

## The enforcement of the arbitral vote in the legal system of the Iran and UK

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**Abstract:** In the era of globalization, one of the areas where there is a strong need for change and innovation in the field of judgment and other methods to resolve disputes. Lawyers on both sides to resolve their differences through a fair mechanism to deal with the rights of private domestic or foreign agree. In this way, support universally accepted as a fundamental human right should also be considered to be a global innovation, while approaching the goal of justice, save time and manpower. Judgment shall be a judge agreed with this approach, although the private type, but it is important that the final result, product of the process is fair and proper claims of the parties to be heard. To achieve this goal is not only to be fair procedure, but the parties and especially the loser should just feel it. This approach to solving international disputes between states is based on the fundamental principle that the courts below arbitration and international law only if explicit expression of the will and consent of the parties to the dispute will have jurisdiction. This principle in all areas where governments have the legal dispute, the ruling. In addition to evaluating the recognition and enforcement of arbitration decisions in the legal system of statutory and non-codified legal system of civil law, foreign and international arbitration rules, rejection of arbitration and the arbitration clause in the contract to provide the main focus is for purposes of explaining the proper response to survey questions based on reliable sources and analyzes the entire collection. So what you have is based on general concepts, theoretical framework) and an analysis of both the legal system and enforcement of judgments of arbitration is concluded.

**Key words:** After the identification; Implementation; Arbitration decisions; Iran; England; International business law; Codified legal system; Legal system of

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### 1. Introduction

In today's changing world of traditional methods alone cannot meet the needs of the people. Nowadays people do not waste time to settle disputes and to wait months or years. The result is that no matter how valuable they cannot be equal to the value of time and not be judged on the latest knowledge and technology, surrounded by traditional chiefs and can coordinate justice knowledge.

For this reason, men in different areas of the world prefer who the differences in each field of the string to be processed by experts to be the time and for less money justice and knowledge to be coordinated so that effective today expert groups to resolve differences emerged in developed countries and significant interest in pushing many disputes to arbitration in the world of professional bodies found. There is an introduction to the arbitration method and dispersion methods and attitudes and perceptions of many Arbitration Rules and the disorganization and confusion caused by the fact that arbitration rather than facilitating the loss of jobs and increased referrals to the Justice difficult

problems.† And the stress and confusion caused by the fact that arbitration rather than facilitating the work and loss of references to justice problems has added to the problem. Also, the rules for the enforcement of foreign arbitral awards and international special regulations have been enacted however, with the extension of the provisions relating to the implementation of the theoretical ideas of foreign courts; foreign arbitral award is an opportunity to execute. Enforcement of arbitral awards in international law, international commercial arbitration in 1376 with many shortcomings, knowing the layout of the files that run solely by this law is enacted.

In this article, according to domestic and international commercial arbitration rules in comparison with the existing legal system of England

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† . In this system, the arbitration procedure itself takes some time after the issuance of the notification of the award and execution of It, unfortunately, become a full judicial proceedings in the court of the first two stages of the revised and then an action for annulment of judgment begins with the different methods and the case is completed in two stages of procedure in courts of first and revision continues

If the parties do not resort to methods that usually are wonderful to deal with judgments, actually more than double the normal court procedure lasts.

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and expression have been similarities, differences, generally how to identify and carry on votes by arbitration in civil law system (Iran) and blank (UK) is a major research questions. Its main purpose, familiarity with the legal system of recognition and enforcement of arbitration decisions and to share with legislation and reference and guidance of claims in commercial litigation and international arbitration organizations, local and foreign investment is in creasin.

## 2. Research

This research is based on the Library with books and journals, both domestic and foreign legal form and by taking notes of this information for the purpose of further analysis will be required. Data centers provide a bibliography of books and libraries, information is extracted.

First topic: Theoretical Frame work Enforcement of arbitration award the law of international commercial arbitration in Article One, arbitration is defined as "the arbitration and dispute resolution between the claims out of court by a natural or legal person or persons consenting or appointed." This definition, in However, the law of international commercial arbitration, the full definition and domestic arbitrations, including is.

From the perspective of law, enforcement of the award means that the court referred to arbitration after the receipt of the award, the judge ordered the filing of ratings and certified copies shall be communicated to the parties and the award goes to enforce such judgments. (David, 1997) When a dispute is referred to arbitration, the arbitrators in the arbitration agreement and the provisions of the judgment and will proceed to verdict. The award itself has no executive power, but if convicted of the award; it does not run in its sole discretion, may ask the court sentenced crushed to make it run. The Court of Appeal examined and if necessary command is issued. (Article 488 of the Civil Procedure Code.) Thus, the court ordered that the executive power to award grants (Shams, 2009).

