

## **The Role of Electronic Arbitration in Protecting the Electronic Consumer**

**Amel MEDJAHED \***

University Centre of Maghnia, Algeria  
Mediterranean Laboratory for legal Studies,  
Aboubakr Belkaid University, Tlemcen, Algeria

[a.medjahed@cu-maghnia.dz](mailto:a.medjahed@cu-maghnia.dz)

**Meriem ALHACI**

University Centre of Maghnia, Algeria

[m.elhaci@cu-maghnia.dz](mailto:m.elhaci@cu-maghnia.dz)

Date of submission:18/03/2025 - Date of acceptance: 15/05/2025 - Date of publication: 29/07/2025

**Abstract:** In light of the rapid technological development witnessed by the world today, electronic transactions have become an integral part of the daily lives of individuals and companies alike, as e-commerce platforms provide unprecedented opportunities for buying and selling across borders. With this tremendous growth, new challenges have emerged related to the protection of the electronic consumer who may be exposed to a set of risks and violations such as fraud or lack of transparency in contracts or leakage of personal data. Therefore, electronic arbitration has emerged as a promising solution to balance the interests of the parties in cyberspace and has emerged as a mechanism for resolving disputes arising from electronic transactions as an effective tool for settling disputes in a quick and flexible manner in light of the ineffectiveness and failure of regular arbitration to keep pace with the required speed, as electronic arbitration is characterized by its conduct via Specialized digital platforms without the need for physical presence of individuals, which makes it suitable for the nature of rapid transactions in the digital space in a safe and immediate manner and at the lowest costs.

**Keywords:** Electronic arbitration, consumer protection, electronic disputes, arbitration agreement.

---

\*Corresponding author: Amel MEDJAHED

## Introduction:

Recent years have witnessed tremendous progress in electronic communications technologies, which has brought about a radical change in the way trade contracts are concluded, such that the majority of these trade deals are concluded via the electronic communications network without their owners bearing the cost of moving from one country to another to complete them. Trade contracts concluded via this network have been characterized by characteristics that differ from those we are accustomed to of these contracts, the most important of which is that they are concluded remotely via computers that cross geographical and political borders between countries without the slightest consideration of ground bases. The electronic communications network has become a place for concluding most transactions in general, not governed by a specific legal system that regulates their transactions, as they lose the characteristic of regularity that in turn determines the rules that must be followed in some legal issues related to transactions that take place through them, and this requires saying about the specificity of these electronic transactions and what may result from them of disputes that the national judiciary has failed to resolve in an easy and flexible manner, whether in terms of determining the judicial body entrusted with resolving these disputes or in terms of the legal rules that the national judge applies to these contracts if the judiciary determines the competent authority to resolve the dispute<sup>1</sup>. Hence, the need arose to protect the consumer in electronic contracting as the weak party, as he is exposed to a group of risks and obstacles due to the nature of this contract that is done remotely, and many international legislations and comparative laws have tried to put in place treatments for these obstacles by adding new legal rules. It is compatible with the nature of the disputes of this trade, but these treatments do not represent the final solution due to the inappropriateness of the judicial method to resolve the disputes arising from these electronic contracts, which prompted some to search for another method that is more flexible than the judicial method that is compatible with the nature of these contracts and is represented by arbitration. Electronic arbitration does not differ from arbitration in its traditional form except in terms of the means through which it is carried out, as electronic arbitration is a mixture of rules and conditions specific to alternative methods for resolving disputes, which, although based on the traditional arbitration structure, have undoubtedly generated new rules that have formed a kind of privacy for the new type of arbitration, as The emergence and spread of e-commerce has demonstrated the urgent need to develop legal means that are consistent with its electronic nature to resolve disputes that may arise because of it, so electronic arbitration has emerged as the appropriate means to resolve such disputes<sup>2</sup>.

