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A spotlight of amendments in the Jordanian Arbitration Law in 2018

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Abstract: Jordan has witnessed rapid development in its trade relations after its accession to the World Trade Organization and the signing of many agreements accompanied by rapid economic development. This led to the amendment of the Arbitration Act in 2001.

The amended law introduces new and anticipated changes to the procedural framework for arbitration in Jordan, many of which can be traced to the UNCITRAL Model Law as amended in 2006.

The old law was amended in 2001, prior to the recent amendment to the UNCITRAL Model Law.

In addition, the amended law provides for much-needed clarity on some of the ambiguities of the former regime.

The new law is based on the 2006 UNCITRAL Model Law and is therefore considered to be the closest to the Model Law, although it contains some amendments to its provisions, in order to comply with Jordanian legislation. we intended to address the entire law. However, since it is impossible to cover this accurately ("Amended Law"). Because of the limited space, we have to write, we will, therefore, cover the main points and compare them with the Model Law.

The amended law shall enter into force thirty (30) days after its publication in Official Gazette No. 5513/2018 dated 2 May 2018. The amended law shall apply to arbitration in Jordan, as well as arbitration agreed by the parties to subject such arbitration proceedings to the amended law. On the nature of the legal relationship that arouses the dispute.

Explanation of the substantive amendments that have been made including the scope of application of the new law and the added definitions and interpretations 'Procedures for the formation of the arbitral tribunal' Notification of the parties to the dispute 'Arbitration agreement' Challenges of the arbitrators and their isolation 'Representation of the parties' Articles 51 and 52 and the amendment to the Constitutional Court's decision to distinguish Sadr's decision from the Court of Appeal as a competent court in the previous law.

Keywords: Jordanian arbitration law, the Amended Law, UNCITRAL.

إضاءات على أهم التعديلات التي طرأت على قانون التحكيم الأردني 2018

حمزة مد الله البريزات **زولي جيانغ**
كلية القانون || جامعة شاندونغ || جمهورية الصين الشعبية

الملخص: شهد الأردن تطوراً سريعاً في علاقاته التجارية، بعد انضمامه إلى منظمة التجارة العالمية وتوقيع العديد من الاتفاقيات التي صاحبتها تنمية اقتصادية سريعة. وقد أدى ذلك إلى تعديل قانون التحكيم عام 2001.

يدخل القانون المعدل تغييرات جديدة ومتوقعة على الإطار الإجرائي للتحكيمات في الأردن، والتي يمكن تتبع الكثير منها في قانون الأونسيترال النموذجي بصيغته المعدلة في عام 2006.

تم تعديل القانون القديم في عام 2001، قبل التعديل الأخير لقانون الأونسيترال النموذجي.

علاوة على ذلك، ينص القانون المعدل على الوضوح الذي تمس الحاجة إليه بشأن بعض أوجه الغموض التي شهدها النظام السابق.

يستند القانون الجديد إلى قانون الأونسيترال النموذجي لعام 2006، وبالتالي فهو يعتبر الأقرب إلى القانون النموذجي، رغم أنه يحتوي على بعض التعديلات في أحكامه، من أجل الامتثال للتشريع الأردني. كنا ننوي معالجة القانون بأكمله. ومع ذلك، حيث إنه من المستحيل تغطية هذا بدقة ("القانون المعدل"). بسبب المساحة المحدودة التي يجب علينا أن نكتبها، سنقوم بالتالي بتغطية النقاط الرئيسية ومقارنتها بالقانون النموذجي.

دخل القانون المعدل حيز التنفيذ بعد ثلاثين (30) يومًا من نشره في الجريدة الرسمية رقم 2018/5513 بتاريخ 2 مايو 2018. وسينطبق القانون المعدل على عمليات التحكيم الموجودة في الأردن، وكذلك التحكيم الذي يتفق الطرفان على إخضاعه لإجراءات التحكيم هذه للقانون المعدل، وبغض النظر عن طبيعة العلاقة القانونية التي تثير النزاع.

سيتم شرح للتعديلات الجوهرية التي تمت بما فيها نطاق التطبيق للقانون الجديد والتعريفات المضافة والتفسيرات، اجراءات تشكيل هيئة التحكيم، تبليغ أطراف النزاع، اتفاق التحكيم، تحديات المحكمين وعزلهم، تمثيل الأطراف، الحجز التحفظي، لغة واجراءات التحكيم، إصدار قرار التحكيم وتنفيذه ايضا تعديل المادتين 51و 52 وموافقه التعديل لقرار المحكمة الدستورية بتميز القرار الصدر من محكمه الاستئناف كمحكمه مختصه في ضل القانون السابق.

الكلمات المفتاحية: قانون التحكيم الأردني، أهم التعديلات، قانون الأونسترال النموذجي.