### 2.1. The nature of arbitration

Arbitration is a dispute settlement mechanism. And arbitration in the public system and a private system is operating. The nature of the arbitration will be categorized into 2 groups:

First, the Court of Arbitration: Arbitration of this theory is the fact that the control of government regulations and due to its state sovereignty and authority to judge that it happens in the realm of governance in order to set and monitor.

Seconded; the arbitration agreement: According to this theory, contract, agreement, which is the origin of the judgment and the judgment of credibility, ink, select the referee, the referee, regulations relating to the handling and investigation of the arbitrator is binding even explain his vote.

Even binding arbitration award of the contract concerns the binding. (Sites; mihanblog.com)

## 2.2. International Arbitration

International approach to solving international disputes in which the parties to have recourse to judicial body, your trusted refer their dispute to an arbitrator. Recourse to arbitration may be different after birth or during the contract (arbitration clause) be predicted. The dispute settlement procedures are often used in international commercial contracts. If, between the two governments, the difference is, they have elected judges, according to legal provisions, the settlement mentioned elsewhere. Some wrongly believe that judges are elected, the government will have negligible. Furthermore, in this paper, goodwill is. Article 2 of Jerjesel well as Article 51 of the Treaty of 1907, the content is clear, however, Article 2 Jerjesel plan is more important: If the parties have not previously agreed on Comperomy can at least respect the following principles:

(A) Commitment to Arbitration

(B) The difference

(C) How courts and judges. (Amir Shekary; political.ir)

## 3. Judgment resolving the legal relationship between states

### 3.1. Characteristics of arbitration between states

Due to the impact of the judgment on the arbitration confidential or public; It should be noted that the International Centre for Settlement of Investment Disputes that the World Bank has been established for resolving investment in other countries have adopted different policies. Records are regularly followed in the judgment of the announcement and will be published in accordance with Article 48 shall vote only full content of Washington dated March 18, 1965 will be treated as confidential. The reforms that the arbitration provisions in Article 6 of the Convention of 26 September 1984 on the basis of the above, there was the possibility of publication of arbitration decisions because the parties to the arbitration shall be implicitly accepting their consent to publication ((summary of the legal rules who were imposed by the trial judge to)) International Center for the Settlement of Investment Disputes are announced. This indicates that the characteristics of arbitration between governments. This will be discussed below.

### 3.2. The confidentiality of arbitration

Legal nature of the closed nature of judicial arbitration agreement plays an advisor to the general rule is that there are different kinds of trials. Arbitration is not an exception and consultation to decide in secret arbitration. After the hearing, respect for the referee to stop the independence of

judges and other judges in the position solution is exposed. In this situation, consider the enforcement of disclosure after the referee's responsibility to disclose the secrets; the judge disclosed that he is. So, the secret to making a decision in the proceedings, ad hoc advice (Junaidi, 2009) its essence and its non-public trial, and it does not spread. These restrictions prevent the disclosure judgment on others, and especially not by others, such as parties (Loquin, 2006).

### 3.3. The scope of the obligation

In cases where confidentiality is to be noted only in the original contract. Some believe that this commitment on the judgment of the contracts, Specifically, the contract signed between the parties and the arbitrators and the arbitration agreement between the parties and institutions organize judgment is signed, when a series of light shining judge declared confidential by the parties, such as the judge judges judgment shall not be disclosed. (Junaid, 2009)

### 3.4. Foreign and international arbitration rulings

Foreign and international arbitration rulings in what are called decrees. Foreign and international rule of law is not defined. Articles 972 and 975 of the Civil Code provisions only foreign courts, if not against public order, permitted by law and the provisions of Article 169 of the Civil Code stated in the conditions of the foreign judgment. However, the provisions of the Civil Code and the provisions of the Civil Code provisions relating to foreign courts and foreign or international arbitration rulings are not. (Nasiri, 1968) Outside of the legal rules and procedures apply to foreign arbitration rulings have been defined, however, different countries have different criteria for defining it considered that consequently led to different definitions. (David)

### 3.5. The most famous foreign and international arbitration rulings criteria

The most famous of these criteria, the following two criteria: the territory of the provisions adopted in common law countries. In these countries, primarily the arbitral award is subject to specific territorial and therefore the provisions of the arbitration provisions are divided into internal and external. Internal legal order of who judge in the land command is issued. Conversely, any judgment given outside the territorial judge considered external command is issued. The British authority in issuing the command is executed; the internal vote will recognize who the UK is issued. (Bordbary, 1987)

The second criterion, which most civil law countries, such as France, Switzerland, is used to indicate the procedure to follow the rule of law. According to this rule, for national law to arbitration

proceedings under the law of that country has been ruled out, although the Interior issued; conversely, the award issued in a foreign country, if the national rules apply to sentencing proceedings, the interior will be considered.

Thus, the Court recognizes who implementation of the provisions of the new law in France, there is a French civil procedure issued its judgment, whether outside or inside France issued.

