

# THE PREMATURE EXPIRATION OF ARBITRATION LITIGATION IN INVESTMENT DISPUTES

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## Abstract

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Arbitration litigation shall be completed by the issuance of an arbitral award ending the dispute (Al Tarawneh & Al-Qhaiwi, 2020). This type of legal litigation may also end due to a contingency that occurs before the issuance of this arbitral award. The problem of this paper is to determine the cases in which the arbitration dispute can end without the issuance of an arbitral award. To study this topic, we follow the analytical approach in light of the provisions of the United Arab Emirates (UAE) Arbitration Law promulgated by Federal Law No. (6) of 2018. At the end of this paper, we conclude that the arbitration dispute may end without the issuance of an arbitral award for many reasons. This termination may be ordered by the president of the competent court, by a decision from the arbitral tribunal, by the litigant's reconciliation, by the expiry of the arbitration deadline, or by ruling the invalidity of the arbitration agreement. In such cases, the arbitration litigation is considered expired without an arbitral decision based on the legal grounds of fulfilling one of the procedural reasons that could lead to cessation of litigation before adjudication (Zamzam, 2020).

**Keywords:** Arbitration, Arbitration Agreement, Premature Expiration, Invalidity of Arbitration Agreement, Abandoning Arbitration Litigation, Arbitration Deadline

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## 1. INTRODUCTION

Some jurisprudence in the field of arbitration in investment disputes emphasized that the existence of a legal framework regulating investment in any country contributes to creating the necessary environment for the foreign investor through national laws that ensure that the return is sufficient for his investments and guarantees the protection of

foreign capital from confiscation and other damage that may occur at any time. It also guarantees impartiality and objectivity in considering the disputes that may arise between the state and foreign investors as a result of investing these funds (Farag, 2020).

As a legal rule any litigation, whether it is judicial or arbitral, shall end with the issuance of a court ruling or decision (Al Tarawneh & Al-Qhaiwi,

2020). The purpose of any arbitration is to reach the final stage of its proceedings, the stage of adjudication on the dispute's subject matter, which is eventually fulfilled by the issuance of an arbitral award. This arbitral award may be considered the final procedural action of the arbitration litigation (Elkasa, 2003). The issuance of the arbitrator's award on the arbitration's subject matter is considered the normal end result of the arbitration litigation since it is the reason a person usually initiates such litigation. It is usually known as the "Natural Expiration of Arbitration Litigation" (Zamzam, 2020).

Nonetheless, and for a variety of different reasons, the arbitration proceedings may also end without the issuance of an arbitral award, an action referred to as the "Premature Expiration of Arbitration Litigation" (Elhadidi, 2008).

The aim of this paper is to determine the cases in which the arbitration dispute can end without the issuance of an arbitral award. To study this topic, we follow the analytical approach in light of the provisions of the UAE Arbitration Law promulgated by Federal Law No. (6) of 2018.

Clause (1) of Article (45) of the UAE Federal Arbitration Law No. (6) of 2018 stipulates: "The arbitration proceedings shall be terminated by the issuance of the award terminating the dispute by the arbitral tribunal". Clause (2) of the same Article includes most of the cases concerning the expiration of the arbitration litigation without the issuance of the arbitral award, in addition to some cases stated in other provisions of this law. Whether the arbitration has been agreed to with an Arbitration Clause or an Arbitration Agreement, the arbitration may expire before or after the initiation of its proceedings (Blanke, 2020).

The importance of this study is that it sheds light on the reasons for the expiry of the arbitration dispute without the issuance of a judgment on the subject in investment disputes according to the provisions of the UAE Arbitration Law, which is characterized by modernity as only less than four years have passed since its issuance. This study answers a basic question, which is identifying cases of premature expiry of arbitration disputes in investment disputes. It also provides answers to several important questions: *Are these cases mentioned as an exhaustive list? What are the conditions for its application and procedures? What is the position of jurisprudence on these cases?*

The structure of this paper is as follows. Section 2 reviews the relevant literature. Section 3 analyses the methodology that has been used in the paper. Section 4 relates to the results obtained from the research. Section 5 reviews the cases of the premature expiration of arbitration litigation in investment disputes. Section 6 concludes the paper.

## 2. LITERATURE REVIEW

There are several studies to address some cases of premature termination of arbitration disputes in general. Through this paper, it is possible to develop some of the ideas contained therein and examine their applicability to investment disputes, in addition to examining their applications in the UAE Arbitration Law.

Zamzam (2020), in his paper entitled, examined the legal nature of the actions and decisions issued by arbitration centers and bodies, and their ability to

appeal before the courts. He concluded that the Administrative Judicial Court is not competent — in principle — because the person competent to issue the order to end the procedures is the President of the Court in accordance with Article 45, Clause 2 of the Egyptian Law No. 27/1994 Promulgating the Law Concerning Arbitration in Civil and Commercial Matters amended.

In their study, Al Tarawneh and Al-Qhaiwi (2020) examined the doctrine of *functus officio* and its exceptions under the Jordanian Arbitration Law and its relation with the doctrine of *res judicata*. The authors shed the light on the doctrine and the awards to which it applies. Then, they examined the exceptions of the doctrine that alleviate the potential harshness of the doctrine. They also examined the common provisions that apply to all exceptions by virtue of Article 41 of the Jordanian Arbitration Law No. 31 of 2001 and the possibility of annulment. In the end, they examined the particular procedural and substantive provisions that apply to every individual exception.

Turkey (2014), in his paper, dealt with a comparative study between Egyptian and French laws. He divided the paper into two parts: the first part dealt with the authentication of the arbitral award, where it presented the deadline for issuing the arbitral award, the nature of the arbitral award, and then the presumptions of the arbitral award's conditions and scope. The second part dealt with the exhaustion of the arbitral tribunal's jurisdiction over the dispute, where dealt with this principle, and then presented the exceptions to this principle.

Blanke (2020) gave a brief presentation on Article (45) of the UAE Arbitration Law No. (6) of 2018. He devoted part of the paper to the first paragraph of that article and dealt with the second paragraph in another part. The author presented briefly the cases of expiration of the arbitration dispute without a ruling on its subject matter. The author did not elaborate on each case separately, or the conditions for its application and procedures. Blanke (2020) concluded that "There is presently no case law precedent to assist on the proper construction of article 45 of the FAL in context. It will be interesting to see what the local courts make of it once first cases start to emerge".