1- Introduction:

Jordan has witnessed rapid development in its commercial relations, after joining the World Trade Organization and signing several agreements which have been accompanied by rapid economic development. This has led to the amendment of an Arbitration Act(1).

The Amended Law introduces new and anticipated changes to the procedural framework of arbitrations seated in Jordan, many of which can be traced in the UNCITRAL Model Law as amended in 2006.

The old law was issued in 2001, before the recent amendment to the UNCITRAL Model Law.

Further, the Amended Law provides for much-needed clarity on some of the ambiguities witnessed under the previous regime.

The new Act is based on the UNCITRAL Model Law 2006 and is therefore considered to be the closest equivalent to the Model Law, although it contains some amendments in its provisions, in order to comply with Jordanian legislation. We intended to tackle the entire Act. However, as it is impossible to thoroughly cover this (the "Amended Law"). Because of the limited space which we have to write this paper, we shall, therefore, cover the major points, as well as comparing them to the Model Law.

The main purpose of the current paper is to examine the current Jordanian arbitration law before the amendment in the year 2018 and after by comparing text, procedure and practice also determine the issues which affect the practice of arbitration in Jordan. It aims to present appropriate methods of enhancing arbitration legislation, bodies and practice in Jordan to match the International Standards.

(1) On 29 March 2018, His Highness King Abdullah Al Thani Ibn Al Hussein promulgated Law No. (16) For the year 2018, a law amending the Jordanian Arbitration Law No. (31) For the year 2001 (the "Amended Law").

Methodology

A descriptive and comparative research approach used together to reach the objectives of the research. The descriptive approach is the terminology used in the research and the comparative approach to the comparison between the old law and the new law.

Authors outline the scope of application and its interpretation. Also, discussed establishment of the arbitral tribunal, notification procedures, **the arbitration agreement,** the **arbitral tribunal,** the challenge of an arbitrator, challenge procedure, the arbitral proceedings, representing parties, interim measures and preliminary orders, language and other procedures, interim and conservatory measures, **the award, award set aside and enforcement and made conclusion and** recommendations.

1.1 Scope of Application

The Amended Law came into force thirty (30) days after its publication in the Official Gazette No. 5513/2018 dated 2 May 2018. The Amended Law will apply to arbitrations seated in Jordan, as well as arbitrations in which the parties agree to subject such arbitration proceedings to the Amended Law, and irrespective of the nature of the legal relationship giving rise to the dispute.

To this end, the Amended Law defines the "Seat of Arbitration" as "the country agreed upon by the parties to the arbitration to be the seat of the arbitral proceedings, the country whose applicable arbitration law is agreed upon by the parties to apply to the arbitral proceedings or the country selected by the arbitral tribunal as its seat in the absence of an agreement." This is stated in the first article after the amendment, the competent court is the court of appeal.

The Amended Law further defines the "Competent Judge" as "The head of the Competent Court or any of its judges as authorized by the head of the Competent Court in writing."

It is worth noting that the Amended Law will not have a retroactive effect. As such, it will only apply to arbitral proceedings and/or court cases that have commenced or are currently ongoing and/or being examined before arbitral tribunals and/or courts. For purposes of determining the commencement date of arbitral proceedings, the Amended law, under article 26, considers the date of the formal constitution of the arbitral tribunal as the date of commencement of the arbitral proceedings.

Also, further defines the place of arbitration has been added as the state agreed between the parties to the arbitration or the state agreed to apply the arbitration law in force or the chosen State of the arbitral tribunal [(2),] Here the latest amendment to Jordanian law corresponds to the Model Law in the article (1), 3, (a).

(2) Article (2), a Law No. (16) For the year 2018, a law amending the Jordanian Arbitration Law No. (31) For the year 2001 (the "Amended Law").

1.2 Interpretation

An important addition reflected in the Amended Law is the explicit reference to legal principles and guidelines of international arbitration, as well as international trade customs, as sources of interpretation of the provisions of the Jordan Arbitration Law, while the third article before the amendment provided (The provisions of this law shall apply to every conventional arbitration conducted in the Kingdom and relates to a civil or commercial dispute between parties of public or private law persons whatever the legal relationship to which the dispute is connected, whether contractual or not), Here we find a clear and significant development [(3)]

My opinion is that the introduction of the Jordanian legislator's customs and international commercial norms of the law is a complete shift towards keeping up with the international trade legislation as one of the sources of interpretation of the articles of the law.

2- Establishment of the arbitral tribunal

The establishment of an arbitral tribunal involves many considerations. There is first, the question of numbers. Should there be more than one arbitrator and, if so, how many? Is there any general rule as to the number of arbitrators that should be appointed or does this depend upon the circumstances of the particular dispute? The answer is that an arbitral tribunal may consist of one or more arbitrators, depending on what the parties have agreed.[(4)]

The substantive procedure was amended in Article (5) stipulating that:

"In cases where this law allows the two arbitrating parties to choose a procedure that should be followed in a certain issue, this includes their right to authorize a third party to choose such procedure; and any arbitration institute or center, in the Kingdom or abroad, shall be deemed (in this respect)as a third party.