This study aims to highlight the vital role played by electronic arbitration in enhancing the protection of the electronic consumer by analyzing its legal framework and evaluating its effectiveness in achieving justice as an exceptional alternative way to settle commercial disputes concluded over the Internet, given the advantages it enjoys in terms of speed and time that we do not find in ordinary courts.

Which prompts us to raise the following problem?

How effective is electronic arbitration in enhancing the protection of the electronic consumer? What are the possible ways to enhance the reliability of this mechanism and ensure its fairness in the e-commerce system?

---

<sup>1</sup> Dr. Safaa Fattouh, Disputes over e-commerce contracts between the judiciary and arbitration, Dar Al-Jamia Al-Jadida, 2013, Alexandria, pp. 9-10.

<sup>2</sup> Dr. Jaafar Dheeb Al-Maani, Electronic Arbitration and the Role of the National Judiciary in Activating It, First Edition, Dar Al-Thaqafa for Publishing and Distribution, 2014, Jordan, p. 13.

## **The Role of Electronic Arbitration in Protecting the Electronic Consumer**

To answer this problem, we followed the descriptive analytical approach, due to its suitability to the subject of the study, as this approach is based on studying the problem raised by shedding light on the electronic arbitration system and removing ambiguity from it by analyzing the legal rules and jurisprudential opinions to highlight its importance in protecting the electronic consumer.

We also divided the topic into two sections: In the first section, we discussed electronic arbitration as a mechanism for protecting the rights of the electronic consumer, and then in the second section, we discussed the procedures of electronic arbitration in settling electronic disputes.

### **The first topic: Electronic arbitration as a mechanism to protect the rights of the electronic consumer**

With the development of e-commerce and the increasing reliance on the Internet in concluding contracts and completing transactions, the protection of the electronic consumer has become a very important issue, as consumers face major challenges in this area, such as the difficulty of proving their rights in cross-border disputes and the legal complexities associated with electronic transactions. Here comes the role of electronic arbitration as an effective mechanism for settling disputes and protecting the rights of consumers as a special judicial system characterized by its flexibility and speed in settling disputes compared to traditional arbitration. The first requirement: The concept of the electronic consumer: The definition of the consumer did not receive the attention of jurists and legislation in previous centuries, unlike the current century, in which interest in the consumer and his protection has increased in all fields, which required the development of a comprehensive and exhaustive definition for him by legal experts and specialists<sup>1</sup>.

#### **First Section: The Narrow Concept of the Consumer**

The narrow trend defines the consumer as any person who contracts with the aim of meeting and satisfying his personal and family needs and desires. The consumer is also defined as "the one who purchases goods and services for his personal use or the use of his family members or the individuals he supports." There is a trend that sees the consumer as the natural person, while another trend sees that the definition of the consumer is not limited to the natural person, but rather includes some legal persons, such as charitable societies and unions that do not aim to achieve profit<sup>2</sup>.

#### **Second Section: The Broad Concept of the Consumer**

After the narrow concept of the consumer in the previous sense prevailed for a long time, another group of jurists adopted a broad concept of what is meant by the consumer, so that the largest number of people benefit from the protective rules contained in consumer laws by extending protection to the professional in some of his contracts that are not directly related to his professional or commercial activity.

The consumer is defined as someone who buys money, whether for his own needs or for the needs of his professional activity in a field that does not fall within his specialization. The

---

<sup>1</sup> Ahmed Mohamed Mahmoud Khalaf, Criminal Protection of the Consumer, Dar Al-Jamia Al-Jadida, 2012, Alexandria, p. 20.

<sup>2</sup> Abdullah Dheeb Mahmoud, Consumer Protection in Electronic Contracting, First Edition, Dar Al-Thaqafa for Publishing and Distribution, 2012, Amman, pp. 29-30.

consumer is meant to be any natural or legal person, whether a merchant or not, who contracts with a professional, whether to satisfy his personal or family needs or to obtain goods or services in exchange for a financial consideration, as long as the subject of the contract concluded between them does not fall within the subject of the activity of the contractor with the professional, and the contractor does not have sufficient experience or knowledge of the secrets of the activity carried out by the other contractor (the professional). The proponents of the broad concept of consumer attribute the status of consumer to every person who contracts for professional purposes, but outside the scope of his specialization<sup>1</sup>.