The third criterion, who has been adopted in some of the Cantons of Switzerland, national courts are competent to indicate compliance. In this case, if the referee has examined differences in the national courts have jurisdiction, domestic arbitration award shall be considered as foreign territory, even though the law other than the law of the relevant Canton issued; conversely, if the national courts are not competent to deal with the dispute in accordance with the domestic law of the country in which the proceedings were to be voted out. Above three criteria for the definition of a foreign arbitral award in international news groups, but none of them were not defined. Perhaps because it has long been perceived difference between the rights of foreign and international law. (Consistory, 1991)

In international commercial arbitration rules of the International Arbitration Act 26/06/76<sup>‡</sup> defined as follows: International arbitration is that one of the parties to the arbitration agreement is not in accordance with the laws of Iranian nationals. As can be seen in comparison to the scope defined by Act of Parliament in 1492 is very limited French Civil Procedure Code and in combination with other substances, particularly article 35 of the Law on the Implementation of the vote, the practical application of law to any reduction that will be discussed later.

### 3.6. Quality notification and enforcement of civil rights award

After the award was issued, in accordance with Article 485 of the Civil Procedure Code, if the parties to the arbitration agreement is not expected to be a certain way to convey the arbitration award, the referee is required to cast their vote in the office of the court case the judge or court who has jurisdiction over the case to submit.

### 3.7. Optional shell award

Sentenced usually give the award to run. Legislator sentenced to twenty times a day, or two months from the date of notification of the award decision has been given the authority to implement; otherwise it is possible to implement compulsory voting against him. (Shams, 2009,)

### 3.8. Lack of enforcement authority award

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Sanction non-compliance by the sentenced award, it is the duty of the court to issue an executive. It occurs when the court decided that the beneficiary of the award (Les sentence) to apply to the court, the execution of the request.

Requested the annulment of the award requires the petitioner to pay stamp duty and not hearing. Enforcement of the award to pay the amount determined by the court to be sentenced on the charge. (Mohajeri, 2001)

### **3.9. Issuance of Executive**

Under the provisions of Article 488 of the Civil Procedure Code and issuing executive requested arbitration award, voted against the implementation of legal provisions. Therefore, law enforcement and civil reforms, as well as the implementation of the award will be binding (Shams, *ibid.*, P. 569).

### **3.10. The competent authority to issue an executive**

After notification of award, shall be sentenced to 20 days from the date of notification, to implement the provisions of the award. Otherwise, under article 488 of the Civil Procedure Code the court is obliged to apply the beneficiary leaves the arbitration award issued by the Executive.

### **3.11. Objection to the award**

If you vote for or against the rules without creating unjustified referee was right, The beneficiary has the right to ask the court to invalidate the vote. Authority competent to deal with the objection to the arbitration award, the court referred the case to the judge or court that has jurisdiction over the case.

### **3.12. Void and lack the ability to enforce the award**

Under Article 489 of the Civil Procedure Code in the following award is void and has no functionality:

1. Judgments' against source code is right.
2. The challenge is not to judge what the vote is issued.
3. The referee has made a decision out of his hands.
4. After the expiration of the arbitration award is issued and surrendered.
5. The decision of the arbitration between the parties or by an office property in the material records and validated against the law.
6. Ratings issued by the referees who are not authorized to issue ratings
7. Refer to the arbitration agreement was void.

### **3.13. Second topic: literature**

Zahrai (2005), in his article titled "The sanction of international arbitration decisions," wrote : "The

government signed an agreement for a peaceful resolution of the dispute to arbitration or judicial settlement of disputes or the greed of international multilateral donor development, your assignment is to take the form of inattention or violation of, international responsibility is causing them, "This is a principle that no one can act contrary to their own benefit and legal rights and recognized by international law and is rooted in the principle of good faith, consequently, the government is ignoring the rules and principles of international law to implement rulings or judicial decisions or international arbitration is not obliged to compensate for damage caused by improper operation of their that this action in the form of restoring the former situation, compensation in the form of substitution "

Riyazi (2013), "rule of law is codified and nothing else." "The law of the country, which means that the warranty has run out, and nothing else statute countries such as Britain and the US legal system, known as the common law judge thinking mostly without resorting to there is no law. American and British judges, although no obligation to follow the law, judgment, wisdom and conscience that it could not confirm if the failure is expected to have been resolved in a higher court. In these countries, only those provisions, known as case law an dun written law to lack credibility Act of Parliament, in compliance with the prevailing rule of the higher courts the decision of the judge sis" he said.

