

METHODS OF SETTLEMENT OF DISPUTES AND THEIR COSTS



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Arbitration in Iran

In Persian, the word arbitration is defined as judgment, adjudication, trial and arbitrament. In a legal context, however, it is defined as resolving the disputes between the parties by a person or panel out of judicial courts.

In order to resolve the disputes between parties, the law provides for different dispute resolution authorities including judicial and non-judicial, each of which acts according to its intrinsic jurisdiction in order to settle the dispute.

According to the seventh chapter of Civil Procedure Code of Iran and the act on International Commercial Arbitration, arbitration is one of the methods for dispute resolution, through which the parties can refer their disputes to a person or a panel of arbitrators appointed by the parties or a third party. Due to the significance of this matter, there are different organizations established in order to resolve the disputes through arbitration, each of which acts in accordance with their approved regulations. Legal Iranian Arbitration Organizations include Arbitration Center of Iranian Chamber of Commerce and Tehran Regional Arbitration Center.

The proceeding fee is one of the most important issues for the dispute parties. It is generally believed that one of the advantages of arbitration in comparison with the judicial proceedings is the lower expenses of arbitration. However, some argue that this is not among the advantages of arbitration and in fact the arbitration expenses are extremely high. In this article, we are going to provide the essential information regarding the arbitration organizations and make a comparison between the proceeding fees before the judicial authorities and arbitration organizations in order for the readers to be capable of properly including the arbitration clause while preparing their agreements.

Arbitration Center of Iran Chamber (ACIC):

ACIC is considered to be the first arbitration organization in Iran. Prior to establishment of this organization, there was only ad hoc arbitration in Iran. Therefore, the notion of Organizational Arbitration was entered into Iranian legal system by the law regarding establishment of this center passed in 2001. The model arbitration clause of this organization is as follows:

“All disputes and claims arising from or relating to the present contract including its conclusion, validity, termination or breach, and its interpretation or application shall be submitted to the Arbitration Center of the Iran Chamber (ACIC) for binding and final arbitration by one or three arbitrators in accordance with the Law of Statute of the Arbitration Center of the Iran Chamber and Arbitration Rules of ACIC. In addition to the applicable laws and regulations, the arbitrator(s) shall take into account the relevant trade usages. The present arbitration clause shall be treated as an agreement independent of this contract and shall in any case be binding.”

The costs for arbitration before ACIC are determined by the relevant Rules of Arbitration Costs, according to which some of the most important issues are as follows:



1. The cost of registration of the request for arbitration: The cost of registration of the request for arbitration with Arbitration Centre of Iran Chamber of Commerce is IR. Rials 200,000 in regard to domestic arbitration and EUR 50 in international arbitration. The cost of registration shall be paid at the time of submission of the request for arbitration and is non-refundable.

2. The Administrative cost:

Table A. Administrative costs regarding domestic arbitration

The price of claim in IRR	Administrative costs in IRR
Up to 50,000,000	1,000,000 IRR
From 50,000,001 to 250,000,000	1.5% surplus
From 250,000,001 to 1,000,000,000	1% surplus
From 1,000,000,001 to 3,000,000,000	0.75% surplus
More than 3,000,000,000	30,000,000 IRR

Table B. Administrative costs regarding international arbitration

The price of claim in EUR	Administrative costs in EUR
Up to 10,000 EUR	500 EUR
From 10,001 to 50,000	3% surplus
From 50,001 to 100,000	1.5% surplus
From 100,001 to 500,000	0.7% surplus
From 500,001 to 10,000,000	0.6% surplus
More than 10,000,000	15,000 EUR

3. The Arbitrator's Fee:

Table C. Arbitration fee in domestic arbitration

The price of claim in IRR	Arbitration fee in IRR
Up to 50,000,000	2,500,00
From 50,000,001 to 250,000,000	3% surplus
From 250,000,001 to 1,000,000,000	2% surplus
From 1,000,000,001 to 10,000,000,000	1.5% surplus
From 10,000,000,001 to 50,000,000,000	1% surplus
From 50,000,000,001 to 100,000,000,000	0.5% surplus
From 100,000,000,001 to 500,000,000,000	0.25% surplus
More than 500,000,000,001	0.125% surplus

Table D. Arbitration fee in international arbitration

The price of claim in EUR	Arbitration fee in EUR
Up to 10,000 EUR	1500
From 10,001 to 50,000	4% surplus
From 50,001 to 100,000	3% surplus
From 100,001 to 500,000	2% surplus
From 500,001 to 1,000,000	1.5% surplus
From 1,000,001 to 5,000,000	0.50% surplus

From 5,000,001 to 10,000,000	0.25% surplus
From 10,000,001 to 50,000,000	0.125% surplus
More than 50,000,000	0.625% surplus

The total fee in a three-member arbitration panel shall be divided in a ratio of 40% for the presiding arbitrator and 30% for each of the co-arbitrators of the parties. If the parties and the arbitrator or the arbitrators have agreed on a amount less than the arbitrator’s fee, it shall be applied as such.