### **The third section: The concept of the electronic consumer in Algerian legislation**

The Algerian legislator defined the consumer in Law 09/03 on consumer protection and the suppression of fraud in Article 3 thereof as "any natural or legal person who acquires, for a fee or free of charge, a good or service intended for final use in order to meet his personal need or the need of another person or animal he is responsible for"<sup>2</sup>. The Algerian legislator also defined the electronic consumer through Article 06 of Law 18-05 on electronic commerce by saying "any natural or legal person who acquires, for a fee or free of charge, a good or service through electronic communications from the electronic supplier for the purpose of final use", as it is clear from this definition that the Algerian legislator adopted the narrow concept of the definition of the consumer<sup>3</sup>.

### **Justifications for consumer protection in electronic contracting:**

After the expansion of Internet users in the world, the concept of electronic consumer protection began to crystallize, which means preserving the rights of the consumer and protecting him, especially since he represents the weak party in contrast to the supplier who has economic experience and knowledge. Electronic contracting has increased the risks of the consumer being exposed to fraud and piracy, as well as the consumer's inability to inspect the contracted item in a real inspection, which led to him purchasing counterfeit goods. Therefore, the need for quick and effective mechanisms to resolve disputes arising from these transactions emerged. Hence, the importance of electronic arbitration as an alternative tool to traditional judiciary came from it. It is a desirable way to resolve disputes arising from contractual relationships concluded over the Internet, away from the corridors of courts governed by judicial organization. Consequently, electronic arbitration has become a different kind of justice that is compatible with the requirements of the era and its complex and evolving relationships between individuals and countries<sup>4</sup>.

### **The second requirement: The nature of electronic arbitration**

Arbitration has become a feature of this era at the present time due to its great importance and the increasing resort to it as a method for resolving disputes related to international trade and investments, especially after the spread of electronic arbitration, which is considered a special way to resolve disputes between individuals and institutions by an arbitrator or arbitration body assigned the task of broadcasting these disputes under an arbitration agreement.

---

<sup>1</sup> Dr. Kawthar Saeed Adnan Khaled, *Electronic Consumer Protection*, Dar Al-Jamia Al-Jadida, 2012, Alexandria, pp. 39-41.

<sup>2</sup> Law No. 09-03 of February 25, 2009, relating to consumer protection and the suppression of fraud, amended and supplemented.

<sup>3</sup> Law No. 18-05 of May 10, 2018, relating to electronic commerce.

<sup>4</sup> Dr. Lazhar Ben Saeed, *International Commercial Arbitration*, Second Edition, Dar Houma for Printing and Publishing, 2014, pp. 07

## **The Role of Electronic Arbitration in Protecting the Electronic Consumer**

Electronic arbitration is also distinguished by its great importance, especially in view of the ease of its procedures and the speed of broadcasting disputes compared to regular judicial procedures<sup>1</sup>.

### **The first section: The concept of electronic arbitration:**

Electronic arbitration does not differ in essence from its traditional counterpart, as both are an alternative means of resolving disputes, as it is a special way to resolve the dispute based on the will of the parties instead of resorting to the judiciary, but due to the recent emergence of arbitration Electronic arbitration has had many definitions in general, due to the angle from which each jurist approaches arbitration. Some have defined it as "arbitration whose procedures are conducted in an audio-visual manner via an international communications network without the need for the physical presence of the parties to the dispute and the arbitrators in a specific place, " while others have defined it as "arbitration whose procedures are conducted via the Internet according to special rules without the need for the parties to the dispute and the arbitrators to meet in a specific place. " It appears from the previous definitions of electronic arbitration that they considered the essence of electronic arbitration to be that it is conducted via a modern electronic means of communication without physical contact between the two parties to the arbitration. However, some jurisprudence relied on the judicial nature when defining electronic arbitration, as it defined it as "a special electronic judicial system whose purpose is to settle disputes that arise or are likely to arise electronically between those dealing in Electronic commerce by agreement between them in the same context, electronic arbitration was defined as "a special system, whereby the parties agree to refer the dispute, optionally, to a neutral third party to appoint a person or several persons to settle the dispute using modern means of communication according to regulatory rules appropriate to the subject of the dispute and the settlement method, in order to issue a binding ruling for the parties."

