

*

2001 (31)

)

(

19 18 16 8)

.(54 53 51 49 41 37 23 20

/

(2)

.1

(49)

.2

2001 (31)

(1)

(3)1953 18

.2005/3/7

2004/11/25

*

/

(6) (49)

- .1
- .2
- .3
- .4

(4)

(7)

31

.2001

"

(5)

"

(8) E. Gaillard

(24)

1/39

"

"

(16)

" :

"

(9)

(13)

(13)

(49)

.1

" :

:

(49)

.2

.1

.3

.2

(10)

.3

(49)

(2)

(1)

(13)

1953

(18)

(13)

(5)

(3)

(11)

()

1953

(13)

() (1)

(12)

" :

(13)

)

66/203

(16 15)

" : () (

(49 13)

" :(15)

(12)

.1

(50) .(47,46,45)
"

"...

(13)

.2

(1/54)

(3/5/34)

(90)

(14)

83/90

(49)

(802)

85/20

(49)

.1

" (48)

(15)

"

49)

(51 50

.2

-

-

(16)

:

(19)

(20)

(50)

"

(2/802)

..."

(17)"

"

(18)

1985

(1994 27)

(34)

(3/ /34)

"

(21)

"

(50)

(5)

(49)

:

(49)

(22)

(8)

(7)

(4)

"

(7)

(23)

.3

(24)»

(50)

(26)

:

(/2)

»

:

.1

»

.2

(21)

:

()

» -

:

(8)

-

»

» -

()

(2 1/16)

-

(29)

19 18)

53 51 /49 /41 5/37 23 20

(54

(25)»

:

.1

1953 18

:

-

(3/18)

:

" .3

-

.2

."

84

1953

:

(79 62)

.1

.2

(9)

.3

:

" (1

(28)

(2

(2/54)

."

:

.1

(9)

(49)

()

(27)

∴ (29)
.1

.2 (30)

(32)

/
(46 45)
" (/45)

(1) (1/46) "
" 1994 (27) "

"(33)

"
(47)

(/47)

" (3)

(31)"

"
" (48)

:

(51 50 49)

"

(34)

/

(22)

1987/1/14

"

"

(35)

(37)

(1504)

(38)

500/81

1981/5/12

"

(1504)

.(1502)

(36)

:

:

(49)

(50)

" :

(39)"

:

-1

(/49)

(6 5 4 2 1)

:

-

(10)

" :

:

"(40)

(49)

1/

.1953 (18)

:

(49)

- "

-1

"

"

(3)

"

(6)

(41)

"

"

- :
 " :
 -1 :
 (45)"
 (19)
 (49) (1/) (20)
 " :
 " :
 " :
 - " (1 /49)
 -1 : (42)"
 (46)"
 (13)
 1953 18
 (47)
 (/10)
 :
 " -
 (43)
 " -
 (44)
 (2/34)
 (12) " (6)
 " : :
 : -1
 ...-
 -2" (2/7) (/1/5)
 (48)" 1958
 (1)
 -1" : -1" : 1985 (10 - 20)

(45 37)

...

."

:

-

(49)

(1/49)

-

-

(50)

(37)

()

(45)

(1)

-

(37)

(1456)

(45)

(12)

(24)

1993

42

:

"

- "

"

()

(45)

.()

(37)

."

(37)

()

"

"

: (24)

"

(52)

"

"

(158)

(35)

"

(24)

(123)

(53)"

:

-1"

"

-4 ...

(35)

(123)

(123)

(37)

(45)

(54)

"

"

(51)

(46)

(43)

" :

(1456)

(24)

(449)

(451

"

"

(56)"

(457)

-

()

-1" :

-2

" : (/49)

" (1663)

...