The topic under study is distinguished from previous studies, on the one hand, in that it focuses mainly on cases of premature termination of arbitration litigation in investment disputes stipulated in the UAE Arbitration Law No. (6) of 2018, and in particular stipulated in Article (45). On the other hand, the study deals with these cases in appropriate detail in terms of their conditions of application and procedures, in the light of the vision of comparative jurisprudence.

## 3. RESEARCH METHODOLOGY

In this paper, the authors have employed the analytical approach to address the issue of premature expiration of arbitration litigation. The authors have analyzed the legal rules adopted by the UAE Federal Arbitration Law No. (6) of 2018 which relates to the termination of the arbitration litigation without the issuance of an arbitral award. These cases are stipulated in Clause 2 of Article (45) of this law as follows: "(a) If the Parties agree on the termination of the Arbitration in accordance

with this Law; (b) If the claimant withdraws its claim, unless the Arbitral Tribunal decides, on the application of the respondent, that the latter has a legitimate interest in continuing the proceedings until the dispute is settled; or (c) If the Arbitral Tribunal finds that the continuation of the proceedings has for any reason become unnecessary or impossible” (p. 17).

In addition, the authors have also covered other cases adopted by these legal systems such as the termination of arbitration litigation by the litigants’ reconciliation and the expiry of the arbitration deadline.

At the initial phase of preparing this paper (i.e., at the end of the year 2021), the authors collected all relevant data and sources concerning the issue in question. That is to say, the authors have collected a number of highly significant sources, as well as several court rulings issued by the UAE judiciary; in addition to other data collected from some websites. In this sense, the information included in this paper has been obtained from three major sources. The first source includes the relevant legal provisions mentioned in the UAE Federal Arbitration Law. The second source covers the general publications in the field of premature expiration of arbitration litigation in investment disputes which shed light on the analysis of different jurists for the topic. Finally, the third source includes some court rulings issued by the UAE judiciary. In this way, there is no doubt that the data collection process has provided the authors with many legal thoughts that have in turn contributed to the completion of this study. That is to say, those thoughts and ideas have paved the way for the completion of all required analyses, hence reaching several significant results that shall add actual value to this paper, and shall open new horizons for future research works.

After the completion of data collection, the authors analyzed all relevant legal provisions collected from previous legislation. In addition, the authors have addressed all explanations and interpretations available for these legal provisions in the various jurisprudential publications, whether they are general publications or specialized ones in the field of the premature expiration of arbitration litigation in investment disputes in the UAE Arbitration Law. Furthermore, the authors have also supported their analysis work by covering the stance of the judiciary, based on several court rulings that have been issued according to these legislations; that is to shed light on how these legal provisions are actually applied in practical reality.

#### 4. RESULTS

After completing the study and analysis of the topic of the premature expiration of arbitration litigation in investment disputes, the following results have transpired:

1) Issuance of the arbitral award by the competent arbitral tribunal is the natural termination of the arbitration litigation in investment disputes.

2) Arbitration litigation in investment disputes may be terminated before the issuance of the arbitral award and this is called “premature expiration”.

3) The arbitral tribunal must order the termination of the arbitration proceedings upon the mutual agreement of all parties.

4) The arbitral tribunal must order the termination of the arbitration proceedings if the claimant has decided to drop the arbitration litigation unless the arbitral tribunal has decided (upon the request of the respondent) that the respondent has a serious interest in pursuing the arbitration proceedings till the settlement of the dispute in question.

5) The arbitral tribunal may decide the termination of the arbitration proceedings for any other reason that it is futile or impossible to pursue the arbitration proceedings.

#### 5. DISCUSSION

##### 5.1. Termination of the arbitration litigation by the arbitral tribunal’s decision

The arbitration proceedings may end with a decision issued by the arbitral tribunal. Article (45) of the UAE Federal Arbitration Law No. (6) of 2018 stipulates that the arbitration proceedings shall end by the issuance of an arbitral award from the arbitral tribunal and the arbitral tribunal may also decide to terminate these proceedings in any of the following cases: a) in case of the mutual agreement between all concerned parties on ending the arbitration proceedings pursuant to the provisions of law; b) if the claimant has decided to drop the arbitration litigation; unless the arbitral tribunal has decided (upon the request of the respondent) that the respondent has a serious interest in pursuing the arbitration proceedings till the settlement of the dispute in question; and c) if the arbitral tribunal has decided for any other reasons that it is futile or impossible to pursue the arbitration proceedings.

##### 5.1.1. The parties’ mutual agreement on the arbitration termination

Due to the consensual nature of arbitration, the arbitration parties may agree to end the arbitration, as they may decide that pursuing recourse through the State’s judiciary instead of through the arbitration proceedings is in their best interests. According to Clause 1 of Article (45) of the UAE Federal Arbitration Law No. (6) of 2018, the arbitral tribunal shall terminate the arbitration proceedings if the parties mutually agree. That is to say, the litigant parties of the arbitration litigation may agree to end the arbitration litigation and its proceedings, regardless of the current status of these proceedings.

In order to acknowledge such an agreement as valid, it shall be concluded between all concerned parties. If only some parties wish to conclude this agreement without including other parties, this agreement may not be legally binding to the remaining parties. The termination may not take any legal effect regarding the arbitration proceedings for those remaining parties, and the agreement’s legal effects shall be limited only to the concluding parties. In order to acknowledge

the validity of such an agreement, it shall be concluded by the arbitrators themselves, or by their duly authorized deputies (Wali, 2007).

If all stipulations needed for the validity of this agreement are duly fulfilled, the arbitral tribunal shall order the termination of the litigation proceedings without any discretionary power regarding the parties. If the arbitral tribunal ignores such an agreement despite its submission by the concerned parties, and the tribunal issues an arbitral award on the dispute nonetheless, the arbitral award may be subject to appeal on grounds of its nullity as it was issued by a tribunal whose jurisdiction expired by the parties' agreement, which is contradictory to the provision of Clause 1 of Article (53) (Zamzam, 2020).

The arbitration agreement shall be considered expired by the parties' explicit agreement, an action that shall be concluded by entering into a new agreement that explicitly states the parties' forfeiture of the arbitration agreement. This new agreement shall be concluded in writing. That can be in the form of a contract, official notices exchanged between the parties through a process server or letters in which all parties declare their wish to end the arbitration litigation. The stipulation for concluding such agreements in writing is attributed to the fact that the original arbitration agreement was concluded in writing, hence, in order to submit anything else as of proof evidence, it shall also be in writing (Makhlouf & Al-Qahali, 2019).