By examining the two previous definitions, it is noted that electronic arbitration is given and manifested as a judicial character, considering that arbitration is a compulsory judgment binding on the parties even if they agree to it, and that it replaces the compulsory state judgment, and that the arbitrator's ruling is a judicial act like the judicial act issued by the judicial authority in the state, in addition to the fact that both the arbitrator and the judge resolve the dispute with a ruling that has the force of *res judicata*<sup>2</sup>.

### **Second Section: Advantages of Electronic Arbitration**

Electronic arbitration is characterized by a set of characteristics and features that make it an ideal option for resolving disputes in the digital age, which can be highlighted as follows:

\* Confidentiality of arbitration rulings:

The origin of arbitration procedures is that they are confidential to the parties to the dispute and their representatives, so it can be said that this confidentiality is considered one of the arbitration norms that must be observed, whether in international or domestic arbitration,

---

1- Dr. Elias Nassif, International Contracts - Electronic Arbitration, First Edition, Al-Halabi Legal Publications, 2012, pp. 13-17

<sup>2</sup> - Dr. Amr Mohamed Al-Maria, Civil Liability Problems in the Scope of Electronic Arbitration, Dar Al-Jamia Al-Jadida, 2017, pp. 19-20.

even if the applicable legal rules are silent, unlike litigation procedures, which are, as a general principle, public, so that anyone can attend these sessions<sup>1</sup>.

**\* Competence and experience of arbitrators**

The judge may be skilled in his field of specialization, but in most cases he has little experience in disputes related to trade, so it is better to resort to the expert directly and choose him as an arbitrator, as the arbitration system allows the parties to choose whatever specialized experts they want to decide the dispute as quickly as possible<sup>2</sup>.

**\* Speed of dispute resolution:**

Electronic arbitration is characterized by the speed of settling disputes in a short period compared to traditional arbitration due to the non-movement of the parties to the dispute and their physical presence before the arbitration panel, as this is done via the Internet<sup>3</sup>.

**\* Ease of procedures:**

Electronic arbitration is characterized by the ease of procedures compared to its counterpart in regular judicial procedures, as the arbitration panel enjoys greater freedom than the national judiciary in everything related to litigation procedures such as notifications, managing sessions, submitting data and evidence, and contacting the parties to the dispute<sup>4</sup>.

**\* Low costs**

Electronic arbitration expenses are less than regular judiciary expenses due to lawyers' fees and expert expenses in addition to other litigation fees, while electronic arbitration expenses are proportional to the size of contracts, as holding arbitration sessions remotely reduces travel and transportation expenses, so electronic arbitration is suitable for disputes with small amounts<sup>5</sup>.

## **Section Two: Electronic Arbitration Procedures in Electronic Dispute Settlement**

The arbitration agreement is considered one of the most important means of alternative dispute settlement that allows parties to resolve disputes faster and more flexibly away from traditional judicial procedures, as the arbitration agreement specifies the terms of the arbitration process, such as the selection of arbitrators, the place where arbitration will take place, and the law governing the dispute, as well as how to implement arbitration decisions.

In this section, we will study the arbitration agreement in two sections. In the first section, we will discuss the concept of the arbitration agreement and the conditions for its validity. In

---

<sup>1</sup> Dr. Manani Farah, Arbitration is an Alternative Way to Resolve Disputes, Dar Al-Huda for Printing, Publishing and Distribution, 2010, Algeria, p. 88.

