

***THE IMPACT OF LACK OF REASONING FOR DECISIONS
RELATED TO EVIDENCE ON THE ARBITRAL JUDGMENT
ACCORDING TO THE PROVISIONS OF THE JORDANIAN
ARBITRATION LAW***

**O IMPACTO DA FALTA DE FUNDAMENTAÇÃO PARA DECISÕES
RELACIONADAS A PROVAS NO JULGAMENTO ARBITRAL DE
ACORDO COM AS DISPOSIÇÕES DA LEI DE ARBITRAGEM
JORDANIANA**

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RESUMO

Objetivo: Este estudo abordou o impacto da falha do tribunal arbitral em fundamentar suas decisões sobre provas de acordo com as disposições da Lei de Arbitragem da Jordânia. Portanto, o problema deste estudo girou em torno da falta de clareza do impacto da falta de fundamentação do tribunal arbitral em suas decisões relacionadas às provas da sentença arbitral que encerrava a disputa. Para explicar as condições legais sob as quais o tribunal arbitral é obrigado a dar razões para suas decisões sobre provas.

Método: A abordagem descritiva foi utilizada para descrever as disposições legais relacionadas ao tema do estudo. A abordagem analítica também foi utilizada para analisar os textos legais e as aplicações judiciais relacionadas ao tema deste estudo.

Resultados: Os resultados demonstraram que o impacto do não cumprimento do tribunal arbitral em fundamentar suas decisões probatórias pode levar o julgamento arbitral à alegação de invalidade quando algumas condições gerais e especiais forem atendidas.

Conclusão: Existe a necessidade de um texto legal que obrigue o tribunal arbitral a justificar as suas decisões relacionadas com as provas, permitindo ao mesmo tempo que as partes acordem fora dos limites desse texto.



Palavras-chave: decisões, provas, tribunal arbitral, supervisão judicial, sentenças arbitrais.

ABSTRACT

Objective: This study dealt with the impact of the arbitral tribunal's failure to reason its evidentiary decisions in accordance with the provisions of the Jordanian Arbitration Law. Therefore, the problem of this study revolved around the lack of clarity of the impact of the arbitral tribunal's failure to give reasons for its decisions related to evidence of the arbitral award ending the dispute. To explain the legal conditions under which the arbitral tribunal is obligated to give reasons for its evidentiary decisions.

Method: The descriptive approach was used to describe the legal provisions related to the subject of the study. The analytical approach was also used to analyze the legal texts and the judicial applications related to the subject of this study.

Results: The findings showed that the impact of the arbitral tribunal's non-compliance with reasoning for its evidentiary decisions may face the arbitral judgment under the claim of invalidity when some general and special conditions are met.

Conclusion: There is a need for a legal text in terms of obligating the arbitral tribunal to justify its decisions related to evidence, while allowing the parties to agree outside the limits of that text.

Keywords: decisions, evidence, arbitral tribunal, judicial oversight, arbitration rulings.

Introduction

The idea of judicial reasoning in general performs several important functions. In this respect, the main function of causative judicial action is that it is a tool used by the supervisory courts with jurisdiction to monitor the decisions and rulings of lower courts. The term reasoning has been mentioned in many legal situations. But the current study is limited to finding out the impact of the arbitral tribunal's failure to give reasons for decisions related to evidence on the arbitral award ending the arbitration dispute.



Studying the impact of the arbitral tribunal's failure to justify its evidentiary decisions on the arbitral award requires researching whether the arbitral tribunal is obligated to justify its evidentiary decisions in accordance with the legal conditions stipulated in the Jordanian Arbitration Law in force. For the requirements of scientific research and the requirements of this study, and in order to achieve its main objective, the researchers dealt with the issue of the arbitral tribunal's obligation to justify its decisions related to evidence by explaining the concept of the arbitral tribunal's reasoning for its decisions related to evidence and the importance of reasoning in judicial action. It was also determined whether the arbitral tribunal is obligated to give reasons for its evidentiary decisions, and to indicate the cases under which the arbitral tribunal is required to give reasons for its evidentiary decisions.

Furthermore, judicial oversight of the arbitral award was highlighted with regard to the issue of the arbitral tribunal's obligation to justify its evidentiary decisions. This was done by addressing the general conditions and the special conditions that must be met in order to face the arbitral award under the claim of invalidity of the arbitration award in accordance with the provisions of the Jordanian Arbitration Law. The nature of judicial oversight over the conditions that must be met for the validity of reasoning in decisions related to evidence has also been investigated.