This mutual agreement may be concluded before or during the arbitration litigation. The parties may agree to terminate the arbitration agreement, or the arbitration clause, before the occurrence of any dispute that could be subject to this clause. The parties may also agree to terminate the arbitration agreement after its partial execution, after the issuance of an arbitral award concerning only one section of the dispute.

In all cases, the explicit waiver of the arbitration agreement shall be made by both parties, as the forfeiture by just one party would not meet the legal standard. Moreover, both parties shall explicitly and clearly express their wish to forfeit this arbitration (Wali, 2007). If both parties have informed the arbitral tribunal of their mutual agreement to terminate the arbitration agreement, the arbitration litigation shall be considered expired before the tribunal that shall terminate the arbitration proceedings according to the provision of Article (45), Clause 2(a) of the UAE Federal Arbitration Law No. (6) of 2018.

The arbitration agreement may also end implicitly; such termination may be elicited from the behavior of both parties, behavior that clearly indicates both parties have forfeited the arbitration agreement. For example, all parties of the arbitration litigation may initiate a claim before the State's judiciary demanding adjudication on the arbitration. Additionally, a party may initiate a claim against another party, whether the respondent has kept silent or has replied before the court; each party may submit their demands to the court, asking for a court ruling in their favor (Abouelwafa, 1988).

In Clause 1 of Article (8) of the UAE Arbitration Law No. (6) of 2018, the legislator stipulates:

"The court before which a dispute is brought that is subject to an Arbitration Agreement shall decline to entertain the action if the defendant has so pleaded before submitting any request or plea on the merits, unless the court is satisfied that the Arbitration Agreement is void or incapable of being performed"<sup>1</sup> (p. 4).

If one party of the arbitration agreement initiates a claim before the State's judiciary, such action may not be considered a full forfeiture of their right to the recourse to arbitration, but rather a forfeiture of the subject matter of this claim only. In other words, this specific waiver of the subject matter may not include another claim, even if it is related to the current claim. This specific and implicit forfeiture may only be acknowledged in relation to the dispute covered by the arbitration agreement which shall be subject to the jurisdiction of the arbitral tribunal (Wali, 2007).

In this context, most jurisprudential views believe that the respondent's reply to the subject matter before the court, after the claimant demands their appearance before the court, may be considered an implicit forfeiture of the arbitration agreement. If the parties agree to conclude a contract of reconciliation such action may be considered an implicit forfeiture of the arbitration agreement (Wali, 2007).

If the arbitration agreement is considered forfeited, neither party may then be entitled to the recourse of arbitration, or combine arbitration and the initiation of a claim before the State's judiciary. If either party resorted to arbitration, the arbitral award issued by the arbitral tribunal shall be considered void, as it was issued by an authority with no power or jurisdiction to adjudicate. The arbitrator's authority shall expire as soon as the litigants agree to terminate the arbitration or to replace the arbitration agreement with another agreement, whether the agreement was concluded explicitly or implicitly (Abouelwafa, 1988).

Regarding the parties' implicit agreement to terminate the arbitration, Clause 2(a) of Article (45) of the UAE Federal Arbitration Law No. (6) of 2018 states: "The Arbitral Tribunal shall also terminate arbitration proceedings ... if the Parties agree on the termination of the Arbitration in accordance with this Law" (p. 17).

<sup>1</sup> In this regard, Abu Dhabi Court of Cassation has ruled the following: "Pursuant to the Fifth Clause of Article (203) of the Civil Procedures Act, if the litigants have agreed on arbitration in case of any dispute, they may not file a claim concerning this dispute before judiciary. However, if one of the parties has actually initiated a claim before judiciary regardless to the Arbitration Clause, while the other party has not made any objections in this regard at the first hearing, then, this claim may be heard before judiciary, and the Arbitration Clause shall be considered as cancelled. That is to say, a litigant who wishes to invoke the Arbitration Clause shall take a positive stance by making a clear objection against the recourse of his opponent to judiciary at the first hearing, in spite of their agreement on arbitration; thus, if he has failed to make such objection at this first hearing, it is permissible for the court to hear the claim. In this case, the phrase "it is permissible for the court to hear the claim" means that hearing the claim before the court shall be considered as valid and obligatory; and the Arbitration Clause shall be considered as cancelled. However, if an objection is made at this first hearing, the court shall dismiss the claim due to the existence of an Arbitration Clause, pursuant to the litigants' agreement on their recourse to arbitration for the settlement of any disputes that might arise between them. In addition, the "first hearing" refers to the court hearing, in which the respondent or his representative has attended and appeared before the court for the first time; thus, as of this hearing the litigation proceedings shall be considered as duly initiated between two litigants competing against each other by submitting their pleas and defenses" (Case No. 141[2007], Abu Dhabi Court of Cassation).

### 5.1.2. Abandoning the arbitration litigation

#### *The meaning of abandoning the arbitration litigation*

In some cases, the claimant may realize it would be in their favor to stop the arbitration litigation, so they abandon the claim despite initiating it in the first place. In addition, such action may also be taken by the claimant if they find out they rushed to initiate the arbitration litigation without preparing enough proof of evidence, exposing themselves to the possibility of losing. In such cases, the claimant may abandon the arbitration litigation to resubmit the claim again after preparing enough proof of evidence. Moreover, a claimant may submit a claim for arbitration, then find out they submitted the claim before an arbitral tribunal with no jurisdiction or authority in this regard. They can abandon the arbitration litigation to avoid further wasting time and money (Makhlouf & Al-Qahali, 2019).

We shall highlight the difference between abandoning the arbitration litigation, and forfeiting any of its procedures. Abandoning the claim is an action that may only be taken by the claimant with regard to the entire arbitration litigation. However, forfeiting any of the litigation's procedures is a totally different action that may be taken by both the claimant and the respondent. For example, the claimant may submit an additional request, then decide to forfeit this request. The respondent may submit a defense before forfeiting it later in the proceedings. The forfeiture of a procedure is a permissible action that shall take full legal effect as soon as the other party is duly notified of the matter, regardless of the interest of this latter party. In other words, only the forfeited procedure shall be considered null and void, with the arbitration litigation continuing (Wali, 2007).

#### *Conditions of abandoning the arbitration litigation*

##### *The claimant's expression of abandoning the arbitration litigation*

Naturally, the claimant is the party who initiated the arbitration litigation; the claimant is the only party entitled to abandon the litigation. For instance, during the litigation proceedings, the claimant may find out they rushed to initiate their claim and did not gather enough evidence to have an arbitral award in their favor; the claimant will not benefit from pursuing the litigation as it will most likely be dismissed by the arbitral tribunal. That means the claimant will not be able to resubmit their claim, even after gathering more evidence. In this case, it would be in the claimant's favor to abandon the arbitration litigation prior to adjudication so they could resubmit the claim.

