitrator will be responsible when he commits violations in the performance of his duties, including fault, fraud, or subreption, and due to them, damages or losses are caused to the arbitration party or parties, and in addition to them, the causal relationship between the non-fulfillment of the obligation by the arbitrator and the damage caused to the injured party must also be established. Even though the aforementioned legal article states some conditions of the civil liability of arbitrators (the independence and neutrality of the arbitrator), nevertheless it can be said that in Iranian law, the responsibility of the arbitrators has not been independently regulated by the legislator. Therefore, according to the rules and regulations governing arbitration, the arbitrator will be responsible for compensating the damages in the

2 - Katouzian, Nasser, *Extra-Contractual Obligations*, *ibid*, pp. 304 and 305.

2 - Article 501 of the Civil Procedure Code of Iran 2000:

"Whenever a financial loss is caused to a party or parties of a dispute as a result of subreption, fraud or fault in the performance

of the duties of the arbitrators, the arbitrators will be responsible for compensation according to the legal standards". 2 - Contracts and transactions and obligations: articles 183 to 300 of the Iranian Civil Code 1934.

9. Following Cases

The arbitrator's violation of the terms contained in the arbitration agreement, fault in disclosing the common interests of the arbitrator or arbitrators with a party or parties, withdrawing from the arbitration proceeding without reason, failure or delay in issuing the arbitration award, non-observance of the principles of confidentiality of arbitration, failure to respect the independence and impartiality in the arbitration, and causing damage to one or both sides of the dispute and establishing the relationship of causation. 24 In domestic laws, the guarantee of implementation of civil liability is provided for the judges of the courts, but the acceptance of civil liability for the arbitrators is a matter of debate and consideration; it is because there is no authority designed to investigate and verify the violations of the arbitrators, but Article 473 of the procedure code of general and revolutionary courts in criminal matters has provided the guarantee of civil enforcement for arbitrators, which according to the provisions of the mentioned legal article: "if the arbitrator does not attend the arbitration session without a valid excuse or refuses to issue a decision, he will be deprived of the right to be elected as the arbitrator for up to five years as a guarantee of civil enforcement (civil liability)". Also, the dismissal of the arbitrator in organizational arbitrations is considered a guarantee of civil enforcement.

UNCITRAL's arbitration regulations are silent on the civil liability of the arbitrator, while the arbitrator may violate some of his or her duties and responsibilities. One of the important contractual obligations of the arbitrator is the "settlement of disputes between the parties", and in this regard, the arbitrator must examine all the issues raised by the litigants and decide on them. Another contractual obligation of the arbitrator towards the parties is "not to resign without justification"; that is, the arbitrator is bound by the arbitration agreement that he completed his mission by issuing a final and binding decision. Another important obligation of the arbitrator is to "observe the confidentiality of the arbitration". For example, in the French arbitration system, the confidentiality of the arbitration is related to the passion of the arbitrators to issue an award.

Unfortunately, by carefully studying the provisions of the UNCITRAL Arbitration Rules of 1967 and the provisions of the Model Arbitration Law of 1985, we conclude that we are facing a gap in the legal text and there is no justifiable and acceptable reason for resigning from the position of arbitration and as a result, the realization of the responsibility for the arbitrators, and the arbitrators are obliged to compensate the damages only if they can compensate the damages caused to the parties; this provision 2 - Aini, *ibid*, p. 119.4 is detrimental to the parties of the arbitration agreement and will somehow provide a way to avoid civil liability for the arbitrator or arbitrators. But there is hope that in the ICSID regulations on Investment Arbitration, UNCITRAL Arbitration Rules, and International Chamber of Commerce (ICC) Arbitration Rules², there is a focus on the

arbitrator's ability to make independent and impartial decisions. 26 By examining the regulations governing international arbitration, including the UNCITRAL Model Arbitration Law and also the UNCITRAL Arbitration Rules, it seems that the rules for realizing civil liability for arbitrators can be set based on 3 sources: "Terms of Reference", "Substantive Law Governing the Arbitration Agreement" and "Formal and Procedure Law Governing the Arbitration Process".

The limitation of liability in the arbitration agreement is only in the form of explicit inclusion of the clause of non-responsibility (exemption) of the arbitrator. If there are explicit or implicit provisions regarding the civil liability of the arbitrator in the existing arbitration regulations, or the parties agree with the arbitrators on having civil liability and the obligation to compensate the damages by the arbitrators, in practice, the civil liability of the arbitrators is incurred in case of damage. The parties have accepted the arbitration agreement and must adhere to its provisions.²⁷ As mentioned, given that virtual arbitrators, like traditional arbitrators, have jurisdiction over disputes occurred between them from the virtual arbitration agreement, one of the bases of the civil liability of arbitrators is "cyber arbitration contracts" and according to Iran's international commercial arbitration standards and the UNCITRAL model law, several conditions for the civil liability of the arbitrators for damages caused by the implementation of the contractual duties of arbitration may be foreseen in the electronic arbitration contract, and in case of violation of virtual contractual obligations by the arbitrator, his contractual responsibility shall be realized; in addition to this, according to the arbitration agreement, the parties to the virtual arbitration can, by mutual agreement, include an exemption clause (non-liability clause) for the arbitrators, or the arbitrator states that he will accept the arbitration of the referred case only if the non-liability clause is included in the arbitration agreement. 2 - ARBITRATION RULES In force as from 1 March 2017 MEDIATION RULES in force as from 1 January 2014, International Chamber of Commerce (ICC). 2 - see, *ibid*. 62 - Akhavan Fard, Masoud & Shahidi Sadeghi, Reza, (2021), an introduction to cyber arbitration law, Majd Publications, second edition, pp. 125 and 126.