Where in the Amended Law the parties to the arbitration may grant permission to choose the legal proceedings and the license is considered an agreement between them, In the event that the third party fails to establish the institute or the center or its functions or its negligence, one of the parties may resort to the competent court to complete the formation of the arbitral tribunal, In my opinion, the authorization of arbitrators to choose the procedures followed by the right to delegate a third party is a good modification and a continuation of legislative development.

(3) Ibid article (3)

(4) Law and Practice of International Commercial Arbitration Alan Redfern, Martin Hunter,2004,sweet & Maxwell p.183

a. Notification procedures

Definition of notification **the** act or an instance of notifying[5]

The amendment procedure became closer to the Model Law we observe it any (written) communication is deemed to have been received by a party, if it is delivered to the addressee personally, or delivered at his place of business, habitual residence or mailing address known to both parties Electronic messaging has been added to the evolution of technology, article (3)1(a) from model law stipulating that:

(a) "any written communication is deemed to have been received if it is delivered to the addressee personally or if it is delivered at his place of business, habitual residence or mailing address; if none of these can be found after making a reasonable inquiry, a written communication is deemed to have been received if it is sent to the addressee's last-known place of business, habitual residence or mailing address by registered letter or any other means which provides a record of the attempt to deliver it. My opinion is the entry of the Jordanian legislator means of communication and modern technology is an important development in the new arbitration law.

b. The Arbitration Agreement

The arbitration agreement is defined as: "The agreement under which the parties undertake to settle the disputes arising or that may arise between them through arbitration."[6] Thus, referring to arbitration takes place by certain vehicle (the arbitration agreement) by which the parties agree on referring to arbitration to settle all or some of the disputes arising between them regarding a contractual or non-contractual legal relationship, i.e. the arbitration agreement, to be more accurate, is the arbitration constitution and serves as the source for the authority of arbitrators.

"While anyone may be taken to court, no-one can be made to enter upon arbitration proceedings unless he has agreed to do so"[7], thus the most important and necessary element in the arbitration process is the agreement between the parties to submit their dispute to arbitration instead of going to the courts. Arbitration is based on the agreement of two or more parties that a particular dispute or a particular type of dispute should be arbitrated. This proves that the arbitration agreement is the foundation stone of international commercial arbitration.[8]

The term "arbitration agreement" appears for the first time in the New York Convention. Article 2(1) stipulated that:

(5) https://www.merriam-webster.com/dictionary/notification accessed at 25/3/2019

(6) Al-Haddad Haditha, Modern Trends in Arbitration Agreement, Al-Fikr Al-Jaimie Publishers, Alexandria, 1998, p. 13

(7) Ginnings, Arthur, Arbitration A Practical Guide, (1984, London: Gower Publishing Company Limited) p. 24

(8) Redfern, Alan and Hunter, Martin, Law and Practice of International Commercial Arbitration, (1986, London: Sweet and Maxwell) p. 98

"Each contracting state shall recognize an agreement in writing under which the parties undertake to submit to arbitration all or any differences which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not, concerning a subject matter capable of settlement by arbitration."

This means that every contracting state member to this Convention shall recognize every written arbitration agreement. Following the entry into force of this Convention the term "arbitration agreement" has become common, and it has been used in all subsequent conventions concluded after the New York Convention

While the model law in article (7) definition Arbitration agreement

" is an agreement by the parties to submit to arbitration all or certain disputes which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not. An arbitration agreement may be in the form of an arbitration clause in a contractor in the form of a separate agreement.

(2) The arbitration agreement shall be in writing. (3) An arbitration agreement is in writing if its content is recorded in any form, whether or not the arbitration agreement or contract has been concluded orally, by conduct, or by other means. (4) The requirement that an arbitration agreement be in writing is met by an electronic communication if the information contained therein is accessible so as to be useable for subsequent reference; "electronic communication" means any communication that the parties make by means of data messages; "data message" means information generated, sent, received or stored by electronic, magnetic, optical or similar means, including, but not limited to, electronic data interchange (EDI), electronic mail, telegram, telex or telecopy. (5) Furthermore, an arbitration agreement is in writing if it is contained in an exchange of statements of claim and defence in which the existence of an agreement is alleged by one party and not denied by the other. (6) The reference in a contract to any document containing an arbitration clause constitutes an arbitration agreement in writing, provided that the reference is such as to make that clause part of the contract(9).

On the other hand Article 11 of The Jordanian Arbitration Law defines the arbitration agreement, stipulating that:

"The arbitration agreement may be concluded before the occurrence of the dispute whether in form of a separate agreement or contained in a specific contract arising between the two parties. The arbitration agreement may also be concluded after the occurrence of the dispute even if such dispute was the subject of an action before any ،judicial body' and, in such a case, the agreement must precisely determine the subject of the dispute or, else, it is void."