The UAE legislator has adopted the same logic, and according to Clause 2(b) of Article (45) of the UAE Federal Arbitration Law No. (6) of 2018, the claimant solely shall have the right to abandon the arbitration litigation pursuant to certain stipulations. That is to say, abandoning the claim shall be solely limited to the claimant's will to do so; hence, the claimant shall express this will explicitly and clearly, without any reservations. Originally, the claimant needed to express this will explicitly by articulating the phrase "I hereby abandon this claim" before the competent authority.

However, there is no problem with the claimant expressing the same desire through other actions such as the claimant's waiver of the arbitration litigation; the claimant's expression that they are not willing to further pursue litigation; the claimant's expression that they are willing to end the litigation immediately without adjudication; or through any other stated methods (Khalil, 2022).

The respondent is not entitled to abandon the arbitration litigation, even if they submitted a counter-claim. However, the respondent may be entitled to forfeit the claim, which in this case would be considered null and void, with the continuance of the arbitration litigation. Since the UAE Arbitration Law does not stipulate a specific method for the claimant's expression of a such will to abandon the claim, the claimant takes any course of action. It is not necessary for the action of dropping the claim to take a certain form. Any expression of the explicit will of the claimant to abandon the litigation will fulfill the legal requirements (Makhlouf & Al-Qahali, 2019).

There is no problem whatsoever if the claimant wishes to drop the arbitration litigation in person. In cases where this action is not completed in person, the claimant's attorney shall have the power of attorney authorizing them specifically to drop the litigation. If there is more than one claimant, any of those claimants may express their will to abandon the litigation, however, such action will not terminate the entire litigation, unless all the claimants drop the arbitration litigation together (Wali, 2007).

##### *The respondent's lack of objection*

Originally, the claimant solely was the only party entitled to abandon the arbitration litigation, since they are the party who has initiated the litigation. It is reasonable to ignore the respondent's position in this regard, especially since dropping the arbitration litigation will not cause them any damages. The expiration of the arbitration litigation would naturally be in the respondent's interest, even if it is a premature expiration without an arbitral award, a result attained by dropping the arbitration litigation.

Nonetheless, the UAE legislator has deemed that the respondent may have a serious interest in not dropping the arbitration litigation, but rather pursuing the remaining proceedings till the tribunal's adjudication. For example, the respondent may submit a counter-claim during the litigation proceedings, before the claimant abandons the litigation. It would be reasonable to stipulate the respondent's approval in this regard, in order to acknowledge the claimant's dropping the litigation. In such cases, the litigation has turned into a joint right between both claimant and respondent, since the latter's interest is in the continuance of this litigation until the issuance of the arbitral award concerning his counter-claim; while the claimant's dropping the litigation would mean the termination of the entire litigation proceedings, including the counter-claim of the respondent (Khalil, 2022).

It is remarkable to see that the UAE legislator did not stipulate the respondent's expression of approval regarding dropping the arbitration litigation. Instead, the legislator settled for the respondent's lack of objection based on having

a serious interest in pursuing the arbitration litigation; taking into consideration that the respondent shall be liable for proving such interest (Makhlouf & Al-Qahali, 2019).

#### *The arbitral tribunal's acknowledgement of abandoning the litigation*

Contrary to the case previously, regarding the expiration of the arbitration litigation by the parties' mutual agreement regardless of the arbitral tribunal's discretion, the legislator stipulated that the validity of the claimant's decision to drop the arbitration litigation shall be subject to the arbitral tribunal's discretion, particularly regarding the respondent's lack of serious interest in pursuing the litigation proceedings. Hence, the claimant's decision to drop the arbitration litigation is subject to the arbitral tribunal's acknowledgement (Khalil, 2022).

On this basis, the respondent's objection against dropping the arbitration litigation shall be dismissed in cases with any of the following situations: a) the respondent failed to submit any objective claim or defense; b) the respondent previously expressed his wish, explicitly or implicitly, to end the arbitration litigation without the issuance of an arbitral award; and c) the respondent claimed the arbitral tribunal lacked jurisdiction or demanded the dismissal of the arbitration claim (Wali, 2007).

#### *5.1.3. Futility or impossibility of pursuing the arbitration litigation for any other reasons*

Article (45), Clause 2(c) states this case in detail; the futility of pursuing the arbitration proceedings shall be left to the discretion of the arbitral tribunal. For example, the arbitral tribunal may decide to terminate due to any of the following: a) the parties' failure to submit the required documents; b) the parties' lack of cooperation with the experts assigned by the arbitral tribunal; or c) the failure to appear and attend the arbitration hearings by the parties, or their representatives, making it impossible for the arbitral tribunal to hear the dispute (Elsarhan, 2021).

In addition to these instances where the arbitral tribunal may decide to terminate the arbitration proceedings, the UAE legislator added another case that shall urge the arbitral tribunal to terminate the arbitration proceedings. Article (32/1) of the UAE Federal Arbitration Law No. (6) of 2018 states:

"If the claimant, without showing sufficient cause, fails to communicate its statement of claim in accordance with this Law and the procedures the Parties have agreed to follow, the Arbitral Tribunal shall terminate the proceedings if convinced that there has been undue and unjustified delay on the part of the claimant in pursuing its claim as would make it impossible to reach a fair resolution or would prejudice the respondent" (p. 12).

Remarkably, it is noticeable that the legislator used the term "decide" rather than "award", regarding terminating the arbitration proceedings. Hence, it is good enough to record this decision in the hearing minutes, as such a decision is not subject to the same rules of the arbitrator's award. It is not required to fulfill any of the following stipulations: to issue this decision within

the specified deadline of the arbitral award, to provide transcripts to both parties, or to deposit a copy of the decision with the court's clerk office (Wali, 2007).

#### *5.1.4. The arbitral tribunal's decision with regard to their lack of jurisdiction or dismissing the arbitration claim*

The arbitral tribunal shall hear any submitted defenses with regard to their lack of jurisdiction, including all defenses based on any of the following: the lack of an arbitration agreement, the invalidity of the arbitration agreement, or the exclusion of the dispute's subject matter in the arbitration agreement. In addition, the arbitral tribunal may decide on this matter, whether through a preliminary decision or in the final arbitral award.