Research Problem

The problem of the study is to determine the impact of the arbitral tribunal's failure to give reasons for its decisions related to evidence on the arbitral award in light of the ambiguity of the idea of the arbitral tribunal's reasoning for its decisions related to evidence.

Research Significance

The importance of this study stems from the fact that it deals with a procedural point related to evidence in the arbitration litigation. In this regard, evidence constitutes the backbone of the arbitral litigation due to its close connection with the ruling terminating the arbitral litigation, which results in the impact of the evidentiary procedures on the outcome of the arbitral award. Therefore, this study deals with the issue of non-compliance of the arbitral tribunal with the reasons for its decisions related to evidence and its impact on the arbitral award.

Research Questions



The current study seeks to answer the following main question: What is the impact of the arbitral tribunal's failure to give reasons for its evidentiary decisions on the arbitral award ending the arbitral dispute?

The following sub-questions emerge from it:

- What does the concept of reasoning for decisions related to evidence before the arbitral tribunal mean?
- When is the arbitral tribunal obligated to justify its evidentiary decisions?
- What are the conditions for the validity of reasoning for the arbitral tribunal's decisions related to evidence?

Materials and Methods

The descriptive approach was used to describe the legal provisions related to the subject of the study. Besides, the analytical approach was used to analyze the legal texts related to the subject of the study and to clarify the judicial applications in this regard.

The Obligation of the Arbitral Tribunal to Justify its Evidentiary Decisions:

Determining the impact of the arbitral tribunal's failure to justify its evidentiary decisions on the arbitral award requires defining the concept of reasoning and stating the importance of evidentiary decisions. In addition, it must be stated whether the arbitral tribunal is obligated to justify its evidentiary decisions in accordance with the legal conditions stipulated in the Jordanian Arbitration Law. These topics will be addressed below.

The Concept of the Arbitral Tribunal's Reasoning for its Evidentiary Decisions:

Reasoning in the Arabic language is derived from the word سبب "reason". And the reason carries the meaning of the rope, and it is everything used to connect with another. In this context, the reason is what connects to the thing, so the door connects to the house, the rope connects to the water, and the road connects to what we want (The Arabic Language Academy in Cairo, 2011). Furthermore, the reason may carry the sense of the way, according to the Almighty's saying: Indeed, we established him upon the earth, and We gave him to everything a way. So he followed a way (Holy Quran, 18:48-85).

Law commentators believe that obliging the litigation authority to give reasons for its evidentiary decisions or its rulings ending litigation is of great importance. Therefore, reasoning works to protect the public interest (Al-Masarwa,



2010, p. 64). This is because it represents a control tool used by the courts in monitoring the litigation party through which the decision related to evidence or the ruling ending the dispute was issued. In addition, reasoning works to protect the interests of the litigants (Abdul Karim, 2019, pp. 26-27). The reason behind this is that reasoning represents a means to convince the litigants of the validity of the decisions or judgments subject to reasoning issued by the litigation authority, since the judicial work is a human work that may be right or wrong. Reasoning also serves to protect the litigation party in the sense that it allows the litigation party to review its decision and ensure the correctness of what it relied on before issuing its decision or ruling. Thus, this improves the operative part of the decision or judgment that will be issued by the litigation authority (Al-Ashram, 2019, p. 12).

Significantly, the term reasoning, in the field of arbitration, has been linked to arbitration provisions ending arbitral litigation. In this regard, most of the legislation governing arbitration stipulated that the arbitral tribunal be obligated to give reasons for its rulings ending the arbitral dispute, as it is stipulated in Article (31/2) of the Model Law. Furthermore, Article (41/b) of the Jordanian Arbitration Law No. (30) of 2001) stipulates that “the arbitral award must be reasoned.” The commentators of the law defined the cause of the ruling that ends the litigation, whether that ruling was before the state judiciary or before the arbitral tribunals, as “the factual and legal foundations on which the judge – the arbitral tribunal – built his utterance issued when issuing the judicial ruling. This means that it is not an automatic process as a result of a single procedural action. Rather, it is the result of a set of procedural actions taken in a particular litigation from which it aims to obtain this judgment (Abdul Karim, 2019, p.28). In this respect, the Jordanian legislator did not oblige the arbitral tribunal to give reasons for its evidentiary decisions, as is the case before the state judiciary, as the state courts are required to give reasons for its evidentiary decisions. The source of that obligation is the text of Article (4/2) of the Jordanian Law of Evidence, which stipulates that “the court must give reasons for any decision it issues related to evidentiary procedures” (Jordanian Evidence Law No. (30) of 1952). In addition to the previous text, the litigation authority in the state courts is obligated to give reasons for its decisions related to evidence when the legislator provides for the obligation of reasoning in a legal text.