(9) Article (7) model law 2006.

Thus the arbitration agreement is an agreement by which the parties agree to resort to arbitration as a means of resolving all or some of the disputes which have arisen or which may arise between them in connection with a specific legal relationship. The arbitral agreement may also precede the occurrence of the dispute, whether such agreement exists independently or as a clause in a given contract in connection with all or some of the disputes which may arise between the parties.(10)

The Amended Law has brought changes to the rules governing arbitration agreements. While the Amended Law has reconfirmed the writing requirement for the validity of arbitration agreements, it specified that the writing requirement can be satisfied through any form, including the electronic correspondence. A welcome change in the Amended Law lies in the explicit admission of arbitration agreements incorporated by reference. There are indeed instances where an arbitration agreement may be incorporated by reference to an arbitration agreement contained in another document. Under the previous regime, an arbitration agreement incorporated by reference was regarded as valid provided the reference itself clearly considered the arbitration agreement to form part of the main agreement entered into between the parties. The Amended Law eases the conditions of validity of arbitration agreements by removing the requirement for an explicit acknowledgement that the arbitration agreement incorporated by reference forms part of the main agreement. Under the regime of the Amended Law, any reference or indication contained in the main agreement concluded between the parties to another document containing an arbitration agreement is deemed to be analogous to a written arbitration clause under the original agreement. This is particularly useful in instances where parties sign specific terms and conditions which contain a reference to general terms and conditions containing an arbitration agreement.

The Amended Law also stipulates that prior arbitration agreements in employment contracts and consumer contracts concluded on preprinted forms shall be null and void. This amendment, in particular, the ban on arbitrating any dispute that may arise out of an employment contract, is in line with the most recent and prevailing decisions of the Jordanian courts.

My opinion is that the amendment is true with respect to contracts of employment and consumer contracts, which negates any previous agreement

The amendment was confirmed in Article (9) Arbitration agreement may not be concluded except by natural or legal persons who have legal capacities to dispose of their rights, Also Arbitration is not permitted in matters on which compromise is not allowed.(11)

(10) Barary, Mahmoud, International Commercial Arbitration, (1999, Cairo: Dar A1 Nahda A1 Arabia) p. 6

(11) Article (9), a Law No. (16) For the year 2018, a law amending the Jordanian Arbitration Law No. (31) For the year 2001 (the "Amended Law").

In my opinion, the introduction of changes to the rules of international arbitration agreements and the confirmation of the writing requirement for the validity of the arbitration agreement is a subject that is in line with the Model Law on the one hand and encourages foreign investment on the other.

c. The Arbitral Tribunal

The meaning of arbitration tribunals a panel of one or more adjudicators which is convened and sits to resolve a dispute by way of arbitration. (12)

The jurisdiction of the arbitral tribunal depends on three conditions first one a valid arbitration agreement between the parties, secondly on the scope thereof which must encompass the subject matter of the dispute, finally on the regular constitution of the arbitral tribunal. (13)

The Amended Law introduces provisions relating to the number of arbitrators, their appointment and the designation of the presiding tribunal member in events where the disputing parties are three or more. According to Article (16) of the Amended Law, an agreement on the appointment and number of arbitrators as well as on the mechanism of appointing of the presiding member by the disputing parties shall always take precedence and prevail, however, in absence of any such agreement:

(i) The Competent Judge will appoint the arbitrators if their number was agreed upon between the disputing parties and will also name the presiding tribunal member.

(ii) Where the number of arbitrators and their method of appointment is not agreed upon by the disputing parties, the arbitral tribunal must then be comprised of three members appointed by the Competent Judge who will also name the presiding tribunal member.

(iii) If the number of arbitrators and their method of appointment was known, the appointed arbitrators must select the presiding member by a majority decision, if the majority was not achieved, the Competent Judge will name the presiding member pursuant to a request by any of the disputing parties. The Amended Law grants any of the disputing parties the right to resort to the Competent Judge in event of a disagreement as to any of the matters pertaining to the appointment of arbitrators who, in turn, must rule as necessary to resolve such disagreement. Finally, in this regard, the Amended Law placed a duty on the Competent Judge, when selecting an arbitrator,

1. To consider the requirements of the law and the parties' pre-set conditions in this regard.
2. To accelerate the process of decision making when selecting an arbitrator. Under the previous regime, decisions by the Competent Court appointing an arbitrator(s) were not subject to appeal before a higher court and were to be considered final. The Amended Law, in this regard,

(12) https://en.wikipedia.org/wiki/Arbitral_tribunal accessed at 9/5/2019.

(13) Comparative Law of International Arbitration jean-François Poudret ،Sébastien Besson,2007, sweet Maxwell, p.383.

implicitly allows for an appeal of the Competent Judge's decision by deleting, from the amended relevant article, the previous explicit text on the appeal constraints.