Regardless of the arbitrator's liability for damages under the arbitration agreement, civil liability may be realized under extra-contractual obligations; for example, if the virtual arbitrator receives a bribe in any order and any amount (either physically or through electronic transactions and...), or sends arbitration notices electronically with malicious intent and intentionally late or causes the cancellation of the virtual arbitration agreement, due to causation, he is responsible for compensating the damages caused to the parties of the virtual arbitration agreement.²⁸

10. Summary and Conclusion

From all the legal discussions and analyses that were explained and described in this research work, it can be concluded that: Commercial arbitration is among the most common dispute resolution methods in domestic and international disputes outside of the courts. Today, due to the increasing developments of new technologies, including virtual technology, we are faced with many

developments that take place in different areas, dimensions, and aspects, and among the most important developments in the world of law is the discussion of “civil liability of arbitrators in virtual space”. The legal system of common law in countries such as the United States of America and England has accepted the “principle of immunity or exemption from liability” for the arbitrator; on the other hand, the legal system of civil law in countries such as France and Switzerland, as well as Iran's arbitration system, has accepted the “principle of arbitrator's liability”. Due to the gap in legal texts and the lack of provisions in valid international laws and conventions, such as the UNCITRAL Model Arbitration Law of 1985 and its amendment in 2006, the UNCITRAL Arbitration Rules of 1976, and the International Chamber of Commerce Arbitration Rules of 2017 regarding the responsibility of the arbitrator in cyberspace, and on the one hand, considering that virtual arbitration and traditional arbitration, especially in terms of substance, have almost the same effects and rulings, the responsibility of the arbitrator in virtual arbitration is the same as in traditional arbitration.

From our point of view, the basis of fault as a necessary element in the realization of civil liability does not seem suitable and the more favorable criterion is the criterion of civil liability contained in the Iranian Civil Code, which is the verification of the 2 - see, *ibid*, p. 126.8 “causation and attribution relation”. Therefore, it seems that the turning point of view of legal systems about civil liability from the criterion of ascertaining fault to the criterion of ascertaining the causation and attribution relation in recent years even in arbitrations heard in virtual space, despite its distinctive and new features and requirements compared to the face-to-face space, will be faced with the greater acceptance of international traders and businessmen who are parties to commercial disputes.

According to the standards of Iran's legal system and the provisions of the UNCITRAL Model Arbitration Law of 1985, amended in 2006, as well as the UNCITRAL Arbitration Rules of 1975-1976, the “liability of the arbitrators” is principle and therefore, violation or failure to perform contractual duties correctly and on time by arbitrators can result in the realization of civil liability for them. And we should know that civil liability can also be realized in virtual arbitration; in this way, if the arbitrator commits violations in the virtual space, he is subject to the guarantee of civil enforcement and is required to compensate the damages caused to the parties of the virtual arbitration agreement. In the Iranian arbitration system, according to the arbitration laws, if the arbitrator, both traditional and virtual, violates the terms of the arbitration agreement, does not declare his common interests with one of the parties, resigns without a valid reason, fails to issue an award, or does not respect the confidentiality, independence, and impartiality of the arbitration, in case of damage to one of the parties, is responsible for the compensation of the damages, on the other hand, the general spirit governing the laws and legal logic also requires that no damage should be left uncompensated.

It seems that the rules of civil liability of the arbitrator can be adjusted based on the terms of reference, the substantive law, and the formal law. Since the virtual arbitrators obtain the authority to deal with disputes from the virtual arbitration agreement, one of the

bases of the civil liability of the arbitrators is the “virtual contract” and the virtual arbitration contract may provide conditions for the civil liability of the arbitrator. In case of violation of contractual obligations by the arbitrator, the contractual responsibility of the arbitrator will be realized. In addition, based on the arbitration agreement, the parties can include a non-liability clause for the arbitrator. In addition, it should be noted that the realization of civil liability is not always based on the contract, and the civil liability of the arbitrator may be realized based on non-contractual requirements; now, in case the arbitrator receives a bribe, sends arbitration notices electronically with malicious intent and intentionally late, or causes the cancellation of the virtual arbitration agreement, due to causation, he is responsible for compensating the damages caused to the parties of the virtual arbitration agreement.

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