Junaidi (2009), "the implementation of the judgment of annulment of the vote," "one of the most controversial issues of international commercial arbitration in the past two decades, the issue of enforcement of arbitral award in the country to issue a more comprehensive or phrase in the country of origin are cancelled The possibility that the New York Convention for the annulment of the vote due to the cancellation of all known principles of the law of the country of origin is considered judgment, contrary to what is theoretically comes to mind is not so great in practice. Batemany, Ziyae (2012), the independence of the arbitration clause in contracts with an international comparative study of international law and human rights in Iran, whether the arbitration clause of the contract, the contract is in dependent or not .But more detailed analysis can be made a distinction between the two questions .But more detailed analysis can be made a distinction between the two questions. In the case of independent arbitration clause, some writers have said that the initial condition is not valid arbitration clause, like the other provisions of the contract, the contract is subject and there is no in dependent arbitration clause topics and philosophers believe that it is an independent contractor and that the mere fact that the parties intended to contract separately included in the original contract, means no stipulation in the common law and judicial practice in England, under the principle of separation of the issue of the independence of the arbitration clause or arbitration

clause multiplicity and difference of the original contract, are discussed. In international law, domestic law which is contrary to the law, the judge is qualified, competent arbitration agreement between the parties is derived from.

Khazaei (2013), after the rights of domestic and international trade, "in domestic law and international trade referred to arbitration to resolve disputes arising from commercial contracts is increasing. Fundamental to arbitration, the arbitrator. The referee shall be judge of ability and competence. Some times as single arbitrator or arbitral tribunal, sometimes with a specific in situational done. Judges of the Court shall cooperate and sometime seven in the hierarchy are necessary.

#### **4. Third-analysis findings topic**

##### **4.1. Rules of the law of England**

For the judgment of the courts of England was facing serious obstacles including judicial intervention, finally, after several amendments to the Arbitration Act, enacted in 1950 and 1979. Finally, in the Arbitration Act 1996 to remove many of the barriers and former problems and facilitate international arbitration, more attention has been given. British legislators in drafting legislation, urging the lack of influence of the sample, but the multitude of similarities between the Model Law and Arbitration Law of England revealed that another judge. Law on International Commercial Arbitration, the UNCITRAL Model Law as the main reference is at the same time it is also applied to the internal situation in Iran.

##### **4.2. Principles governing commercial arbitration in English law**

(Artoor. Gingez) Between 1971 and 1977 he taught at the University of Reading, UK judgment to bear and the important practical experience in the field of commercial judgment in his book (Practical Guide was published in England in 1984 judgment, various aspects of the business judgment with an emphasis on British law, the preliminary stages to the final stage of the flowing pen.

##### **4.3. Position in comparison to judicial arbitration court**

As most people are aware that litigation is a tool to solve and by referring the dispute to a court or a judge there is another way to resolve the dispute, be referred to arbitration. Arbitration proceedings are private and simplicity of the various benefits of privatization can be simple and informal adjudication of the judgment cited. In one sense this is somewhat in convenient because the resulting judgments do not create something similar precedent cannot be a referee in the other case cited

be, For each case according to its nature and with minimum formalities to be examined and the verdict is not obvious exception is the addition of each case according to its nature and with minimum formalities are examined and the verdict will not be made public. Moreover, except in limited circumstances prescribed by the law of England in 1979, in other cases, the sentences are issued on the basis of its usual practice, Because decisions are not mentioned and this is another practical obstacle in the way of invoking the provisions of the judgment, even if they are open.

An important feature of the arbitration proceedings in England city court judge was end it led to take legal information he is required. (Of course, such a right under the law of 1979 is somewhat limited) knowledge and experience to challenge the claim in the role (expert third) plays alongside the parties.

Under British law, such agreements cannot be resolved in accordance with the Arbitration Rules but in this case there will be the only way, court according to the general rules of common law, which for obvious reasons can be very difficult. The minimum requirements for a valid arbitration agreement is valid and enforceable judgment separately in Section 32 of the Arbitration Act 1950, the UK has come to this: (A written agreement to refer disputes to arbitration the arbitrator specific current or future or not) of this Section 7(1) of the Act of 1975 and Section 7(1) of the Act of 1979 also emphasizes the course somewhat has also been changed. However, the fact that an arbitration agreement is effective and practical, the main issue to arbitration shall be in addition to other things, the parties to the arbitration procedure and the issues that the parties in accordance with their right under the Act of 1950 is intended to clarify that it refers to. England Act 1950 provides that the parties together to agree on specific topics of the judgment.