This article is a reflection and mirror of Article 11 of the Model Law, a stipulated

1. "No person shall be precluded by reason of his nationality from acting as an arbitrator unless otherwise agreed by the parties.
2. The parties are free to agree on a procedure of appointing the arbitrator or arbitrators, subject to the provisions of paragraphs (4) and (5) of this article.
3. Failing such agreement:
   a. in an arbitration with three arbitrators, each party shall appoint one arbitrator, and the two arbitrators thus appointed shall appoint the third arbitrator; if a party fails to appoint the arbitrator within thirty days of receipt of a request to do so from the other party, or if the two arbitrators fail to agree on the third arbitrator within thirty days of their appointment, the appointment shall be made, upon request of a party, by the court or other authority specified in article 6.
   b. In an arbitration with a sole arbitrator, if the parties are unable to agree on the arbitrator, he shall be appointed, upon request of a party, by the court or other authority specified in article 6.

d. The challenge of arbitrators

Niek Peters said in his book the fundamentals of international commercial arbitration "Where challenge used to be rare they are now on the order of the day and the available statistics show that the practice increases at the same time the statistics also show that only a small percentage of the challenges is successful".(14)

Also, have challenges for partiality or lack of independence (impartiality) requirements is to ensure that the parties are treated equally and that the award is not influenced by an arbitrator's bias.(15)

As for the challenge of arbitrators(16), the Amended Law placed a duty on both the perspective and appointed arbitrators to be impartial and independent. The Amended Law, in line with the UNCITRAL Model Law, places a continuing duty on the arbitrators to remain impartial and independent throughout the arbitral proceedings and imposes a duty on the arbitrators to disclose any such circumstances that may cause their impartiality or independence to be impaired.

(14) The fundamentals of international commercial arbitration, niek peters,2017,maklu publish. p.142

(15)International Commercial Arbitration: An Asia-Pacific Perspective Simon Greenberg ،Christopher Kee ،J. Romesh Weeramantr, Cambridge press, 2011 p. 274.

(16) Article (16), a Law No. (16) For the year 2018, a law amending the Jordanian Arbitration Law No. (31) For the year 2001 (the "Amended Law").

Article 12 from model law stipulates that: Grounds for the challenge (1) when a person is approached in connection with his possible appointment as an arbitrator, he shall disclose any circumstances likely to give rise to justifiable doubts as to his impartiality or independence. An arbitrator, from the time of his appointment and throughout the arbitral proceedings, shall without delay disclose any such circumstances to the parties unless they have already been informed of them by him. (2) An arbitrator may be challenged only if circumstances exist that give rise to justifiable doubts as to his impartiality or independence, or if he does not possess qualifications agreed to by the parties. A party may challenge an arbitrator appointed by him, or in whose appointment he has participated, only for reasons of which he becomes aware after the appointment has been made.

It may be noted that the new act requires an arbitrator to be "impartial and independent", whereas the UNCITRAL Model Law on International Commercial Arbitration requires an arbitrator to be Stipulates that "impartial and independent"[(17).]

Under the Amended Law, the application for the disqualification of an arbitrator by a party must be based on serious grounds. In addition, the procedures for requesting an arbitrator to be recused have been amended. Under the previous law, a request challenging the impartiality and independence of an arbitrator was to be submitted to the court of appeal; however, under the regime, the same request must now be submitted to the arbitral tribunal itself, which, in turn, must refer the request along with the challenged arbitrator's response to the court of appeal if the challenged arbitrator does not recuse himself[(18).]

Article (17) in the amended law, add only one word for the circumstances it will be Serious circumstances need a strong guide, Where the text became " An arbitrator may be challenged only if {**Serious** }circumstances exist that give rise to doubts as to his impartiality or independence"

e. Challenge procedure

Challenge procedure very cross-institution and Lex arbitri generally what standard of proof evidence and procedures should apply to challenges national law well generally provide for the challenge before courts.[(19)]

About our cases Article(19 in the amended law) same text shall remain with the addition with "regards Article 5 of this Law If an arbitrator becomes unable to perform his function or fails to commence

(17) UNCITRAL Model Law on International Commercial Arbitration, Article (13): "An arbitrator may be challenged only if circumstances exist that give rise to justifiable doubts as to his impartiality and independence, or if he does not possess qualifications agreed by the parties."

(18) Article (18), a Law No. (16) For the year 2018, a law amending the Jordanian Arbitration Law No. (31) For the year 2001 (the "Amended Law").

(19) Procedure and Evidence in International Arbitration, Jeffrey Waincymer, Kluwer Law International B.V.2012, p.512.

or to continue such performance in a manner which leads to unjustifiable delay in the arbitral proceedings, and if neither he withdraws from his office nor the two parties agree on removing him, then the competent court is empowered, upon request of either party, to terminate his mandate by a decision which shall be subject to no appeal whatsoever"[20].