If the arbitral tribunal decides they have the required jurisdiction, both parties may ask the competent court to hear the matter during a period of fifteen (15) days from the date of their notification of the arbitral tribunal's decision. The court shall be entitled to decide on the matter during a period of thirty (30) days from the date the submitted request was recorded with the court.

The court's decision in this regard may not be appealed, and the arbitration proceedings shall be suspended till the court's adjudication unless the arbitral tribunal decides to pursue the arbitration proceedings upon the request of one of the concerned parties. If the court ends up ruling the arbitral tribunal lacks jurisdiction, the party who requested pursuing the arbitration proceedings shall be liable for all expenses.

Date of pleading for the arbitral tribunal's lack of jurisdiction:

- By Article (30) of this law, a plea for the arbitral tribunal's lack of jurisdiction shall be submitted on a date no later than the date specified for the respondent to submit their defenses. If the submitted plea is concerned with the arbitration agreement's exclusion of the issues raised by the other party during the litigation proceedings, the plea shall be submitted within a maximum date specified in the next hearing; otherwise, this right will be considered forfeited. The arbitral tribunal may accept a late plea if they deem the cause for a delay acceptable.

- If either party has appointed or has participated in the appointment of an arbitrator, such action does not necessarily mean that this party has forfeited its right to submit a plea concerning the arbitral tribunal's lack of jurisdiction.

## **5.2. Ending the arbitration litigation by the litigants' reconciliation**

It is legally established as a general rule that an individual will not have any power or authority in causing any procedural effects. However, there are certain cases, acknowledged by the Procedural Law, where an individual will produce some procedural effects, e.g., the parties' agreement on arbitration in cases of disputes (Elfazayri, 1998).

The principle of "voluntary submission" represents the essence and cause for arbitration (Commercial cassation No. 554 of 2008). The reason for the parties' agreement on arbitration is their

mutual desire to exercise their right of freedom as granted by the principle of “independence of will”; the parties may agree to appeal to a private judiciary other than the jurisdiction of the State’s judiciary. Such a dispute may not be submitted before arbitrators, unless it is by the concerned parties’ explicit agreement on adjudication through arbitration, (Wali, 2007)<sup>2</sup> as well as their agreement on several other issues concerning arbitration as a private legal system for litigation (Hashem, 1998)<sup>3</sup>.

The basis of arbitration, whether it is independent or institutional, is an expression of the free will of the parties’ recourse to this type of adjudication. Free will is what legitimizes arbitration within certain limits and frames, as stipulated by the legislature. Consequently, the concerned parties may be considered masters of this arbitration, and they shall have full power and authority to end this arbitration (Ahmed, 1997).

In light of the above, the UAE Federal Arbitration Law No. (6) of 2018 added another case for terminating the arbitration proceedings, which is the parties’ agreement on a settlement that ends their dispute. Article (40) of the UAE Federal Arbitration Law No. (6) of 2018 states:

“If, before any final award, the Parties amicably settle the dispute, they may request that the terms of settlement be recorded before the Arbitral Tribunal, which is bound, in this case, to issue a consent award setting out those terms and ending proceedings. Such an award has the same force and effect as any other award”<sup>4</sup> (p. 15).

Under this legal provision, during the arbitration proceedings, both parties may agree to end the arbitration through an amicable settlement provided that such agreement shall be concluded before the issuance of the final arbitral award. The parties may ask the arbitral tribunal to verify the terms of their settlement.

The arbitral tribunal shall issue a consensual arbitration award that includes the terms of this settlement and ends up all proceedings; this consensual award shall have the full legal effects of other ordinary arbitral awards. In this way the provision of Article (40) of the UAE Arbitration Law No. (6) of 2018 is different from that of Article (41) of the Egyptian Arbitration Law

No. 27/1994 stating the following: “In this case, the arbitral tribunal shall issue a decision that includes the terms of this settlement and ends up all proceedings; ...”. According to Egyptian Law, and contrary to the UAE Law, this decision is not considered an “arbitral award” according to the technical definition of the term. Therefore, it is not stipulated that this decision shall be issued in the same form as the arbitral award, or that it shall include all stated data of the arbitral award. It is enough that it is issued in a written form bearing the signatures of all or most members of the arbitral tribunal. Additionally, it is not required that this decision be provided with causation, nor that it includes a summary of the litigants’ demands, statements, and documents (Wali, 2007).

Whether the arbitral tribunal issued a decision in the form of a consensual arbitration award, under UAE Law, or in the form of a decision by the arbitral award, under Egyptian Law, it is not required that the issued verdict include the entire provisions of the settlement concluded between both parties. It is enough to refer to the terms of this settlement, taking into consideration that in both instances the issued verdict shall have the same legal effect as an executive instrument. Unlike the decision issued to verify the terms of the settlement as per Egyptian Law, the issued consensual arbitration award, as per the UAE Law, shall have the same legal effects as ordinary arbitral awards.

### 5.3. Ending the arbitration litigation by the expiry of its deadline

#### 5.3.1. Date of the award terminating the dispute

The establishment of arbitration as an agreement between the concerned parties means the mission of the arbitral tribunal is a temporary task, rather than a permanent mission like that of the State’s courts of law. The mission of the arbitral tribunal is characterized by being temporary, as it is intended for the settlement of a dispute within a specific period. The existence of the arbitral tribunal is subject to the arbitration period, i.e., the arbitration would be considered expired if the arbitral tribunal failed to issue an arbitral award within the specified or conditional deadline as stated in the arbitration agreement (Hammad, 2014).

Here, the term “arbitration deadline” refers to the necessary duration specified for the issuance of an arbitral award, which becomes void with the expiration of the arbitration litigation. The arbitral tribunal is formed for the settlement of a specific subject matter within a specific period; the existence of the tribunal is subject to the duration of the arbitration. If the period expires without the settlement of the dispute, the arbitration will be considered expired as well. If the arbitrators issue an arbitral award afterward, the damaged party may challenge the award because it is null and void (Grand, 1985).

By Article (42) of the UAE Federal Arbitration Law No. (6) of 2018, the deadline for issuing an arbitral award ending the litigation proceedings shall be determined as follows:

“1. The Arbitral Tribunal shall issue a final award within the timeframe agreed by the Parties. Failing agreement on a specific time limit or method

<sup>2</sup> The UAE legislator has not deviated from this principle, as the UAE legislation is consistent with jurisprudence with regard to the stipulation of arbitration by virtue of the parties’ agreement in this regard; and that is pursuant to the principle of “Independence of Will”. In this way, arbitration may replace the State’s judiciary for the settlement of the dispute’s subject-matter. In this regard, Article 203 of the Federal Law No. (1) 1987 concerning Civil Transactions Law of the UAE states the following: “In general, the contracting parties may stipulate — whether it is in the original contract, or by virtue of a subsequent agreement — that in case of any dispute that might arise later between them with regard to the execution of a certain contract, this dispute shall be presented to one or more arbitrators. In addition, the parties may agree on arbitration for a specific dispute pursuant to a number of private terms and conditions”.