##### **4.4. Feet in 1950 after Britain**

England Act 1950 Section 2 provides that a judgment on the validity of the death of one of the parties to the Agreement will not affect the result of the agreement will be applicable. The arbitrator's authority by the death of one of the parties to an agreement whereby the selected arbitrator will not change if the arbitrator dies or refrain from performing their duties or their capacity to carry out the task of losing, The parties (or one of them) can be determined pursuant to Section 10 of the Act of 1950 apply to the court to accept a new challenge. When a new challenge to the judgment of the first day back, unless it agrees a new challenge (or to the side of her wish) the steps that have already passed the approval or acceptance. (vahidned.parsiblog.com 2012)

##### **4.5. Neutral referee**

Neutrality "refers to the subjective intentions of the parties or the subject of the challenge is different. After the meantime his citizen ship regardless of citizen ship between the parties is the impartial neutrality must be substantially none of the parties feel that the judges' directions, it is possible to take the other side. For example, paragraph one of the Seven Rules of Arbitration of the International Chamber of Commerce provides that "judges should be independent of the parties to the arbitration and the arbitration and stay independent" (clerical, 2013,18) Generally, about the lack of independence and impartiality of the arbitrators shall be understood that a broad interpretation would replace the restricted interpretation. Accordingly, it is not independent and non-party challenge of gaining some measure of "reasonable and justify able doubts" had used (such as the "C" in Article 180, paragraph one and paragraph two of Article 12 of the Swiss law and the UNCITRAL model arbitration clause second, Article 1036 of the Civil procedure Law, Germany) and others standard "real risk" and lack of impartiality to be considered.<sup>§</sup>

Considering all these factors should aim to adapt the confidence and trust is fairer judgment is determined

and interpreted. UK Arbitration Act 1996 enables the parties that "if there is evidence that the circumstances justified doubts about the impartiality of a judge" to refer to the courts of his injuries. Courts, judges and juries voted Britain should follow the same standards of fairness. Propositions about the impartiality of the courts of England recently to arbitration or judicial proceedings have taken.

Two criteria used for assessing the fairness of the courts of England. The first criterion of "actual bias" is. It is difficult to prove actual bias and actually it does not rely on other criteria "apparent bias" is.

## 5. Enforcement of foreign arbitration rulings (comparative)

Recognition of the principle of non-interference in the internal affairs of state with limited sovereignty and they are discussed in public law, prevents direct implementation of its provisions by the courts of one country in another country; in other words, no government itself to implement the judgment in a foreign country.

### 5.1. Reference demand execution

In accordance with the provisions of Article 170 of the Code of Civil reference request the court condemned the city of residence or place of

<sup>§</sup> Although the arbitration law of England in the "A" section of a standard 24 "reasonable doubt" as to the arbitrator's impartiality makes clear that, in the case of sub-standard British court "real risk" is used in its decisions. *AT & T Corporation and Another v. Saudi Cable Co.*, (2000) 2 Lloyd's Rep. 127; *Laker Airways Inc. v. FLS Aerospace Ltd* [1999] 2 Lloyd's Rep 45.

residence. If the residence or place of residence condemned Iran is unknown, city court of Tehran. Due to legislative changes and reforms between 1986 and 1993 and 1995, at the request of the current reference implementation, general Court condemned residence or place of residence and if her residence or place of residence is unknown, Tehran General Court, including the local authority. In most countries (e.g. Turkey) the competent authority for ordering the execution of foreign judgments, the center court. In countries that have agreed to implement the provisions of a foreign judgment, for some non-judicial authority of the export in authority in the center. (Rabi Koral, 1989)

### 5.2. Control rule

Before implementing the provisions of the foreign judgment, demand judgment enforcement authority to control the foreign judgment. The time control is essential and now forms. Until the second half of the nineteenth century that it was essential to control the execution limit was described. (Diamond, 1998) The truth is that systems, besides political and administrative considerations, according to legal standards. For example, in English law, though it is worth it leads to the award, the arbitration shall be conducted regularly and properly identified and execution of public policy for the implementation of the principles is not.

The rights of the formal conditions of Article 169 of the Civil Code with the substantive provisions contain edit Articles 665 and possible obstacles in the rules for foreign arbitration rulings may have to be collected. And the reform foreign arbitration rulings ordering the execution of both the substantive and the shape is very difficult. In such circumstances incentives for foreign investment and foreign exchange was not obtained.\*\*

### 5.3. Identify the provisions of international arbitration International orders description

Judgment delivered in international law, although narrowly defined, but contrary to the spirit of the law in court as the supervisory authority (Article 6) multiple opportunities to intervene in the affairs of the arbitration agreement and it clearly states That (Article 21), in international commercial arbitration (ph. Fouchard and Rev. arb, 1970)

## 6. International arbitration and judicial immunity

\*\*For further reading see: Hoseen. Khazaei, foreign investment in Iran and Article 81 of the Constitution of the Islamic Republic of Iran, of legal justice, four this sue (summer 1993). The two main foreign trades, foreign investment and the resolution of disputes arising from foreign investment there. The two axes of both Article 81 and 139 of the Constitutions limited. And possible obstacles in the rules for foreign arbitration rulings may have to be collected

## 6.1. Invoking immunity from prosecution in a court of arbitration

When the referee in international arbitrations, citing his immunity from prosecution to prove its competence and, on the contrary, the beneficiary according to the competent judicial immunity challenge is denied.