4. The expert’s fee: shall be in accordance with the tariffs of experts approved by the Judiciary.

5. Additional costs: If in the course of the arbitration proceedings payment of additional costs such as travel costs becomes necessary, the Centre shall fix such costs in accordance with custom and practice, which shall be paid by the parties in equal shares, unless it is otherwise agreed by the parties or is determined by the Arbitrator. If conduct of the arbitration requires traveling abroad, costs of visa and payment of per diem allowances of the Arbitrator shall be on the parties in equal shares.

6. When the relief sought is non-pecuniary or determination of the value of the relief sought is not possible, the arbitrators' fee for each arbitrator is IRR 1,500,000 in domestic arbitration and EUR 1,000 in international arbitration. If the quality or quantity of the case requires a lower or a higher fee, the Secretary General shall fix a reasonable and pertinent fee with due consideration of the circumstances of the case, which fees shall equally be paid by the parties.

7. In the event of the withdrawal of the claim or when the claim is terminated by an award on agreed terms or the case is amicably settled, the arbitration costs shall be half of the original costs, however, the Arbitration Centre may determine the costs on a reasonable basis and according to the stage of the proceedings and the work done.

8. Discount in administrative costs: The Centre may, taking into account the circumstances of the case and the situation of the party which pays the costs, reduce the administrative costs by 30% and any more discounts on the said amount rests with the Board of Directors of the Centre.

Tehran Regional Arbitration Center (TRAC):

TRAC was established under the supervision of Asian African Legal Consultancy Organization (AALCO) and in accordance with the resolution of the said organization which was approved in its 22nd meeting in January 1987 in Bangkok as well as the agreement of May 3, 1997 concluded between Islamic Republic of Iran and the said organization.

The duties of TRAC are as follows:

- Promotion and enhancing international commercial arbitration throughout the region,
- Assisting and coordinating the activities of the region’s arbitration institutes,
- Assisting special arbitrations, in particular, when the said arbitrations are conducted subject to the regulations of UNCITRAL,
- Assisting the enforcement of arbitration awards.
- Arbitration under the supervision of center

Model arbitration clause of the center is as follows:

“Any and all disputes arising out of, relating to or in connection with the present contract shall be finally settled under the Rules of Arbitration of the Tehran Regional Arbitration Centre (TRAC).” The parties could add the governing law and number of arbitrators.

As a principle, the payment of arbitration fees in this center is on the party losing the case. However, it is possible for the costs to be shared between the parties. It should be noted that TRAC does not charge additional costs for interpretation, adjustment and completion of its award. Furthermore, the authorities have tried to set the fees lower than what is charged in many countries. TRAC fees are as follows:

1. Registration fee (which shall be charged in order to file the application): 500 EUR
2. Administrative fees which will be determined according to the disputed price and range from EUR 500 to EUR 60000 as follows :

Up to 50,000	3%, the minimum of which is 500 EUR
From 50,001 to 100,000	1500+2% surplus of 50,000
From 100,001 to 500,000	2500+1% surplus of 100,000
From 500,001 to 1,000,000	6500+80% surplus of 500/000
From 1,000,001 to 2,000,000	10500+40% surplus of 1,000,000
2,000,001 to 5,000,000	14500+15% surplus of 2,000,000
More than 5,000,000	19,000+10% surplus of 5,000,000, the maximum of which is 60,000 EUR

3. Arbitration fee which has an inverse relation with the disputed price. It should be noted though that according to article 35, paragraph 4 of the TRAC Arbitration Regulations, the center is allowed to adjust the price in exceptional circumstances.

Disputed price	Minimum	Maximum
Up to 50,000	1000 EUR	11%
From 50,000 to 100,000	2%	7%
From 100,001 to 500,000	1%	4%
From 500,001 to 1,000,000	0.75%	2.50%
From 1,000,001 to 5,000,000	0.50%	1%
From 5,000,001 to 10,000,000	0.10%	0.50%
From 10,000,001 to 50,000,000	0.05%	0.15%
From 50,000,001 to 100,000,000	0.30%	0.10%
More than 100,000,001	0.01%	0.05%

Similarly, according to article 35 of the said regulations, the following could be considered in arbitration fees as well.