"

"

(57)

40)

(42

" :

(58)

(55)"

(2/ /49)

-2"

(59)"

(15)

450 449)

(9)

:

(11)

-2"

(65)

(60)"

1976/12/21

(1/12)

"

1976

43

(61)"

)

(Public Vessels Act

(66)

...":

"

(3)

(62)"

(3)

"

46/

"

1982/7/12

(50)

(51)

(25)

(139)

"

(67) 1958

(63)

(68)

(64)

-2

1974

: (49)

:

(49) (4)

(4/49)

(69)

()

(70)

-4"

(4/ /49)

(11)

..."

(71)"

-6" : (1/49) : (6/49) "

...

-6 :

(73)"

-3

(72)

(3/49)
(/1/53)

-3 :

(43)

()

(46)

(25)

(74)"

()

(4/1502)

(75)

1987/11/27

(194

(76)"

:

.1

(3/ /49)

-

-

()

(77)

.2

(4/1502)

-4

(78)

(/49)

(3)

"

"

(79)

()

(49)

- "

"

(49) ()

:

(80)

.1

.2

.3

1993/9/10

(Alsthom Turbines)

(Westman)

(81)

(Alsthom)

(Westman)

(1504 5/1502)

(82)

(84)

:

(25)

(83) "

(49)

(7)

1993

24

(85)

-1

"

-2

"

(86)

-3

(/49)

	:		.1	(2)		-4
					:	-
1994	(27)			(51)		-
)	(3 2)		(49)		
(10 4)		(.2			
	33	(2)	.3			-5
34	(2)				(87)	
			.4			-6
	(137)					
1456						
	(24)			(49)		
		(6)	.5		(88)	
-						
				31		
			.6		-	2001
(7)						-
		49				

	" :	(3/5/34)		16	4496			(1)
						.2821	2001	(2)
	245		(15)	1988 -169)	24			(2)
		.92					.(228	(3)
	.141		(16)		3545			(3)
	248		(17)	(14)		735	1988/4/2	(4)
				(4480)			2001	(5)
		.232				.1252	2001/3/18	(6)
	255		(18)	(22 - 21)				(7)
171		.321	(19)			.223-222		(8)
	.254		(20)	2002/1086			2000	(9)
			(21)	.38-33	(53)			(10)
		254				(34)		(11)
	()				(1502)		(12)
						(78)		(13)
						.1993	(42)	(14)
								(15)
	.241		(22)					(16)
1994	27		(23)					(17)
								(18)
		8						(19)
		.1985						(20)
	(7)		(24)					(21)
	(22)		(25)					(22)
		1994						(23)
		172	(26)			.300	294	(24)
								(25)
								(26)
	.143-142		(27)					(27)
-353			(28)			.57		(28)
								(29)
		.470						(30)
	237		(29)					(31)
								(32)
		.257						(33)
	324	317	(30)		1131			(34)
								(35)
		.237				.4820	1953 /1/17	(36)
	. /47		(31)		1966	947		(37)
52			(32)					(38)
								(39)
								(40)
								(41)
	.307	304						(42)
	.1		(33)			(1/54)		(43)
								(44)