In this context, the text of Article (83/1) of the Code of Civil Procedure, which stipulates that “the court may, at any stage of the trial, decide to examine and provide expertise from one or more experts on any movable or immovable property, or on any matter it deems necessary to conduct expertise on it,” provided that the court shall state in its decision the reasons for conducting the examination and expertise and the purpose thereof, and specify precisely the details of the task entrusted to the expert (Civil Procedure Code No. (24) of 1988).



Accordingly, the researchers believe in this regard that the reasoning for decisions related to evidence before state courts can be defined as an obligation on the court whereby it is obligated to show the motives according to which it made its decision related to evidence, whether the evidence is related to an objective or procedural rule.

Contrastingly, with regard to the reasoning for decisions related to evidence before arbitral tribunals, some commentators of the law have defined it as “one of the arbitration litigation procedures, according to which the arbitral tribunal is required to state the legal and factual reasons that led it to issue its partial non-professional decisions in the arbitral litigation related to evidentiary procedures, whether that procedure is related to a procedural rule or not. This obligation is on the arbitral tribunal according to the agreement of the parties or according to the applicable law that the parties agreed to apply or that the arbitral tribunal determined in accordance with its powers. Significantly, the nature of the causative decisions differs from one arbitration dispute to another, depending on the agreement of the parties and the legal regulation of the issue of causation in applicable law (Al-Qudah, 2023, p. 65).

Thus, the difference between the reasoning of decisions related to evidence in state courts and the reasoning of decisions related to evidence before arbitral tribunals becomes clear, as the obligation of judges in state courts to reason for their decisions related to evidence stems from the law. Accordingly, state judges in all courts and at various levels are obligated to apply the law represented in the causation of all decisions related to evidence, whether the evidentiary rule is related to a substantive or procedural rule. In the arbitration dispute, the obligation of the arbitral tribunal to justify its decisions related to evidence is based on the law and rules of evidence applicable to the arbitral dispute, or according to the parties' express agreement to oblige the arbitral tribunal to justify its decisions related to evidence.

The Obligation of the Arbitral Tribunal to Reason its Decisions Related to Evidence and the Conditions for its Validity

Although arbitration is considered one of the means of settling disputes, it has a special nature that distinguishes it from other means of settling disputes. In this regard, broad freedom is considered the most important feature of arbitration enjoyed by the disputing parties in the arbitral dispute. Therefore, the parties have the right to agree on the procedural rules, including the rules of evidence that are applicable to their arbitration disputes (Abu Zaid, 1981, p. 93). This is obviously noticed in the text of Article (24/a) of the Jordanian Arbitration Law, “The parties to the arbitration may agree on the procedures to be followed by the arbitral tribunal and arrange the roles of the two parties in presenting the lists, evidence, appeals,



and means of presenting such evidence. Referral may also be made to the rules followed for this purpose at any arbitration center inside or outside the Kingdom.

This matter is based on the freedom of the parties to agree on the rules of evidence applicable to their arbitration dispute. The question that arises in this regard in the minds of researchers is, "Although the arbitral tribunal is not obligated to give reasons for its evidentiary decisions, when is the arbitral tribunal obligated to justify its evidentiary decisions?"

In this respect, the researchers believe that the arbitral tribunal is obligated to justify its decisions related to evidence in two cases, depending on the nature of the arbitration agreement, based on the text of Article (24 / A), which allows the parties to agree on the applicable procedural rules, including the rules of evidence.

The first case: That the parties agree to refer to procedural rules or evidentiary rules that require reasoning of decisions related to evidence without exempting the arbitral tribunal from the text contained in the law referred to. This obliges the litigation to justify its decisions related to evidence, such as the referral to the Jordanian Evidence Law. In this case, the arbitral tribunal is obligated to give reasons for all its evidentiary decisions based on the text of Article (4/2). The most prominent example of this case is the agreement of the parties to apply the Egyptian Law of Evidence No. (25) of 1968 to their arbitration dispute. In this case, the arbitral tribunal is obligated to give reasons for its final decisions related to evidence, based on the text of Article (5/1) of the Egyptian Law of Evidence, which states that "judgments issued in matters of evidence do not need to be reasoned unless they include a final judgment".

