

Investigating the Competence of the Iran-Iraq Chamber of Commerce in Resolving Non-commercial Disputes from the Perspective of Jurisprudence and Islamic Law

Resolving disputes through the judicial system is very time-consuming, and this procedure is not cost-effective in commercial disputes. In addition, judges in the legal branches of the courts usually do not have the necessary expertise in technical issues, and referring to an expert does not lead to a specialized examination of the dispute as expected; therefore, dispute resolution mechanisms have been introduced by lawyers, and the goal is to examine disputes in a short period of time and in a specialized manner. During the recent visit of officials of the Iran-Iraq Chamber of Commerce to Iraq, a multilateral understanding was reached between the Chamber, the Ministry of Housing, and the Iraqi Ministry of Science, based on which disputes that arise between Iranian and Iraqi nationals outside of commercial discussions will be resolved by the Chamber of Commerce. The focus of these types of disputes is, first of all, Iraqi students residing in Iran who have had disputes with Iranians in various ways, and a similar case is with regard to the Iranian workforce residing in Iraq. There has been much criticism of this agreement, including that the Chamber's representatives do not have the necessary authority to conclude such a contract and that carrying out such matters is largely outside the objectives and philosophy of the Chamber. Given that this agreement has not been in place for a long time. In this study, while examining the organization's authority in the aforementioned case, the requirements for legitimizing this agreement in terms of administrative law have been analyzed. Institutional arbitrations, in addition to being subject to the codified arbitration laws, must also comply with administrative regulations. Tavassoli Jahromi (2002) stated: Administrative arbitration regulations are only subject to the organization's decisions and its jurisdiction is based on proper referral. Haji Mir Agha (2019) cited the administrative procedure of the International Chamber of Commerce based in Paris, which conducts any type of arbitration on the condition of referral and consent, and considered the principle of consent to be correct regarding administrative arbitration. Hosseini (2010) considered its activities to be in line with specific goals, considering the philosophy of forming departments, and considered arbitration outside of goals to be incorrect. However, Dehghanan and Aashfateh (2015) considered administrative arbitration correct if the volume of unrelated disputes is small and referred to the principle of the main volume. The research conducted does not have a precedent; numerous studies have been conducted on administrative arbitration and the Chamber of Commerce, but no specific scientific research has been conducted on this issue. Whether the aforementioned agreement is considered enforceable according to the principles of administrative law or not, and if the validity of this agreement is rejected, what are the legal requirements for its formalization, it seems as follows: In the current situation, the Iran-Iraq Chamber of Commerce does not have the necessary authority to conclude such a contract from an administrative point of view, but by carrying out some administrative affairs and also some minor changes in the organization's statute, this agreement can be considered enforceable, which is discussed in this research.

The current agreement between the Iran-Iraq Chamber of Commerce and Iraqi officials for compulsory arbitration of disputes between Iraqi students and Iranian workers residing with nationals of the host country is void of legal and administrative validity due to legal regulations. Considering the position of the institutions supervising specific industries, the agreements between the Ministries of Foreign Affairs, Labor, and Science of the two countries are in force in this regard. At the same time, compulsory arbitration in this regard is in no way in conflict with the right to appeal and personal rights, and at the same time, it is a correct way to administer justice. The Iran-Iraq Friendship Association can also have resolutions in this regard. Granting the aforementioned administrative jurisdiction of arbitration is possible according to the agreement of the Chamber of Commerce, as an independent non-profit institution, with the aforementioned government bodies, or granting jurisdiction by the Iran-Iraq Friendship Association; in addition, the Chamber of Commerce's involvement in resolving such disputes should be limited, and in the event of a change in the statute, this scope can be increased; However, this jurisdiction is not absolute and a more specialized institution should be designated for many lawsuits. The principle of compulsory administrative

arbitration is the best option for foreigners residing in a country to easily resolve disputes, but it is necessary to formalize these agreements in coordination with the relevant institutions so that foreign nationals residing in the host country face fewer problems. It is suggested that: The Iran-Iraq Friendship Association, as the absolute guardian of all affairs between the two countries of Iran and Iraq, pursue the formalization of this agreement and that the government board, by entering into this agreement, while mentioning specific details, formalize it by agreement, so that compulsory arbitration becomes mandatory for Iranian workers and Iraqi students residing in the host country, and the Chamber of Commerce is also obliged to strengthen its arbitration staff with the aim of easily resolving such disputes.