<sup>2</sup> Dr. Hesham Khaled, Formation of the Arbitration Court in International Trade Disputes, Volume One, Maaref Establishment, 2008, Alexandria, p. 30.

<sup>3</sup> Muhammad Ibrahim Abu Al-Hija, Electronic Arbitration, First Edition, Dar Al-Thaqafa for Publishing and Distribution, 2009, Amman, p. 59

<sup>4</sup> Dr. Abbas Al-Aboudi, Legal Authority of Scientific Progress Means in Civil Evidence, Third Edition, International Scientific House for Publishing and Distribution, 2009, Jordan, p. 114.

<sup>5</sup> Dr. Khaled Mamdouh Ibrahim, Electronic Arbitration in International Trade Contracts, Dar Al-Fikr Al-Jamii, 2008, Alexandria, p. 252.

## **The Role of Electronic Arbitration in Protecting the Electronic Consumer**

the second section, we will discuss the law applicable to arbitration. The first requirement: Concluding the arbitration agreement

The arbitration agreement is the cornerstone of the arbitration process, as it is based on the agreement of the two parties to resort to arbitration without the judiciary to settle all or some of the disputes that have arisen or may arise between them on the occasion of a specific legal relationship. It is also required that the arbitration agreement meet a set of conditions for its validity, some of which are formal and others are substantive, otherwise the arbitration agreement is void<sup>1</sup>.

### **The first section: The concept of the arbitration agreement**

Recourse to electronic arbitration is made through the arbitration agreement, but this agreement may be before the dispute arises, which is called the arbitration clause, or after the dispute arises, which is called the arbitration stipulation, and finally it may be by reference to a previous contract or a model contract, which is called the arbitration clause by referral<sup>2</sup>. The arbitration agreement is an agreement by the parties to the arbitration to resort to the arbitration system to resolve all or some of the disputes that actually arose between them at the moment of concluding the agreement on Arbitration or that may arise in the future, as it is considered the core and essence of the arbitration process, as it is the one that creates it, draws its system and determines its end<sup>3</sup>.

Some have defined it as "an agreement between the parties to a specific dispute that already exists between them, whereby they are obligated to submit this dispute to an arbitrator or arbitrators they choose to adjudicate it instead of the competent court. They also see that the arbitration agreement is a consensual contract binding on both parties, which assumes acceptance and approval, and imposes reciprocal obligations on both parties<sup>4</sup>.

### **Second Section: Conditions for the Validity of the Arbitration Agreement**

A set of objective and formal conditions must be taken into account in the arbitration agreement so that it can be said that the conclusion of the arbitration agreement or any other legal action is valid. Accordingly, we will discuss these conditions in this section as follows:

**First:** The objective conditions of the arbitration agreement:

#### **1- Consent:**

The arbitration agreement is considered a private law contract governed by the principle of the authority of the will and the general rules of contracts apply to it. Therefore, for the arbitration agreement to be valid, there must be consent, otherwise the agreement is invalid. The wills of the two parties must match and must be directed towards freely choosing arbitration as a means of resolving disputes that arise regarding the original relationship as an alternative

---

<sup>1</sup> Dr. Gamal Ahmed Heikal, Agreement on Arbitration between the Procedure and the Subject, A Comparative Study, First Edition, Dar Al Fikr Al Jami'i, 2015, p. 107.

<sup>2</sup> Lazhar Bin Saeed, the previous reference, pp. 49-50

<sup>3</sup> Mahmoud Al Sayed Omar, Pillars of the Agreement on Arbitration and Conditions for its Validity, Faculty of Law, Menoufia University, Dar Al Fikr Al Jami'i, 2008, Alexandria, p. 64.