The researchers conclude that the issue of the obligation of the arbitral tribunal to give reasons for its decisions related to evidence and its nature according to the previous case differs according to the organization of the issue of reasoning for decisions or rulings related to evidence in the law referred to.

The second case: This case includes the parties agreeing on procedural rules that do not oblige the arbitral tribunal to justify its evidentiary decisions and their agreement to oblige the arbitral tribunal to substantiate its evidentiary decisions, or for the parties to work on preparing terms of reference for their arbitration dispute, and to include these conditions as a condition that obliges the arbitral tribunal reasons for its decisions relating to evidentiary procedures.

An example of this case is the agreement of the parties to refer to the arbitration rules of the Court of Arbitration of the International Chamber of Commerce. The Chamber's rules do not contain a text obligating the arbitral tribunal to give reasons for its issued decisions related to evidentiary procedures.



Thus, the parties have the right to agree to oblige the arbitral tribunal to give reasons for its evidentiary decisions. In the event of an agreement, the parties are free to determine the nature of decisions related to evidence that must be reasoned. In this respect, they may agree to cause the final decisions related to evidence, as is the system used in the Egyptian Evidence Law. They may also agree to compulsory reasoning for all decisions related to evidence, whether those decisions are conclusive or non-conclusive, as is the system followed in the Jordanian Evidence Law.

In this context, the researchers reach the point that the obligation of the arbitral tribunal to justify its decisions related to evidence is linked to what the parties may agree on regarding the rules of evidence applicable to the arbitration dispute.

Significantly, in the context of the conditions that must be met for the validity of reasoning for decisions related to evidence before the arbitral tribunal, the Jordanian legislator did not stipulate specific conditions for the validity of reasoning in general, and left the matter to jurisprudence and judicial discretion. Interestingly, the law commentators dealt with a set of conditions that must be met for the validity of the reasoning of the ruling ending the litigation in civil lawsuits before national courts, based on a range of logical and practical considerations. Accordingly, the researchers will rely on these conditions – as a matter of analogy – to search for their compatibility with the reasoning for the decisions related to evidence before the arbitral tribunal.

The Condition of Presence:

This condition represents a formal condition of reasoning, which is (writing). The commentators of the law adopted two methods through which the condition of reasoning is achieved in general:

- a. Explicit presence: It is defined as “every expression by the judge of the justifications for his judgment, as well as a statement of the motives that led to the conclusion he reached in his ruling (Al-Sheikhly, 2014, p. 296).

The researchers believe that the explicit presence of the reasons for the decisions related to evidence before the arbitral tribunal can be defined as (the arbitral tribunal writing the reason that led it to take its decision related to evidence in the minutes of the session during which the arbitral tribunal made that decision in it).

- b) Implicit presence:



The implicit existence of causation is defined as “the reasons that are deduced from the totality of what was stated in the ruling if the ruling does not explicitly include special reasons for each of the issues that were decided on” (Al-Masarwa, 2010, p. 185; Abdel Fattah, 1983, p. 298).

In this respect, the researchers believe that despite the possibility of applying the implicit existence of causation in the arbitral provisions ending the arbitral litigation, the implicit causation of the decisions related to proof before the arbitral tribunal is harmful with regard to its application. This is because the ruling terminating the arbitral litigation is a set of procedures that were presented to the tribunal arbitration, as it is not possible to mention all of them and provide reasons for each procedure in the arbitral judgement. The arbitral tribunal may implicitly reason for some decisions. On the other hand, the decisions related to evidence are part of a set of procedures that can be explicitly reasoned each time they are presented to the arbitral tribunal. Furthermore, when the reasoning of the decision related to proof is obligatory for the arbitral tribunal and the tribunal did not cause it explicitly, this leads to the possibility of invalidating the final arbitral award.

The Condition of Sufficiency:

The condition of sufficiency is to mention the data required by the law for the validity of the reasoning. This includes the data that must be available for the validity of the judgment ending the dispute in civil cases before the state judiciary, or the data that must be available for the validity of the judgment ending the arbitral dispute, as it is stipulated in Article (160) of the principles of civil trials and Article (41/c) of the Jordanian Arbitration Law.