Whereas the same opinion with UNCITRAL Model Law on International Commercial Arbitration requires an arbitrator to be Stipulates that "If an arbitrator becomes de jure or de facto unable to perform his functions or for other reasons fails to act without undue delay, his mandate terminates if he withdraws from his office or if the parties agree on the termination. Otherwise, if a controversy remains concerning any of these grounds, any party may request the court or other authority specified in article 6 to decide on the termination of the mandate, which decision shall be subject to no appeal"[21].

In line with the UNCITRAL Model Law[22], the Amended Law contains a special provision with regards to placing an obligation on the arbitral tribunal to act fairly and impartially and ensure that parties have an equal opportunity to present their case. The arbitral tribunal must also avoid any unjustified delay or unnecessary expenses in order to resolve the dispute in a timely manner *"for the sake of achieving a fair and urgent means for dispute resolution.*

In relation to the arbitral tribunal's fees, the Amended Law introduced a new provision regarding the fees of the arbitral tribunal. Pursuant to such a provision, and in absence of an agreement between the disputing parties and the arbitral tribunal on the fees, the arbitral tribunal shall determine its own fees and order the disputing parties to each pays their share equally. A very important, yet lopsided addition under the Amended Law lies in a clause granting the arbitral tribunal the right to order the compliant party to pay the defaulting party's share of the arbitral tribunal fees in events where a disputing party defaults in paying their share of the tribunal fees or any expenses of arbitration. Any decision issued by the arbitral tribunal concerning its fees may now be challenged through an appeal before the court of appeal within (15) days from the date of notification of the parties of the same[23].

3- The Arbitral Proceedings:

3.1 Representing parties:

The Amended Law now allows Jordanian lawyers to "engage any non-Jordanian lawyer or any other professional and experienced person if the contract subject matter of the dispute referred to

(20) Ibid article (19).

(21) UNCITRAL Model Law on International Commercial Arbitration, Article (14)

(22) Ibid article (15).

.(23) Article (18), a Law No. (16) For the year 2018, a law amending the Jordanian Arbitration Law No. (31) For the year 2001 (the "Amended Law").

arbitration is subject to the provisions of foreign law."[24] Such an addition on the recourse to foreign legal counsel, as well as other relevant professionals to instances where the contract at issue in the arbitration is governed by the provisions of foreign law, and by a means of assistance to the Jordanian lawyer, is favorable. It is regrettable, however, that the Amended Law did not make any provisions as to permitting non-Jordanian representation in arbitral proceedings where the underlying contract is governed by Jordanian law.

My opinion is that in the next amendment, consideration should be given to the representation of non-Jordanians in the proceedings, even if the basic contract of the Jordanian law is subject.

3.2 Interim measures and preliminary orders:

Interim measures can either be issued in the form of procedural or an interim award,[25] preliminary orders can never be issued as an award.[26]

An arbitral tribunal must be in a position to grant interim measures and if the need arises also be able to issue preliminary orders ex parte, however, such measures and orders do add an additional layer of complexity to the arbitral process.[27]

The Amended Law now allows in Article (26) was added to the power of provisional detention or Urgent decision[28], deal with the UNCITRAL Model Law Stipulates that[29]

1. "unless otherwise agreed by the parties, the arbitral tribunal may, at the request of a party, grant interim measures.
2. An interim measure is any temporary measure, whether in the form of an award or in another form, by which, at any time prior to the issuance of the award by which the dispute is finally decided, the arbitral tribunal orders a party to:
   a. Maintain or restore the status pending the determination of the dispute.
   b. Take action that would prevent, or refrain from taking action that is likely to cause, current or imminent harm or prejudice to the arbitral process itself.
   c. Provide a means of preserving assets out of which a subsequent award may be satisfied.
   d. Preserve evidence that may be relevant and material to the resolution of the dispute".

(24) The previous article stipulates that "The two arbitrating parties shall be treated with equality, and each party shall be given a full and equal opportunity of presenting his case or defense"

(25) For example article 26(2) of the Swiss rules ".... May be established in the form of an interim award"

(26) Model law article 17 c(5)

(27) International Arbitration and Mediation - From the Professional's Perspective: Anita Alibekova ،Robert Carrow, 2007, p.150.

(28) Article (26/b), a Law No. (16) For the year 2018, a law amending the Jordanian Arbitration Law No. (31) For the year 2001 (the "Amended Law").

(29) UNCITRAL Model Law on International Commercial Arbitration, Article (17)

Also, The Amended Law now allows in Article (27) was added Use modern communication tools to conduct arbitrations Procedures also introduces major and welcomed changes to the means through which arbitration hearings and proceedings can now be conducted. Under the Amended Law, the arbitral tribunal is granted greater leeway in holding the hearings in a manner the tribunal sees fit so long as the hearings and the meetings can be documented in writing. The Amended Law introduced various provisions recognizing contemporary means of communication as it now permitted the arbitral tribunal to use any new method of communication to conduct any arbitration procedure, including the use of different telecommunication technological methods, such as video conferencing for the purpose of hearing witness testimony, Such cost and time effective measures will undoubtedly contribute to the efficiency of the proceedings.

