

**THE MARITIME ARBITRATOR DECISION IN HIS
JURISDICTION**
in the Egyptian Arbitration law No. 27 / 1994

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What is Meant by the Decision of the maritime Arbitrator in his jurisdiction ?

The decision of the maritime arbitrator means his decision about the absence or the invalidity of the arbitration agreement from which the arbitrator derives his jurisdiction or exceeding his jurisdiction as a result of the absence of the concerned dispute from the arbitration agreement .

Then , may the arbitrator decide the dispute in the existence or the validity of his jurisdiction or in the area of his jurisdiction within what is known as the “ aptitude to jurisdiction? If the answer is in the affirmative the arbitrator jurisdiction is valid; and if the answer is in the negative the arbitrator jurisdiction is threatened and tottered from the root , that is the arbitration agreement , and the jurisdiction is shifted from the arbitrator in the favor of the national courts .

The Egyptian Arbitration law adopted the precept of the aptitude to jurisdiction, depicting in Article 22 / 1 for the arbitration board to decide the pleas to jurisdiction alleging the absence of the arbitration agreement , its lapse , its invalidity or its negligence of the dispute subject matter .

What is the time to present the plea to jurisdiction ?

The Egyptian law , Article 22 / 2 decides that plea to jurisdiction must be adhered to in a time not exceeding the time of presenting the defense of the defendant if the plea is based on the allegation of the absence of the arbitration agreement or its lapse or invalidity .

But if the plea is based on the arbitration board excess of jurisdiction for the absence of the dispute subject matter from the arbitration agreement , the plea should be presented immediately at the presentation of the subject matter alleged to be out of the area of the arbitration agreement .

When will the Right to present the plea to jurisdiction lapse ?

The right to present the plea to jurisdiction lapses if it is not presented at the time mentioned above , except when the arbitration board accepts the plea though it is delayed for a reasonable cause .

But , if one of the parties assigns or takes part in assigning an arbitrator , his right of presenting a plea to jurisdiction of the arbitration board will not lapse .

When will the Arbitrator Decide the plea to jurisdiction ?

Article 22 / 3 of the Egyptian law decides that the arbitration board , either determines the plea to jurisdiction before deciding the dispute subject matter through a preparatory decision , or attach it to the subject to settle both of them . If the arbitration board refuses the plea , there should not be adhered to except through bringing to action claiming that the arbitration award that settled the whole dispute is void .

Thus , the plea to jurisdiction of the arbitration agreement or its negligence of the dispute subject matter will not threaten in Egypt the arbitration or the arbitration board jurisdiction . This plea should be present of to the arbitration board to decide it first . The judicial courts will not interfere in this matter except when there is appeal before them against the arbitration award that settled the dispute .

This article provides for a general overview only and must not be relied upon as constituting advice in any specific case. Advice should always be sought before taking steps in proceedings- For Further information pls. Contact Mr. U. Soliman