First Award sponsored by the International Chamber of Commerce No. 2091 issued by the judge's immunity from prosecution to prove its jurisdiction has been invoked.

II. In another vote on the issue in 2321 under the supervision of the International Chamber of Commerce has been granted immunity from prosecution, according to the government, is expected to disqualify a juror.

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can be determined pursuant to Section 10 of the Act of 1950 apply to the court to accept a new challenge. When a new challenge of the first day back, unless it agrees a new challenge (or to the side of her wish) the steps that have already passed the approval or acceptance. (vahidned.parsiblog.com, 2012).

### 7.4. Neutral referee

Neutrality" refers to the subjective intentions of the parties or the subject of the challenge is different. After the meantime is citizenship regard less of citizenship between the parties is the impartial neutrality must be substantiallyn one of the parties feel that the judges' directions, it is possible to take the other side. For example, paragraph one of the Seven Rules of Arbitration of the International Chamber of Commerce provides that "judges should being dependent of the parties to the arbitration and the arbitration and stay independent" (clerical, 2013, 18) Generally, about the lack of independence and impartiality of the arbitrator shall be understood that a broad interpretation would replace the restricted interpretation. Accordingly, it is not independent and non-party challenge of gaining some measure of "reasonable and justify able doubts" had used (such as the "C" in Article 180, paragraph one and paragraph two of Article 12 of the Swiss law and the UNCITRAL model arbitration clause second, Article 1036 of the Civil procedure Law, Germany) and others standard "real risk" and lack of impartiality to be considered.<sup>††</sup>

Considering all these factors should aim to adapt the confidence and trust is fairer judgment is determined

and interpreted. UK Arbitration Act 1996 enables the parties that "if there is evidence that the circumstances justified doubts about the impartiality of a judge" to refer to the courts of his injuries. Courts, judges and juries voted Britain should follow the same standards of fairness. Propositions about the impartiality of the courts of England recently to arbitration or judicial proceedings have taken.

Two criteria used for assessing the fairness of the courts of England. The first criterion of "actual bias" is. It is difficult to prove actual bias and actually it does not rely on other criteria "apparent bias" is.

### 8. Enforcement of foreign arbitration rulings (comparative)

Recognition of the principle of non-interference in the internal affairs of state with limited sovereignty and they are discussed in public law, prevents direct implementation of its provisions by the courts of one country in another country; in

<sup>††</sup>Although the arbitration law of England in the "A" section of a standard 24 "reasonable doubt" as to the arbitrator's impartiality makes clear that, in the case of sub-standard British court "real risk" is used in its decisions. AT & T Corporation and Another v. Saudi Cable Co, (2000) 2 Lloyd's Rep. 127; Laker Airways Inc v. FLS Aerospace Ltd [1999] 2 Lloyd's Rep 45.

other words, no government itself to implement the judgment in a foreign country.

### 8.1. Reference demand execution

In accordance with the provisions of Article 170 of the Code of Civil reference request the court condemned the city of residence or place of residence. If the residence or place of residence condemned Iran is unknown, city court of Tehran. Due to legislative changes and reforms between 1364 and 1998 and 2001, at the request of the current reference implementation, general Court condemned residence or place of residence and if the residence or place of residence is unknown, Tehran General Court, including the local authority. In most countries (e.g. Turkey) the competent authority for ordering the execution of foreign judgments, the center court. In countries that have agreed to implement the provisions of a foreign judgment, for some non-judicial authority of the exporting authority in the center. (Rabi Koral and Rev. arb, 1989)

### 8.2. Control rule

Before implementing the provisions of the foreign judgment, demand judgment enforcement authority to control the foreign judgment. The time control is essential and now forms. Until the second half of the nineteenth century that it was essential to control the execution limit was described. (Diamond, 1991, p.82.) The truth is that both systems, besides political and administrative considerations, according to legal standards. For example, in English law, though it is worth it leads to the award, the arbitration shall be conducted regularly and properly identified and execution of public policy for the implementation of the principles is not.

The rights of the formal conditions of Article 169 of the Civil Code with the substantive provisions contained in Articles 665 and possible obstacles in the rules for foreign arbitration rulings may have to be collected. And there for e foreign arbitration rulings ordering the execution of both the substantive and the shape is very difficult. In such circumstances incentives for foreign investment and foreign exchange was not obtained.##

## 9. Identify the provisions of international arbitration International orders description

Judgment delivered in international law, although narrowly defined, but contrary to the spirit of the law in court as the supervisory authority (Article 6)

##For further reading see: Hossein. Khazaei, foreign investment in Iran and Article 81 of the Constitution of the Islamic Republic of Iran, of legal justice, fourth issue (summer 1371). The two main foreign trades, foreign investment and the resolution of disputes arising from foreign investment there. The two axes of both Articles 81 and 139 of the Constitutions limited. And possible obstacles in the rules for foreign arbitration rulings may have to be collected

multiple opportunities to intervene in the affairs of the arbitration agreement and it clearly states that (Article 21), in international commercial arbitration (ph. Fou chard and Rev. arb, 1970)