3.3 Language and other procedures:

About language, Article (28 in the amended law) follow the model law and consider use the Arabic language as default language (The arbitration shall be conducted in Arabic unless otherwise agreed by the two parties or that the arbitral tribunal determines another language or languages to be used. Such agreement or determination shall apply to the language of evidence, written statements, and oral hearings)[30].

It is also worth noting that the Amended Law now allows the parties, at any time during the arbitral proceedings, to submit additional evidence to support their claim/defence unless the arbitral tribunal disapproves such submission. This new addition to the Amended Law was not provided for under the previous regime as the parties were only allowed to amend their grounds of defence and their final requests but were not permitted to submit any additional evidence[31].

The Amended Law also introduces major and welcomed changes to the means through which arbitration hearings and proceedings can now be conducted. Under the Amended Law, the arbitral tribunal is granted greater leeway in holding the hearings in a manner the tribunal sees fit so long as the hearings and the meetings can be documented in writing[32]. The Amended Law introduced various provisions recognizing contemporary means of communication as it now permitted the arbitral tribunal to use any new method of communication to conduct any arbitration procedure, including the use of different telecommunication technological methods, such as video conferencing for the purpose of

(30) Article (28), a Law No. (16) For the year 2018, a law amending the Jordanian Arbitration Law No. (31) For the year 2001 (the "Amended Law").

(31) Article (29/b-c), a Law No. (16) For the year 2018, a law amending the Jordanian Arbitration Law No. (31) For the year 2001 (the "Amended Law").

(32) Ibid article (32).

hearing witness testimony. Such cost and time effective measures will undoubtedly contribute to the efficiency of the proceedings.

The Amended Law also reiterated the acceptance of affidavits, i.e., sworn statements of testimony, as evidence in arbitral proceedings. However, the Amended Law provided that should the opponent wish to cross-examine the witness and the latter fails to appear before the arbitral tribunal, the entire affidavit must be ruled out as evidence.

As for experts, the Amended Law sets new conditions for the admission of expert reports where any of the parties to the arbitration submit such reports with their documentary evidence. For the expert report to be admissible under the Amended Law, the submitting party must disclose the expert appointment letter, the scope of work/assignment of the expert, and the fees that were paid to them. It is mandatory, under the Amended Law, to call the expert for questioning at the request of a party or should the tribunal to decide. As for the appointment of the expert, the Amended Law introduces an option for the appointment of a juristic person (company) as an expert as opposed to solely an individual as was the case under the previous regime.

All of the above procedures are consistent with the Model Law(33).

In my opinion use of modern means advanced techniques of contemporary arbitration procedures such as the use of Skype application, for example, facilitates the work and reduces the costs of travel and travel expenses, etc. Also, allow the submission of additional evidence at any time of the arbitration stages of the most important additions to the amendment of 2018 also accept the statements and the exclusion of the certificate in full as evidence of something very good.

4- Interim and Conservatory Measures

Where either party wishes to apply for interim or conservatory measures, the Amended Law, like the previous law, allows the arbitrating parties to do so prior to the commencement of arbitral proceedings or during such proceedings in accordance with the relevant articles of the Jordanian Law of Civil Procedures No. (24) For the year 1988.

The Jordanian Law of Civil Procedures No. (24) For the year 1988(34) provides that a claimant may apply to the judge of summary proceedings for a motion to attach and/or freeze the property of the defendant party as a precautionary measure either prior to the filing of the substantive lawsuit or along with it. Where the motion is made prior to filing the substantive lawsuit, the Jordanian Law of Civil Procedures stipulates that the substantive lawsuit must be filed within a period of eight (8) days after procuring the decision to attach/freeze the properties of the defendant, otherwise any or all (where applicable) attached properties will be released.

(33) UNCITRAL Model Law on International Commercial Arbitration, Article (23-24-25)

(34) For more details see https://www.wto.org/english/thewto_e/acc_e/jor_e/wtaccjor29_leg_17.pdf accessed 12-5/2019.

For the purpose of upholding the attachment of property after the (8) day period, the Amended Law now considers a notice to appoint an arbitrator served by the claimant upon the respondent along with the appointed arbitrator's written confirmation of acceptance to be sufficient as a time barring event for the running of the (8) day period mentioned under the Jordanian Law of Civil Procedures. Such a trigger event to the confirmation of the attachment may cause some practical challenges as often the appointment of an arbitrator comes at a later stage in the proceedings, after the request for arbitration. In some urgent cases, the need to sustain the attachment would have to occur prior to the appointment of an arbitrator. Also, in some instances, the power to appoint an arbitrator, and depending on the agreement among the parties, lies outside of the parties, through for example an appointing authority.