	.8		27		(34)	(34)
421	3	:	(44)		28	
	128					
	.53					
	1958/6/10		(45)		27	
	.1979 /11/15			"		
	.49		(46)			
	1953 18		(47)			
1953/1/17	1131					
.259	:	482				
			(48)			
		.2/7		/	27	
			(49)		.5	
	.158			3		(35)
Rodolphe, J. A. de Self- Domke in Commercial Arbitration- Callhan-1987-P.37, Jan C.Schultsz, Albert Jan Van- Den Berg- the Art of Arbitration- Supra Note - P.52.					1	
				Rene David- Supra 30		28
						.note-P.91,119;
				.94		(36)
Richard H.Mclaren, Earl Edward Palmer- The Law and the Practice of Commercial Arbitration- The Carswell Company Limited- Toronto-Canada- 1983-P.115.			(50)	Versailles, 17 Janv. 1987, Cite Par E. Gaillard, art.OP.Cit. n31, p. 11		(37)
					.54	
	.165		(51)		.335-334	
	42		(52)	50		(39)
	.24	1993 /5/26		.228		
	(38)		(53)	157		(40)
	24		(54)		:	
	3545	1988		Thomas Oehmke-Commercial Arbitration, The Lawyers Cooperative Publishing Company, New York -1987- P.311-313.		
	.735	1988/4/2				(41)
	2001 14					
	4480					
	.1252	2001/3/18			.203-202	
	54		(55)	James Acret, Construction Arbitration Handbook, McGraw-Hill Book Company, New York-1985-P.32.;		
	156			Frances Kellor: Arbitration in Action. Harper and Brothers Publishers-New York and London, 1941, P.126.		
Rodolphe J. A. de Self- Supra Note- P.31..54			(56)			
1976	(43)					
	2645					
	:	2 1976/8/1				(42)
	.203				:	40-33
	.49		(57)			148
Ernest Wetton- Russell on Arbitration-Stevens and Sons Limited-Sweet & Maxwell Limited London-1949-P.1.				.54		
	968	1987	(58)	237		(43)
		1987/11/19				

1995	1996
1983	
2001	2001
Ernest Wetton. <i>Russell on Arbitration.</i>	2000
Frances Kellor. <i>Arbitration in Action.</i>	2003
James Acret. <i>Construction Arbitration.</i>	
Jan C.Schultsz, Albert Jan Van- Den Berg. <i>The Art of Arbitration.</i>	1984
Jean Robert, Thomas E. Carbonneau. <i>The French Law of Arbitration.</i>	2003
Martin Domke. <i>The Law and Practice of Commercial Arbitration.</i>	1980
Rene David. <i>Arbitration in International Trade.</i>	
Richard H. McLaren, Earl Edward Palmer. <i>The Law and the Practice of Commercial Arbitration.</i>	1997
Rodolphe J. A. de Self-Domke <i>in Commercial Arbitration.</i>	1997
Thomas Oehmke. <i>Commercial Arbitration. Arbitration in Sweden.</i> Published by the Stockholm Chamber of Commerce.	1997
International Trade Arbitration. Published by American Arbitration Association.	1994
<i>The U.S. Convention of Recognition and Enforcement of Foreign Arbitration.</i>	1998

The Legal System of Arbitral Award Invalidation in Jordanian and Comparative Law

*Radhwan I. Obaidat and George H. Hazboun**

ABSTRACT

The new Jordanian Arbitration Law no. (31) of 2001 has granted the arbitral award complete immunity against all ordinary and extraordinary challenges and imparted the proof of the res judicata matter. The arbitral award was characterized by its immunity and proof, in contrast with the official judiciary judgment, which the legislator has placed within the goal of the ordinary and extraordinary challenges provided in the Civil Procedure Law.

However, the legislator- as an exception of the rule- has permitted both parties of the dispute to request the competent court (Court of Appeal) to invalidate the arbitral award, if blemished by any defect represented, exclusively, by any of the specified cases stated in article 49 of the Jordanian Arbitration Law.

The Court of Appeal has become the one with general jurisdiction to consider the invalidity lawsuit, in addition to all matters which the law has relegated to the competent court and excluded from the competence of the arbitral tribunal; such as those provided in Articles (8,16,18,19,20,23,37,41,49,51,53,54).

The arbitral tribunal has been granted a period of 6 months to issue its award in respect to the dispute brought before it, or during the period agreed upon between the parties. Such period is considered short if compared with the judicial judgments. Such short period is considered one of the arbitration advantages that encourage the parties to present their dispute to the arbitral tribunal, for issuing the respective award.

The invalidity lawsuit necessitates the passing of the appeal decision, which provides final settlement to the dispute, if it supports the arbitral tribunal award, or to challenge it through the Court of Cassation if issued in contrary to the award issued by the arbitral tribunal.

* Faculty of Law, University of Jordan. Received on 25/11/2004 and Accepted for Publication on 7/3/2005.