<sup>4</sup> Dr. Ashraf Abdel-Alim Al-Rafai, Public Order and Arbitration in Private International Relations, A Study in Arbitration Judiciary, Dar Al-Nahda Al-Arabiya, 1998, p. 103.

to state courts<sup>1</sup>. Consent means that the wills of the two parties are completely identical in commitment and their tendency to produce legal effects, meaning the convergence of offer and acceptance. The consent in the electronic arbitration agreement enjoys a special feature that is evident in the absence of the physical presence of the parties to the contract, given that the meeting of the offer and acceptance takes place via the Internet, which is a non-material environment<sup>2</sup>. However, this does not make the agreement lose its credibility, but the problem arises when the consent is implicit and is valid as long as the parties are accustomed to dealing with the inclusion of the arbitration clause between them in their dealings, so it is not assumed that there is no consent just because of a subsequent transaction in which they did not include the arbitration clause between them.

In order for consent to be valid, it must be issued by a person of legal capacity, as it is a legal act, and it is not valid unless the contracting party is fully 19 years old, which is the capacity to act. It is also required that the will of the parties be correct and free from the defects of error, fraud, coercion and exploitation<sup>3</sup>.

## **2-Subject:**

The general rules of contracts require that every contract must have a subject to be added to it and that it is required that the subject be subject to the ruling of the contract and the electronic arbitration agreement, as a contract of these contracts, does not depart from that. The subject to which the arbitration agreement is added is represented by the objective relationship regarding which the dispute is intended to be resolved through arbitration. The principle is that the contracting parties enjoy great freedom in determining the issues subject to arbitration. However, some legislations impose restrictions on the freedom of the parties to subject the dispute to arbitration, stipulating that it is not subject to arbitration. Accordingly, the subject of arbitration is the subject of the dispute and this subject must be one of the issues that may be settled by way of Arbitration and that it is not a matter of public order, as arbitration is not permissible in matters in which reconciliation is not permissible. Electronic arbitration is considered permissible whether the relationship between the two parties is contractual or non-contractual, and is permissible between individuals and companies, and is permissible in commercial matters primarily and in civil matters in which the concept of public order does not prevent consideration<sup>4</sup>.

## **3-The reason:**

One of the main motives that make the parties resort to arbitration is to remove the disputes that arise between them and not to present them before the national judiciary, and that this reason does not conflict with the public order and therefore is legitimate. Since the matter of the dispute will be delegated to the arbitrators and the role of the judiciary is excluded, this

---

<sup>1</sup> Mukhtar Mahmoud Bariri, *International Commercial Arbitration*, Dar Al-Nahda Al-Arabiya, 1995, p. 45.

<sup>2</sup> Dr. Samia Rashid, *Arbitration in Private International Relations*, Manshaat Al-Maaref, Alexandria, p. 61

<sup>3</sup> Dr. Farouk Muhammad Ahmad Al-Abasiry, *Contract for Subscription to Information Bases via the Internet*, an Applied Study of Electronic Commerce Contracts, Dar Al-Jamia Al-Jadida for Publishing, 2002, Alexandria, p. 34.

<sup>4</sup> Dr. Jaafar Dheeb, the previous reference, pp. 91-93

## **The Role of Electronic Arbitration in Protecting the Electronic Consumer**

resort should not be aimed at evading the rulings of the judiciary, which represents a case of fraud towards the law, and thus arbitration is an illegitimate means. Therefore, when the subject of the dispute is presented to arbitration, the reason must be confirmed if it is legitimate and what are the real motives behind the parties to the dispute resorting to presenting their disputes before arbitration.

The opinions of jurists differed regarding the reason for arbitration. There is a side of jurisprudence that believes that the reason must be determined through the direct purpose intended by the arbitrators and the goal desired by each of the parties bound by any contract. As for the other side of jurisprudence, it believes that the reason is the motive that prompted the parties to abide by what they agreed upon, which is a matter that differs from one contracting party to another. The arbitration contract aims for its parties to achieve the advantages provided by arbitration, such as reducing expenses and quickly resolving the dispute compared to presenting the dispute to the judiciary<sup>1</sup>.