<sup>3</sup> In this regard, some jurists have commented on the matter as follows: “Indeed, the legislator has stipulated and regulated the rules of arbitration; however, he has granted all individuals the freedom to choose the recourse to this arbitration. Hence, the recourse to arbitration is originally established by virtue of the litigants’ agreement (i.e., pursuant to the principle of “Independence of Will”) to present their dispute to one or more arbitrators, in order to settle this dispute with the recourse to judiciary, according to the ordinary procedures of litigation”.

<sup>4</sup> In comparison, Article (36/1) of the executive regulation of Cairo Regional Center for International Commercial Arbitration states the following: “If the parties have agreed on a settlement ending their dispute, before the issuance of an arbitral award, then, the arbitral tribunal shall issue an order in this regard, either for the termination of the arbitration proceedings or for the verification of this settlement; and that is upon the parties’ request, as well as the arbitral tribunal’s approval on this request; as it shall be ordered in the form of an arbitral award issued upon agreed terms and conditions, and the arbitral tribunal is not obligated to provide a causation for this award”.

of its determination, the award shall be issued within six months from the date of the first hearing of the Arbitration. The Arbitral Tribunal may extend the time for up to six additional months, unless the Parties agree to a longer extension.

2. The Arbitral Tribunal and either Party may, if no arbitral award is issued within the time period provided for in paragraph 1 of this article, request the Court to issue a decision extending the time period for issuing the arbitral award or terminating the arbitral proceedings, as necessary. The Arbitral Tribunal may extend such period under such conditions as it shall deem appropriate and its decision in this regard shall be final, unless otherwise agreed by the Parties.

3. Where the Court has issued a decision terminating the arbitral proceedings, either party may bring an action before the court originally competent to entertain it" (p. 16).

Under this legal provision, the arbitration deadline shall originally be determined by the arbitration parties, in which case the arbitral tribunal shall take into consideration the period they specify, whether it is a long or a short period. However, practically speaking, it is rare to find an arbitration agreement stating a specific deadline for the issuance of an arbitral award. Some believe this is attributed to the fact that upon the conclusion of the arbitration agreement it is difficult for the parties to anticipate the time required for the settlement of their potential dispute, based on the fact that they have no clue regarding the nature, complexity, and other factors concerning the dispute (Elnemr, 1999).

In cases of the parties' failure to agree on a specific deadline for the arbitration, the UAE Arbitration Law has specified a deadline of six (6) months from the date of the first hearing held for the arbitration proceedings. The arbitral tribunal may extend this period, provided this extension is no longer than an additional six (6) months unless the parties agree on a longer period.

### 5.3.2. Extending the arbitration deadline

#### First case

According to Clause 1 of Article (42) of the UAE Federal Arbitration Law No. (6) of 2018, the arbitration deadline may be extended upon the agreement of the arbitration parties, whether the agreement is explicit or implicit. The parties' acceptance of an extension of the arbitration deadline may be elicited implicitly, if all parties appear before the arbitral tribunal, and discuss the issue without pleading for the expiry of the stated deadline. This implicit extension may cause great difficulty regarding the failure to determine a specific period within which an arbitral award shall be issued. The damaged party may challenge this implicit agreement, and plead for nullity of the arbitral award on grounds that it was issued by an arbitration agreement that expired (Hammad, 2014).

#### Second case

By Clause 1 of Article (42) of the UAE Federal Arbitration Law No. (6) of 2018, the arbitral tribunal may decide to extend the arbitration deadline,

provided this extension is no longer than six (6) months unless the parties agree otherwise. Extending the arbitration deadline under this pretext shall be decided by the arbitral tribunal, with no need for a judicial acknowledgement of such an extension provided that there is no contradictory agreement between the litigation parties.

Some jurists support the legislator's position in this regard, based on the fact that this course of action can save a lot of time that would otherwise be consumed through recourse to the State's judiciary; the matter of extending the arbitration deadline shall not be more significant than the adjudication on the arbitration's subject-matter, as well as the issuance of an arbitral award with acknowledged judicial authority. This course of action shall also minimize the potential risks of the case since the legislator did not grant the arbitral tribunal unlimited powers in this regard; instead, the legislator restricted their authority to a specific period that may not exceed six (6) months (Elnemr, 1999).

Other jurists have expressed their criticism of the legislator's course of action. Those critics believe that since the date of the arbitral award has been determined by the parties' agreement in the first place, then a potential extension should also be decided by the parties. The arbitral tribunal's interference is overstepping the limits of their assigned mission.

If the arbitrator is considered a master of the arbitration proceedings who is in charge of its matters and procedures, the date of the arbitral award may not be considered another simple procedure. On the contrary, it is the time frame within which the arbitrator shall exercise the rights assigned to them. In cases where the parties fail to agree on a specific extension for the arbitration deadline, the legal provision stated in Clause 2 of Article (42) of the UAE Arbitration Law shall take immediate effect; the jurisdiction of extending the arbitration deadline shall be specified to the competent court of law (Elfeki, 1996).

#### Third case

By Clause 2 of Article (42) of the UAE Federal Arbitration Law No. (6) of 2018, in cases of expiry of the determined extension without the issuance of an arbitral award, where the arbitral tribunal believes that there is a need for another extension, or both parties wish to pursue the arbitration litigation, then recourse to the competent court shall be invoked. The court shall either order another deadline for the issuance of the arbitral award, or order the termination of the arbitration proceedings in case of disagreement amongst the parties, or between the parties and the arbitral tribunal, with regard to the new extension<sup>5</sup>.

If the competent court decides to order another extension, the court shall be entitled to extend the additional period according to certain terms and conditions it deems appropriate. The court's decision shall be considered final unless the parties agree otherwise. The court's decision to extend the arbitration deadline shall be considered

<sup>5</sup> Remarkably, if the court has ordered the termination of the arbitration proceedings in this case, any of the parties may then initiate a claim before the competent court originally concerned with hearing this dispute (pursuant to Clause 3 of Article (42) of the UAE Federal Arbitration Law No. (6) of 2018).



non-appealable if there is no agreement between the parties that stipulate such an appeal is permissible. Moreover, if the competent court decides to order another extension of the arbitration deadline, the court's decision shall be legally binding to both the arbitration parties, and the arbitral tribunal.

