



Evidence of Testimony in Cyberspace

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Introduction

The testimony of witnesses as one of the most important proofs of a lawsuit is effective in both court and arbitration cases. This article examines the acceptance of witness testimony and its process in cyberspace, as well as how intuition is Challenge in Iranian law and some legal systems. In this article, which has been done by descriptive-analytical method? The authors intend to discuss the Hearing the testimony of witnesses in cyberspace arbitration comparatively in US, European and Iranian arbitration systems. And in continuation of the legal and judicial validity of this method of hearing testimony, as well as how to denial witnesses, and finally the opportunities and challenges in the process of hearing witnesses in cyberspace arbitration should be examined [1].

Commercial arbitration has been one of the most common methods of resolving disputes in domestic and international litigation outside of State courts.

In fact, according to some lawyers, it is a "quasi-judicial" method of handling disputes in parallel with the courts by arbitrators selected by the parties. The purpose of writing such an article is that because of the challenges and gaps that exist in traditional litigation, members of the legal community and the parties to the dispute are struggling with it. Such as: low speed of judicial proceedings, excessive time spent and prolongation of procedures and consequently, imposing high costs on the parties to the dispute and the presence of litigation as challenges even in international commercial arbitration's. It is desirable that arbitration in cyberspace, as a method of resolving disputes in absentia and quickly. It has greatly influenced the order of the world legal community. And also be a suitable model for improving the methods of dispute resolution and exchange of Electronic Positivism evidencee, especially "testimony of witnesses" in the commercial arbitration authorities of Iran [2].

Discussion:

Before entering the main discussion, we should know that one of the of the award arbitration that verdicts that has approved the implementation of the international commercial arbitration process in cyberspace. And based on the Expressive evidence of the parties, one of which was the Positive reasons for the testimony of witnesses, an electronic verdict was issued and then executed and according to ranks mentioned and Also, due to the developments of new technologies, especially in cyberspace, the need to enter this field is the same as the need to use this technology. And the impact of Cyber technology in the field of legal issues, especially domestic and international arbitration, is quite tangible and noticeable. Now, before entering the main discussion of this article, which has been done by descriptive-analytical method and using library resources, the question is what are the opportunities and challenges of hearing the testimony of witnesses in virtual arbitration? In response, it should be said that hearing the testimony of witnesses in virtual arbitration has opportunities and challenges for the arbitration authorities of the parties to the dispute and intuition [3].

The first article of the law that legally protects the issue of hearing the testimony of witnesses in cyberspace arbitration, Paragraph B of Article 35 of the Rules of the United States Arbitration Association, as amended in October 2013, Prescribes as follows:" The witness may

hear his testimony in any manner permitted by law and submit it to the agreed arbitrary tribunal. "Therefore, it is used that one of the methods by which the witness can hear the testimony is testimony through cyberspace. Approval of the legal article in the US arbitration system removes any obstacle to the hearing of testimony in virtual arbitration and leaves no doubt as to its legal validity. Taken from the concept Rule 44 of the US Federal Civil Procedure Code 2017 also states that the testimony of witnesses can be heard in a variety of situations and sent to arbitration. Therefore, for the mentioned reason, most of the reasons that are sent electronically (audio, video files, etc.) are received by the judicial authorities based in this country, and if they are authenticated, they are considered to have a positive value. Section 7 of the US Federal Arbitration Act 1990 is also used, which gives the witness the opportunity under the law to hear and produce his testimony in various ways, such as face-to-face, testimony and electronic file, and send it to the arbitrary tribunal. Also, according to the provisions of the text of the UNCITRAL sample in Article (1) 19, which states: "The parties are free in the manner of hearing the testimony of witnesses", in turn, confirms the validity of the subject under discussion [4]. Another confirmation is the possibility of hearing the testimony of witnesses in the arbitration of cyberspace, paragraph 4 of Article 25 of the Amended UNCITRAL Arbitration Rules 2010, which stipulates: "Meetings of Witness testimony hearings in arbitration are held on camera, unless the parties to the dispute agree otherwise." From the term "Camera" in the above article, it is understood that the judgment can be heard through video cameras or more desirable tools in terms of performance, such as video conferencing. Therefore, it seems that testimony can also be heard through cyberspace, and there are no legal restrictions on the conduct of such a hearing in international arbitration [5].

Conclusion:

In addition, the explicitness provided in paragraph 3 of Article 28 of the UNCITRAL Arbitration Rules express the same meaning. In accordance with Section 7 of the United States Arbitration Act 1990, recorded electronic video files are sent to the authority through the arbitration system and then, it will be evaluated by competent experts and will finally be archived in the court archives.

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