### **2- The condition of the dispute being able to be settled through electronic arbitration:**

In addition to consent as a condition for the validity of electronic arbitration, the dispute must be able to be resolved and settled through arbitration, as some national legislations exclude resorting to arbitration in matters related to public order or the status and capacity of persons, which is what the Algerian legislator has ruled<sup>2</sup>.

#### **Second:** Formal conditions for the arbitration agreement:

Various national legislations and international agreements related to arbitration have agreed that the arbitration agreement must be written; otherwise it is void, provided that the agreement is included as a condition in the original contract or agreed upon in an independent document<sup>3</sup>.

Writing is considered a condition for the validity and soundness of arbitration, and whether the arbitration agreement is included in the form of a condition or stipulation, it must be written, otherwise it is void.

Writing is achieved by all means, so that the arbitration agreement is written if it is included in a document signed by the two parties or if it includes what the two parties exchanged of letters, telegrams or other written messages.

---

<sup>1</sup> Dr. Muhammad Hassan Jassim Al-Maamari, Commercial Arbitration and National Judicial Interventions, First Edition, Modern University Office, 2013, pp. 62-63.

<sup>2</sup> Dr. Ahmed Bourzaq, Legal Protection of the Consumer in Electronic Transactions, A Comparative Study, Alpha Publications for Documents, 2021. P. 239.

<sup>3</sup> Dr. Samia Rashid, the previous reference, p. 236.

However, if the arbitration agreement is included as one of the clauses in the original contract concluded between the two parties, it is sufficient for the two parties to sign the original contract without the need for a special signature next to the arbitration clause<sup>1</sup>.

The verification of the signature on the arbitration agreement concluded via the electronic communications network also requires that the arbitration agreement be signed by both parties, and this signature expresses the will of the two parties, and thus the electronic signature has a fundamental and important role in the conclusion.

**Second requirement:** The law applicable to arbitration.

The issuance of the arbitration award requires the arbitration panel to determine the applicable law that governs the procedures. The arbitration award, after its issuance in the required manner, has important effects for the arbitration panel and others for the parties to the dispute<sup>2</sup>.

**First Section:** The Law Applicable to Arbitration

**First:** Application of the Law of Will:

Procedural issues agree with substantive issues that the will of the parties has priority in determining the law governing the procedures, through the parties' direct agreement on those rules and their choice of a national or international law or their choice of one of the procedural rules stipulated in the regulations of one of the permanent arbitration bodies or the choice of procedural rules of their own making. However, the will that is taken into account when we are in the process of determining the law that must be applied to the arbitration procedures is only the explicit will. If there is no explicit will in place, the arbitrator has no right to infer this will implicitly. The implicit will is not taken into account due to the seriousness of the procedural issues. Thus, the subjection of the arbitration procedures to the will of the parties has become one of the accepted rules in this regard. However, the matter becomes more complicated if the parties are silent about determining the law governing the procedures. Some have gone to find a solution to this by applying the law of the arbitration seat or giving the arbitration panel the authority to determine the procedures related to the course of the arbitration case<sup>3</sup>. Thus, the arbitration panel is obligated, when deciding the subject of the dispute, to comply with the will of the parties, and if the parties neglect this, the panel itself shall determine the legal rules applicable to the subject<sup>4</sup>.

Whereas arbitration agreements established the principle of the authority of the will in determining the law applicable to the subject of the dispute in the arbitration dispute<sup>5</sup>. This trend

---

<sup>1</sup> Dr. Muhammad Muhammad Hassan Al-Hasani, *Electronic Arbitration between Theory and Practice*, First Edition, Khalid bin Al-Walid Office for Printing and Publishing, 2017, pp. 151-152

<sup>2</sup> Dr. Ahmed Belkacem, *International Judiciary*, Dar Houma for Publishing and Distribution, Algeria, p. 71.

<sup>3</sup> Dr. Mahmoud Mukhtar Ahmed Briri, *International Commercial Arbitration*, Dar Al Nahda Al Arabiya, Cairo, 2004, p. 129.