As previously mentioned extending the arbitration deadline by the competent court, as stipulated by the UAE legislator might draw criticism due to the legislator's failure to determine a specific period of time for the extension. Some believe it would have been better if the legislator had determined a short period for the issuance of an arbitral award. Therefore, we propose the UAE legislator amend Clause 2 of Article (42) of the UAE Federal Arbitration Law No. (6) of 2018 with the following phrase: "for three months as a maximum period".

If the arbitral tribunal fails to commit to these specific periods and deadlines, the damaged party shall be entitled to appeal against the issued arbitral award on grounds that it is null and void, as it was issued by an arbitration agreement that expired.

### 5.3.3. The approach adopted by the UAE judiciary

The following question could be raised regarding arbitration deadlines: "Are these deadlines just indicative regulatory dates that may be ignored by the arbitral tribunal?" The Federal Supreme Court of the United Arab Emirates answered this question as follows:

"The arbitral award shall be issued within the stated period of time as agreed between both parties. However, if the litigants have failed to agree on a specific period of time for the issuance of this award, then, the arbitrator shall issue the arbitral award within the period of six (6) months as of the date of the first arbitration hearing; and that is pursuant to Article 210 of the Civil Procedures Act (Commercial cassation No. 640 of 2002). Moreover, if the arbitral tribunal has exceeded this period of time, the issued arbitral award may be annulled upon a request by either one of the arbitration parties; (Grand, 1985)<sup>6</sup> however, this annulment is not related to the public order" (Commercial cassation No. 433 of 1999).

In all cases, the UAE legislator has tried to address the issue of extending the arbitration

deadline gradually. The will of the concerned parties plays the primary role in determining a deadline for the issuance of an arbitral award. The UAE legislator has attempted to save arbitration litigation from premature expiration. Therefore, the legislator adopted a gradual method in their legislation. First, they granted the authority to extend the arbitration deadline to the arbitral tribunal, unless the parties have agreed on another extension, with the stipulation of a time limit within which the arbitral award shall be issued. Then the legislator granted the authority to extend the arbitration deadline or terminate the arbitration proceedings to the competent court of law. If the arbitral award is not issued within these specified dates and deadlines, the arbitration litigation shall be considered expired without the issuance of an arbitral award, i.e., a premature expiration.

### 5.4. Ruling the invalidity of the arbitration agreement

The arbitration litigation may expire by a court order due to the arbitral tribunal's failure to issue an arbitral award within the agreed-upon deadline, or during the extension period. The arbitration litigation may also expire due to a court ruling the arbitration agreement as invalid.

#### 5.4.1. The arbitration agreement invalidity due to failure to fulfill the terms of its conclusion and validity

The UAE legislator permits all persons, whether they are natural persons or legal entities, to agree to arbitration in order to settle any disputes that might occur or that have already occurred between the concerned parties. This permit is not absolute and free of any restrictions; there are some terms and conditions that shall be fulfilled in order to acknowledge the validity of the agreement (Elsarhan, 2021).

The parties' agreement on arbitration, whether it is concluded in the form of an arbitration clause, or a separate arbitration agreement, may be considered a contract. Like any contract, in order to ensure validity, the terms of its conclusion shall be fulfilled, including the consent, subject matter, and cause. In the case of an arbitration agreement, the fulfillment of consent is not good enough to verify the validity; there are other terms and conditions that must be fulfilled. The claimant must be legally capable of taking legal action concerning the disputed right; the disputed issue shall be eligible to be the subject matter of arbitration litigation; the subject matter of the dispute shall be determined specifically; and the arbitration agreement shall be concluded in writing (Mahmoud, 2016).

In cases of failure to fulfill these terms and conditions regarding the arbitration agreement's culmination and validity, this agreement shall be considered invalid; unless there is a legal provision by the legislator stating that the shortcoming in question may make this agreement terminable, or pending its permissibility.

Since the arbitral tribunal is granted their power and authority, as well as the limits of their jurisdiction, by the arbitration agreement, which may be considered as the backbone and the decisive

<sup>6</sup> The origins of this approach of the UAE Judiciary may be detected in the French Judiciary in the following case: On September 30, 1970, a contract was concluded between the Moroccan City of Casablanca and the French Company (Dégrement) with regard to some public works. This agreement stipulated that in case of any dispute that might arise between the two parties, the parties shall reach a settlement for this dispute pursuant to the arbitration rules of the International Chamber of Commerce in Paris. After that, a dispute occurred between the parties; and after their recourse to arbitration, the arbitral tribunal issued an arbitral award in September 1987, stating the parties' violation to the stated deadlines as set forth by virtue of the executive regulation of the International Chamber of Commerce in Paris. However, the arbitral tribunal explained that this regulation is nothing more than an indicator that could be used for guidance only, as it may not prohibit the arbitral tribunal from exercising their right to ignore this regulation. Then, the Moroccan party tried to have a court order for the execution of the issued arbitral award; however, the Court of Versailles dismissed their claim on grounds that this arbitral award had been issued pursuant to an arbitration agreement that was expired. After that, the Moroccan party appealed before the French Court of Cassation that has ruled the following: "It is legally established that the agreed deadline of arbitration may not be modified by the arbitrators themselves; i.e., the period determined by the concerned parties to the arbitral tribunal for the issuance of an arbitral award ending the litigation, whether it is determined directly or indirectly by referring the arbitration regulations; hence, the decision of the Court of Appeal is legally valid" (Grand, 1985, p. 39).

point of the arbitral tribunal's jurisdiction, the invalidity of the agreement means the invalidity of the arbitration litigation. In other words, the arbitration's subject matter shall be considered a violation of public order, or an issue that may not be settled by reconciliation (Mabrouk, 1998).

#### *5.4.2. The permissibility of dividing the invalidity (unless the subject matter is indivisible)*

By its nature, arbitration litigation may be divided according to the subject matter or the parties. Usually, there are no exceptions to this rule, except in cases involving subject matter that is indivisible due to its nature, or due to a legal provision. On this basis, some cases may be legally acknowledged as follows (Abouelwafa, 1988).

1. By Clause 1, Article 211 of Federal Law No. (1) 1987 concerning Civil Transactions Law of the UAE, if the arbitration has been agreed on a matter involving something related to the public order, the arbitration shall be considered invalid with regard to that part only, without prejudice to the other parts.