In arbitration, the parties will choose the law applicable to international arbitration institutions on various aspects of arbitration, with the exception of the agency's rules of procedure, usually, although arbitration is respected institution in the place of arbitration is done, but do not prohibit it in another location (For example, to apply the rules of arbitration courts Nsptral the Iran-United States, which was fore seen in Article 5 of the Declaration resolved, each of the serules is adapted to the circumstances; (SAFAEI, 1997)

## 10. International arbitration and judicial immunity

### 10.1. Invoking immunity from prosecution in a court of arbitration

When the referee in international arbitrations, citing his immunity from prosecutes on to prove its competence and, on the contrary, the beneficiary according to the competent judicial immunity challenge is denied.

First Award sponsored by the International Chamber of Commerce No. 209 issued by the judge's immunity from prosecution to prove its jurisdiction has been invoked.

II. In another vote on the issue in 2321 under the supervision of the International Chamber of Commerce has had been granted immunity from prosecution, according to the government, I expected to disqualify a juror. (Paragraph 7 of Article 3 of the Arbitration Act 1979) (r. C: Ashmy tuf, 2000 and Craig, 1990). US law, passed by the 1958 New York Convention on the Recognition and Enforcement of foreign arbitral award is accepted, and it does not run in the relationship between American citizens, such as the UK's position. Up-regulation of both the rules and regulations of UNCITRAL. It is concluded that in spite of the international recognition of foreign or arbitration, the criterion "residence" is mostly concerned parties; what is not addressed in the law of international commercial arbitration. The solution of the problem is that even if the law of the Iran-presently there are many? At the international level really cannot agree with each other on the assumption trade relations have recourse to arbitration, 1998 Law on Arbitration ruled, but only reflected in the Civil Procedure Law on Arbitration Rules will be governed. Act 1998 and the current solution thus far have limited the scope of the law and, in our opinion, should be excluded (It is also critical of the way of law, see § SAFAEI, 2004: p. 8). In the UK Arbitration Rules (Arbitration Act, 1950 and 1979), a decision on the independence of the arbitration clause was not found. But the common law and judicial practice in the country, the issue of autonomy under the principle of separation of the

arbitration clause or arbitration clause multiplicity and difference of the original contract, are discussed.

The law states "common law" principle of autonomy of the arbitration agreement in the contract, the work of the jurisprudence of this country, but there is no consensus on its acceptability.

In judicial practice of law governing the arbitration clause UK Independence clearly accepted. For example, the law governing the contract is accepted by the law of England and the law governing the arbitration clause contained in the contract is the law of Scotland 0.0 (Khazae, 2008)

In the case of the French law was the main law governing the contract, it was accepted that the arbitration clause is governed by English law. (Zahedi, site [www.blogfa.com](http://www.blogfa.com)) This procedure is based on the general principle by which the legal system of England and most recently in the legal systems of most European countries, according to the Convention on the law governing contractual obligations (Rome Convention 1980) According to the theory analysis and contract into several commitments and obligations under the law of any particular place, not only is the law governing the arbitration clause, but different provisions of law governing the contract can be separated from the law governing the contract.

A British judge says "in English law even if the parties to the arbitration clause in the contract have to be extended, reference to arbitration cannot claim the authority to decide disputes relating to the initial Or credit contract or dispute relating to the existence or validity of the arbitration clause is primary." In other words, the arbitration clause in the contract if he cannot be parsed, if the claim is invalid or not coming from the contract, the arbitration clause is invoked and not as a result of reference to arbitration jurisdiction. The independence of the arbitration clause of the contract, some lawyers claimed in separate English and that if the difference is more than the absence of the initial contract, these claims usually involve claims no arbitration clause as well. In the British legal system judges that the contract is illegal or invalid decision, they are not always prohibited. (Bateman, 2012)

## **11. The result**

Due to barriers such as high costs, formality and delay is unacceptable that there is a way to court, many prefer the natural and legal persons who hold fast to resolve commercial disputes to arbitration.

"Judgment" which formed the basis of mutual agreement, the most important non-judicial dispute resolution, especially in international commercial disputes known. Parties to the dispute may refer the dispute to the courts or to agree to the appointment of arbitrator and arbitration proceedings, including the rules governing the nature of the claim, handling procedures, how the verdict, notification, implementation, etc., act.

Required to address and resolve the dispute, the parties or appointed by the judges of the others, the credibility of the parties to a fair hearing and to be formed around any suspicion. Therefore, in most national laws and international conventions Regulation based on solving the situation was so overwhelming that the parties are able to spontaneously go to arbitration, and therefore it does not have any hesitation.