With regard to the reasons for decisions related to evidence before the arbitral tribunal, the researchers believe that the tribunal does not have to mention all the reasons that took place in the arbitral dispute, but may be limited to what is related to the same proof procedure based on the arbitral tribunal's decision. In this respect, it must be noted that fulfilling the condition of sufficiency does not require a specific number of words or details, as the reality of the arbitration case may understand the reason behind the arbitral tribunal's decision related to evidence.

The Logical Condition:

The logical condition means that “the reasons on which the judgment was built lead to the content of the conclusion reached by the judge” (Al-Masarwa, 2010, p. 248). It is achieved by persuading the human mind and agreement between the operative part of the decision and the reasons that led the arbitral tribunal to take its decision related to evidence. This means that there is a connection between cause and effect (Al-Shammari, p. 346).



It should be noted that the arbitral tribunal is not subject to the same standards in force in controlling the reasoning issued by judges in state courts. This is because the arbitral tribunal may not be originally from the men of law, as it may be composed of (merchants, contractors or engineers) who have no experience in the legal field. Thus, they will not be able to justify their evidentiary decisions with the same efficiency as court judges who have the legal skills and experience in writing judgments (Al-Shrairi, 2016, p. 184).

Judicial Oversight of the Arbitral Tribunal for not Giving Reason to its Evidentiary Decisions:

In the following, the judicial oversight of the arbitral tribunal will be dealt with. The focus will be made on its lack of commitment to the reasons for its evidentiary decisions and its impact on the arbitral award. This is done by addressing the conditions that must be met for a claim to be invalid in the face of the arbitration award, because the arbitral tribunal does not adhere to the reasons for its decisions related to evidence, in addition to clarifying the nature of judicial control over the conditions for the validity of the reasons for the decisions related to evidence.

Judicial Oversight of the Arbitral Tribunal for not Causing its Evidentiary Decisions:

This part deals with the judicial oversight of the arbitral tribunal for its lack of commitment to reason its decisions related to evidence and its impact on the arbitral award. This is done by addressing the conditions that must be met for a claim to be invalidated against the arbitral award because the arbitral tribunal is not obligated to give reasons for its evidentiary decisions. The nature of judicial oversight over the conditions for the validity of the reasoning of evidentiary decisions is also explained.

Conditions for Filing an Action for Nullity to Confront the Arbitral Award due to the Arbitral Tribunal's Failure to Give Reasons for its Decisions Related to Evidentiary Procedures:

The invalidity of the arbitral award is a procedural invalidity (Fathi, 1997, p. 9). The arbitral award is faced through a lawsuit called the claim of invalidity. It is defined as “a fundamental, declarative claim that is attached to the defendant in the arbitration dispute before the competent court in accordance with the provisions of the law agreed upon for its application if there is one of the cases of invalidity stipulated exclusively in this law” (Boukernos, 2017, p. 35).

The conditions that must be met for the invalidation claim to confront the arbitration award because the arbitral tribunal is not obligated to give reasons for



its evidentiary decisions are general conditions. Besides, they are the same conditions that must be met in order for the invalidity claim to take place, represented by the existence of an arbitral award (Tarawneh, 2010), in which one of the cases of invalidity action stipulated in the law is available, as it is stipulated in Article (49) of the Jordanian Arbitration Law.

There are special conditions related to the case of the arbitral tribunal's failure to provide reasons for its evidentiary decisions according to the following:

The first condition: That the reasoning is obligatory for the arbitral tribunal, such as that the procedural rules are applicable to the arbitral dispute and require the causation of evidentiary decisions, or that the parties expressly agree to oblige the arbitral tribunal to reason its evidentiary decisions.

The second condition: The arbitral tribunal's failure to give reasons for its evidentiary decisions, despite the existence of such a commitment.

The third condition: That the procedure related to the evidence that the arbitral tribunal did not undertake to justify its decision related to that procedure affects the arbitral award that terminates the arbitral dispute.

It can be said that after the existence of an arbitration award, the failure of the arbitral tribunal to justify its decisions related to evidence must be considered as a case of the invalidity claim stipulated in the Jordanian Arbitration Law, if its conditions are met. In the event that this is achieved, the arbitral award becomes subject to confrontation under an action for nullity.