2. If the arbitration agreement involves several parties, and one of those parties lacks the required legal capacity, the agreement shall be considered suspended for this party only, while being considered valid for the remaining parties (Article 213 of Federal Law No. (1) 1987 concerning Civil Transactions Law of the UAE). If the agreement is later permitted by the natural or legal guardian or by the party themselves, after fulfilling the required legal capacity, then the entire agreement shall be considered valid (Article 214 of Federal Law No. (1) 1987 concerning Civil Transactions Law of the UAE). However, if this permissibility is not duly fulfilled, the agreement shall be considered invalid regarding the part concerning the ineligible party only (Clause 2, Article 217 of Federal Law No. (1) 1987 concerning Civil Transactions Law of the UAE).

The entire issue will still be subject to the subject matter's divisibility. The entire arbitration litigation shall be considered invalid if the arbitration's subject matter is not divisible, if the subject matter involves an invalid part that may not be subject to arbitration, or if the arbitration agreement involves a party that is not entitled to the agreement.

3. If the arbitration agreement is invalid with regard to one section or one party only, this invalidity may be invoked by any of the litigants, and the court shall immediately acknowledge the invalidity<sup>7</sup>.

4. If all parties jointly agreed to arbitration, and the arbitration is pending the legal capability of one party, this party or their representative may reject arbitration and plead for invalidity. However, if the agreement is considered invalid, all parties may still invoke the agreement on grounds that the invalidity is related to the public order (Mahmoud, 2016).

#### *5.4.3. Possibility of the original contract invalidity while the arbitration clause remains valid*

It is legally established that the arbitration clause shall be independent of the original contract of the clause; it is possible to plead that the original contract is rendered invalid while the arbitration clause remains legally valid. In this case, the arbitration shall be considered permissible to adjudicate the effects resulting from the original contract's invalidity. That is even though the original legal relation does not exist anymore or never existed in the first place.

Therefore, a claim for the original contract's invalidity may not suspend the legal effect of the arbitration clause mentioned in the contract, unless the parties agree otherwise, or the invalidity cause also includes the arbitration clause. For example, if the contract was concluded by a person lacking the required legal capacity, ruling the contract invalidity, or canceling it, will result in the termination of the original contract, including the arbitration clause (Sawi, 2002).

## 6. CONCLUSION

This current paper has introduced a detailed study of cases of premature expiration of arbitration litigation in investment disputes. This paper concluded that the issuance of an arbitral award is considered the natural result and the ultimate purpose of the arbitration litigation. However, the arbitration proceedings may end without the issuance of an arbitral award on the subject matter, an action known as the premature expiration of the arbitration litigation.

In this paper, the authors used the analytical approach to address this issue, by analyzing the legal rules adopted by the UAE Federal Arbitration Law No. (6) of 2018 related to the premature expiration of an arbitration dispute without issuing an arbitral award, which is mainly stipulated in Article (45).

For instance, these cases may include the parties' mutual agreement to terminate the arbitration litigation and pursue recourse through the State's judiciary. In this case, the arbitral tribunal shall order the termination of the arbitration proceedings upon the mutual agreement of all parties. In order to ensure this mutual agreement is legally valid, it must be concluded by all concerned parties or their attorneys. If only some parties have entered into such an agreement without the other parties, the agreement shall not be legally binding to the latter group, i.e., this agreement will not have the legal effect of terminating the proceedings concerning the non-agreeing parties. However, the legal effects of this agreement shall be limited only to those parties involved. Additionally, the arbitration litigation may be terminated due to the litigants' reconciliation about the subject matter of the arbitration.

Furthermore, abandoning the arbitration litigation is another reason for premature expiration. The claimant may realize it is actually in his interest to stop pursuing the arbitration litigation, so he drops the claim despite being the party who initiated it. Interestingly, this situation may occur in several cases. For example, the claimant may find out he

<sup>7</sup> Clause 2, Article 210 of Federal Law No. (1) 1987 concerning Civil Transactions Law of the UAE states the following: "Any person having an interest may rely on the voidness of the contract and a judge may so rule of his own motion" (p. 26).

rushed to initiate the arbitration claim before preparing enough proof of evidence, hence exposing himself to the possibility of losing the litigation.

Another case of premature expiration could emerge due to the futility or impossibility of pursuing the arbitration proceedings, according to the arbitral tribunal's discretion. For example, the arbitral tribunal may decide to terminate proceedings due to any of the following: a) the parties' failure to submit the required documents; b) the parties' failure to cooperate with the expert assigned by the arbitral tribunal; or c) failure of the parties or their representatives to attend the arbitration hearings, making it impossible for the arbitral tribunal to hear the dispute. The arbitration litigation may also prematurely expire by a ruling of the arbitration agreement invalidity.

These cases may also include terminating the arbitration litigation due to the litigants' reconciliation, as well as the arbitration expiration due to the expiry of its deadline. The establishment of arbitration as an agreement makes the mission of the arbitral tribunal temporary, rather than the permanent mission of the State's courts of law. The UAE legislator faces some criticism regarding extending the arbitration period by the competent court, as the legislator did not stipulate a specific period for the additional extension. It would have been better to determine a short period for the issuance of an arbitral award. We propose that the UAE legislator amend the Clause 2 of Article (42) of the UAE Arbitration Law by adding the following phrase: "for three months as a maximum period".

Finally, it is worth mentioning that the termination of the arbitration proceedings does

not necessarily mean that the objective right has been forfeited. However, this right shall remain protected; any of the concerned parties may resort to arbitration again by resubmitting the claim. The arbitration agreement does not lose its legal effect due to the termination of the arbitration litigation without the issuance of an arbitral award, unless the arbitration agreement has a time limit, and it shall be considered forfeited by the expiry of its duration.

In conclusion, the subject matter under study in this paper has covered a major section of the premature expiration of arbitration litigation in investment disputes, according to the latest legislative developments in the field of arbitration in the United Arab Emirates, especially in the field of investment contracts. This research paves the way for other researchers to delve into the study of topics that discuss the effects of the premature expiration of arbitration litigation, and whether these effects affect the arbitration parties, the arbitration agreement, or the subject of the dispute.

Our study has certain limitations. First, we have collected a number of highly significant sources, as well as several court rulings issued by the UAE judiciary. Second, we have limited our study to the field of the premature expiration of arbitration litigation in investment disputes in the UAE arbitration law. Third, we have analyzed all relevant legal provisions collected from legislation, jurisprudential interpretations, and court rulings. Fourthly, we have included several significant results. It shall open horizons for future research works for similar future studies.

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