The vetting of judges in the UNCITRAL arbitration rules of organization and shows that the concern to protect against the damaging effects of trauma in virtually all the rules of the arbitration process is found. In this context it is important to choose a judge ad hoc or institutional arbitration rules.

In international arbitration law, judgments of different views have been divided between them in terms of ad hoc and institutional philosophy have divided and when the matter to arbitration by a single arbitrator commercial or judgments based on the number of judges and judgments delegation divided.

Foreign arbitral judgments which are headquartered outside the political geography of the country and the sovereignty of a country's legal system are applied.

After the vote, the vote of foreign arbitral judgments issued by the authorities that their headquarters outside the political geography of the Islamic Republic of Iran is not out of Geography and the rule of law, as the case may be the subject of such arbitration agreement between the parties according to their medications or rules of conflict of laws, or form, or to establish the substantive law governing the Islamic Republic of Iran.

Recognition and enforcement of foreign judgments in general and in relation to the recognition and enforcement of foreign judgments in particular, and countries votes and legal systems in a single uniform system of a country is not the way to deal with a decree issued in all other countries is not consistent with a single system in this regard, countries may follow and comply with one of the four sub-systems:

- limited control system: The system shall be provided when a foreign judgment court judge appointed to identify eventual execution of the judgment rendered in some respects and conditions  
Has already been determined by law or judicial procedures to control Italy, Ireland, the UK, the US and Iran are among the countries that the system will follow.
- Access Control System: In this method a general control over the foreign judgment is and consequently, the judge may have rendered exactly as it is, accept or reject the change, such as Belgium, which does not allow foreign judgment.
- Absolute rejection of the system: the system due to lack of confidence that a foreign judgment because they think the judge may also prefer foreign country to a foreign judgment does not affect

merely the result of a document is and the enforcement of the foreign judgment refused such as the Netherlands, Luxembourg, Switzerland, Finland and Bulgaria.

- Revised absolute system: In this method, the judge has full authority over the foreign judgment and can be taken out of any revisions to feel and can even be replaced by a new sentence in France is among the countries which uphold this system.

A comparative study of the arbitration award in domestic law enforcement, foreign and International arbitration clause of the contract shows that the principle of independence that the principle of discusses a wide range of domestic legal systems accepted and moreover, in international arbitration, the arbitrators named, the emphasis has been on important files (files with important oil Ref: unitary, 1996).

Article 16 of the law of international commercial arbitration, in line with this thinking, the principle is accepted, but in the Civil Procedure Act 2001 (Section 461) However, after the law was adopted international commercial arbitration, the principle ignores is.

Judicial procedures in different countries and views of legal scholars study shows that various directions can reject the arbitration clause in the contract to justify in terms of dependence. In fact, given the will of the parties to the independence of the contract, and the rule of international material to the acceptance of this principle can be any logical justification to accept the theory of sovereignty. But in our opinion, more than anything, the practical usefulness of independence that led to its acceptance in the world.

Also with regard to what this article is about the enforcement of judgments, particularly in the commercial life of health and the law of international trade and economic and commercial life of the country and given the undeniable role and critical judgments of international law, the enforcement of foreign judgments, particularly the ideas of a nation, the subjective confidence among business and trade exchanges or other countries to do business in the country or the country and taking into consideration the fact that the rights of any statutory provisions foreseen in this area and interpretation and use of the various provisions regarding the establishment of a uniform approach does not create and especially with regard to the fact that these provisions are provisions relating to the implementation of international instruments that the complexity and rigor of their own (but the judgments themselves and their implementation is to exercise more rights and humility) for recognition and enforcement of foreign judgments as recommended after 70 years of rule of law has been developed for drafting regulations to implement the ideas of foreign judgments in order to create a unified legal enforcement of foreign judgments vote and the mental and international trade in the light of the provisions of the law to prevent fraud and an appropriate legal regime to create this vital field.

This ability to recognize and enforce judgments pot good ideas in other countries will be based on reciprocity.

Accession to the 1958 New York Convention, to protect and respect the laws of the main Islamic Republic of Iran with regard to the adoption of the protocol implicitly encouraged lawmakers and protection of investment between Iran and the United States 27.02.1346 and according to its terms and in terms of subject matter, including its Member States, can be a useful step in this area.

So that the rights of enforcement of foreign arbitration award, the vote given in accordance with domestic law has been issued, not a problem. In compliance with the provisions of Article 169 of the Civil Code, the General Court to issue an executive leaves. Should be noted that paragraph external execution is restricted to countries that have provisions on the implementation of reciprocity. Therefore, this section of the article, the scope of foreign judgments is limited.

The international arbitral award, the layout of the specific government regulations issued domestically is not specific, it is difficult for implementation. This opinion is subject to international treaties, particularly the Treaty of June 10, 1958 in New York that the government acceded to the provisions of the binding.

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