By examining the cases of invalidity claim contained in the law, the researchers see that facing the arbitral award with a claim of invalidity according to the case stipulated in the exhibition of Article (49 / A / 7) of the Jordanian Arbitration Law, which states that "if the arbitral tribunal does not observe the conditions that must be met in the ruling, in a way that affected its content, the award was based on invalid arbitration procedures that affected it. And since the reasoning of decisions related to evidence is one of the arbitral litigation procedures and the lack of commitment of the tribunal gives the character of invalidity to that procedure – when reasoning is required – which is based on the availability of a case of invalidity, specifically that case stipulated in the aforementioned article is characterized by the lack of reasoning for the decision affected the ruling, as it is stipulated in the Decision of the Jordanian Court of Cassation No. (5766/2022).

The Role of the Court in Supervising the Conditions for the Validity of the Reasoning of Decisions Related to Evidence:



In this part, the researchers bypass the idea of research on the necessity of reasoning, assuming the necessity of causation according to the cases referred to previously. Then a discussion of monitoring the availability of the conditions for the validity of causation by the Court of Cassation will be provided.

The nature of the judicial oversight of the arbitrators' rulings is a formal oversight, as the Court of Cassation does not interfere with the subject matter of the dispute. In this respect, the Court of Cassation has nothing to do with the issue of evaluating and weighing the evidence. This was confirmed in many of its decisions, as it ruled that "this reason as a whole is related to the weight and evaluation of evidence, which is considered with it that this constitutes a challenge to its validity in these substantive issues, and that the failure of any party to present its evidence in accordance with the established principles is considered a negligence on its part and there is no oversight by the judiciary arbitral tribunal in such matters, as it is stipulated in the Decision of the Court of Cassation, No. (1115/2021).

This is based on the fact that the control of the Court of Cassation is limited to monitoring the condition for the existence of reasons for decisions related to evidence. On the other hand, the conditions of adequacy and rationality are not the oversight of the Court of Cassation over them, as this court monitors over decisions related to evidence and rulings issued by state courts. The reason behind this is attributed to the fact that the Court of Cassation's oversight of the arbitral awards under the nullity claim is a formal oversight.

Conclusion

At the conclusion of this research paper, we review a set of findings and recommendations, which are as follows:

Results and Discussions

1. It is found that a tribunal is not obligated to give reasons for its evidentiary decisions unless the procedural law applicable to the arbitral dispute requires that, or the parties have expressly agreed to compel the arbitral tribunal to give reasons for its evidentiary decisions.
2. There are a set of conditions that must be met to face the arbitral award under the claim of invalidity based on the arbitral tribunal's failure to give reasons for its evidentiary decisions. These conditions are represented in the fact that the arbitral tribunal is obligated to give reasons for its decisions related to evidence, and that the arbitral tribunal violates that agreement, and that the decision that was not reasoned by the arbitral tribunal affected the arbitral award. Thus, the text of



Article (49 / A / 7) of the Jordanian Arbitration Law can be applied to confront the arbitral award with the claim of invalidity.

3. The oversight by the Court of Cassation is a formal oversight that examines, or does not examine, the existence of reasoning, as the oversight does not extend to a conditional examination of sufficiency and logical reasoning. This is because the examination of the two conditions of sufficiency and logicity are associated with the issue of weighing and estimating the evidence, in which the Court of Cassation has no role.

Recommendations

1. Although there is a legal text obligating the arbitral tribunal to justify its decisions related to evidence in the legislation specialized in arbitration at the international and comparative level, the researchers recommend the addition of a legal text in the Jordanian Arbitration Law that obliges the arbitral tribunal to justify its decisions related to evidence, allowing the will of the parties to agree on what contradicts that text. In this regard, such a provision will provide additional guarantees that guarantee the impartiality and independence of the arbitral tribunal. In this case, the reasoning for decisions related to evidence will be the basis, and the exception is the lack of reasoning for those decisions. Therefore, the researchers suggest that the text should be in the following form: “The arbitral tribunal must give reasons for its decisions related to evidence, unless the parties agree otherwise.”

2. The researchers recommend that arbitral tribunals deal with extreme caution with decisions related to evidence, and work to justify them, whether there is a legal obligation or not. The reasons for decisions related to evidence will work to fortify the arbitral award that ends the dispute, and this will work to spread reassurance in the hearts of the disputing parties towards the arbitral tribunal.

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