The legislator kept the text of Article (35) where it was provided "The proceedings before the arbitral tribunal shall suspend in accordance with the situations and conditions provided for in the Law of Civil Procedures, and such suspension shall have the effects as mentioned therein".

In my opinion, keeping Article 35 unchanged and keeping the previous procedure in the old law without modification is a procedure that requires amendment in the next time.

4.1 The Award

As for the time limit within which the arbitral tribunal must render its final award, the previous regime provides that such time limit shall start to run from the date of the commencement of the arbitral proceedings until the lapse of a twelve (12) month period. The extension provided for was for only another six (6) months. The Amended Law provides for the same period; however, the time limit shall start to run from the date of the constitution of the arbitral tribunal. The arbitral tribunal may, in any event, extend the time limit for a period of twelve (12) months or as otherwise agreed by the parties[(35).]

In relation to the final arbitration award, the Amended Law provides that the final award must be issued unanimously or by a majority decision. In the absence of a majority, the parties may agree that the award is made by the president of the arbitral tribunal alone. If the parties do not agree as to how the award will be issued when a majority is not reached the arbitral proceedings shall cease and terminate[(36).]

Where any part of the claim was acknowledged by the opponent, the claimant may procure a final award for the acknowledged part of the claim. This provision was not provided for under the previous law was stipulates "The arbitral tribunal may, before rendering the award that brings the dispute to an end, issue provisional decisions or awards in part of the claims".

While the Amended Law did not introduce significant changes to the interpretation and correction of the final award, it provides that the explanatory award and the corrected award must be

(35) Article (37), a Law No. (16) For the year 2018, a law amending the Jordanian Arbitration Law No. (31) For the year 2001 (the "Amended Law").

(36) Ibid article (38).

presented to the court before which a party files for a set-aside the action. The Amended Law also provides for the possibility to submit the correction or interpretation applied to the court of appeal in the event that it is not possible for the arbitral tribunal to convene for making that correction or interpretation. Also, with regards to any additional awards made by the arbitral tribunal in connection with any missed part of the claim, the additional award shall take the form of an addendum and shall constitute part of the award. The additional award must also be submitted to the court where a party files for a set-aside the action.

In my opinion, recognition of part of the claim during the arbitration process and the right to obtain the final decision is ordered New and good modifications must be made regarding the interpretation and correction of the final award.

4.2 Award Set Aside and Enforcement:

The Amended Law introduces a major significant change with regards to set aside actions. Under the previous regime, a set-aside action could only be submitted to the court of appeal and its decision to set aside could be appealed before the cassation court. However, in the event that the court of appeal dismissed the set-aside action and decided to uphold the arbitration award, such a decision could not be appealed against. The Amended Law stipulates that the only competent court for the purpose of filing a set-aside action is now the cassation court, thereby reducing the stages of appeal to only one in the event that the cassation court rules to set aside the arbitration award. Therefore, should the cassation court rule to set aside the award, neither party further may appeal the decision. This is in contrast to the previous law under which there were two steps to an appeal since a set aside order by the court of appeal was subject to appeal before the cassation court.

Previously, the arbitration law provided that a decision to set aside an arbitration award would consequently render the arbitration agreement nullified as it results in litigation unless both parties agree on further arbitration. The Amended Law, however, provides that a decision to set aside an arbitration award does not affect the arbitration agreement unless such an agreement was in itself null void. This consequently means that the disputing parties, in the event an arbitration award is set aside, must resort again to arbitration as a method of dispute resolution.

The Amended Law also transferred the role of examining enforcement applications to the sole jurisdiction of the cassation court as opposed to the court of appeal as was the case under the previous law. The Amended Law has withdrawn a party's right to appeal the court's decision rejecting enforcement due to incorrect service of summons or due to the impossibility of enforcement when the award itself contravenes with public order.

5- Conclusion and Recommendation

As part of Jordan's efforts to stimulate its economy and attract foreign investments, the Amended Law provides a comprehensive reform to the legislative framework of arbitration in Jordan.

It should be noted that the bill dealt with the subject of multiple opinions by the arbitrators so that it can be issued by the president alone, and the appeal has become in two stages of appeal and discrimination in line with the provisions of the Constitutional Court.

1- We are recommended in the next amendment, consideration should be given to the representation of non-Jordanians in the proceedings, even if the basic contract of the Jordanian law is subject because of this is a requirement for foreign investors
2- Also, We prefer didn't mention to the certain means of communication facilities for the arbitration process because of speed develop it.
3- We believe staying the Article (35) unchanged and keeping the previous procedure without modification that requires amendment procedure in the next time.

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15- UNCITRAL Model Law on International Commercial Arbitration 2006.