<sup>4</sup> Dr. Khaled Abdel Fattah Mohamed Khalil, *Consumer Protection in Private International Law*, Dar Al Nahda Al Arabiya 2002, Cairo, p. 95

<sup>5</sup> Dr. Khaled Abdel Fattah Mohamed Khalil, *Consumer Protection in Private International Law*, Dar Al Nahda Al Arabiya 2002, Cairo, p. 95.

## The Role of Electronic Arbitration in Protecting the Electronic Consumer

believes that if the arbitration agreement is the result of the will of its parties, then the law applicable to the arbitration agreement is the law of the will<sup>1</sup>.

**Second:** Application of the law of the place of concluding the contract or the seat of arbitration:

This trend believes that if the two parties do not agree on the legal rules applicable to the subject of the dispute, the arbitration panel applies the applicable rules and the arbitrator determines that the most appropriate law is the law of the place of concluding the contract or the place of its implementation or the law of the exporting or importing country or the law of the country in which the arbitration is conducted or in which the branch of the company associated with the contract containing the arbitration clause is located<sup>2</sup>. The seat of arbitration means the seat chosen by the parties to conduct the arbitration. In the absence of the law of the will, the arbitrator chooses it as the most appropriate subject for procedural issues. The arbitration panel also has the authority to determine the procedures to be followed during the arbitration process in the absence of the parties' will. This authority granted to the arbitration panel is commensurate with the arbitration process, as they are the most capable of organizing the procedures of this arbitration due to their special capabilities that qualify them for this<sup>3</sup>.

At the end of this research and in light of the rapid digital transformation that the world is witnessing today, electronic arbitration has emerged as a vital link between the justice of traditional judiciary and the necessities of the digital age, as this mechanism has proven its ability to enhance the protection of the electronic consumer by transcending geographical borders, simplifying procedures and reducing costs as one of the promising solutions to bridge this gap, as electronic arbitration combines the flexibility of technology and the strictness of legal rules to provide a practical framework for resolving disputes transparently without burdening the consumer with complex costs or procedures. Electronic arbitration is not just an alternative to traditional judiciary, but rather an expression of a radical shift in the concept of justice itself.

This leads us to draw the following conclusions

- \* Electronic arbitration is an effective means of resolving disputes arising from electronic transactions, as it provides speed in resolving disputes compared to traditional methods, which enhances consumer confidence in e-commerce
- \* Electronic arbitration contributes to protecting consumer rights by providing an easy and quick mechanism for settling disputes, especially in cases where access to traditional judiciary is difficult due to geographical or procedural barriers.
- \* Electronic arbitration reduces the financial and time costs associated with settling disputes, making it an attractive option for consumers seeking quick and inexpensive solutions.
- \* Electronic arbitration provides a high level of privacy and security, as disputes are handled through secure platforms that maintain the confidentiality of the personal information of the parties involved.
- \* Electronic arbitration adapts to rapid technological developments, making it suitable for dealing with disputes arising from modern technology.

---

<sup>1</sup> Dr. Essam Abdel Fattah, the previous reference, p. 74

<sup>2</sup> Lazhar Bin Saeed, the previous reference, pp. 404, 405.

<sup>3</sup> Dr. Mohamed Mohamed Hassan Al-Hasani, the previous reference, p. 153.

\* Electronic arbitration enjoys a high degree of neutrality, as arbitrators are chosen impartially, and all procedures are conducted transparently through approved electronic platforms.

**Recommendations:**

\* Countries should develop special legislation regulating electronic arbitration in the field of e-commerce and guaranteeing consumer rights.

\* Strengthening cooperation between countries to establish an international legal framework for electronic arbitration, especially in light of the cross-border nature of e-commerce.

\* Providing specialized training programs for arbitrators in the field of electronic arbitration, with a focus on technical and legal aspects related to consumer protection.

\* Consumers should be made aware of their rights to resort to electronic arbitration as a quick and effective means of resolving disputes arising from electronic transactions.