4. Expenses of the arbitrators
5. Experts’ fee
6. Reasonable legal costs imposed on parties
7. Probable compensation of interim injunction (according to article 23, paragraph 2)

Judicial authority

In addition to the above mentioned arbitration centers, there are two methods for dispute resolution before judicial authorities:

1. Dispute resolution by arbitrator(s)
2. Dispute resolution by judge



Dispute resolution by arbitrator(s):

The costs of dispute resolution by the arbitrators who are either chosen by the parties or by the court, are calculated and received in accordance with the Rules for Arbitration Costs, subject of article 498 Civil Procedure Code:

According to this regulation, unless provided otherwise by the arbitration agreement, the arbitration fee for a claim up to 50,000,000 IRR shall be 5 percent, for a claim up to 250,000,000 IRR shall be 3 percent and for a claim with more value it shall be 2 percent of the claim.

When the claim is not financial or it is not possible to determine the price, the arbitration fee of each arbitrator shall be 500,000 IRR. The court can also determine the fee based on the nature of arbitration. If the parties reach a compromise during arbitration, the court shall determine the arbitration fee in accordance with the conducted tasks.

In the case it is necessary for the arbitrator to exit his residential area, the travel costs shall be 500 IRR for each square kilometers and 200,000 IRR for each day. Other arbitration costs such as the costs related to experiments, conjectures and samples which are essential according to the arbitrator shall be borne by the parties. Furthermore, in the case, conducting arbitration requires traveling abroad, acquiring visa and the related costs such as the costs regarding travel, residence and other extraordinary costs shall be paid by the applicants. Similarly, in the case evidence and documents related to arbitration are written in other languages and the arbitrator acts as the translator, the translation costs shall be calculated in accordance with the tariffs regarding official translation.

Dispute resolution by judge:

As regards the judicial authority, the second type of dispute resolution is through judges. As the topic of our discussion is mainly regarding Legal issues, this article shall not discuss the costs for Criminal cases. Therefore, through a distinction between financial and non-financial disputes, this article shall review the most recent judicial costs in this regard which were provided by the Budget Law 2016. It should be noted that the difference between financial and non-financial disputes is that the subject of the latter is not assessed with money.

- *Proceeding Costs for Financial Disputes*

Table 1- proceeding cost regarding financial disputes, the subject of which must be assessed by the plaintiff or when the cost of subject is not determined at the time of submitting the petition (in primary, protest, retrial and third party objection stage)

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No.	Cost of Subject	Approved Tariff	Legal Article
1	Up to two hundred million Rials	two and a half percent of the subject value	Paragraph 12, Article 3 of the law on Collecting Parts of Government's Income
2	More than two hundred million Rials	Up to two hundred million Rials, two and a half percent of the subject value and for more than that three and a half percent of the subject value	Paragraph 12, Article 3 of the law on Collecting Parts of Government's Income
3	An amount of one million Rials stamps must be invalidated and attached and the rest is received after determining the subject and issuance of decision under paragraph 1-1	One million Rials	Paragraph 14, Article 3 of the law on Collecting Parts of Government's Income
4	Regarding the income from posing non-criminal financial cases in judicial courts, in addition to the approved proceeding fee	One hundred thousand Rials	Number 14-148 of the Budget Law 2014
5	Submission of petition to judicial courts	Fifty thousand Rials	Paragraph 4, Article 3 of the law on Collecting Parts of Government's Income
6	For each paper of the petition	Fifteen thousand Rials	Paragraph 6, Article 3 of the law on Collecting Parts of Government's Income
7	Proceeding fee for immovable property financial disputes and eviction from immovable property	Shall be assessed according to the transaction value in each region	Paragraph 12, Article 3 of the law on Collecting Parts of Government's Income

Table 2- proceeding fee of financial disputes in appeal, retrial and third party objection stage in court of appeal

No.	Cost of Subject	Approved Tariff	Legal Article
1	Appealing, retrial and third party objection in regard to decisions of primary courts with financial sentence	Four and a half percent of the sentence value	Paragraph 12, Article 3 of the law on Collecting Parts of Government's Income
2	Submission of petition to judicial authorities	One hundred thousand Rials	Paragraph 4, Article 3 of the law on Collecting Parts of Government's Income
3	Cost of each petition paper	Fifteen thousand Rials	Paragraph 6, Article 3 of the law on Collecting Parts of Government's Income
4	Appealing request in regard to injunctions which can be appealed before courts	Three hundred thousand Rials	Paragraph 16, Article 3 of the law on Collecting Parts of Government's Income

Table 3- proceeding fee of financial disputes in appealing, retrial and third party objection in Supreme Court

No.	Cost of Subject	Approved Tariff	Legal Article
1	Appealing, retrial and third party objection in regard to financial decisions issued in primary stage	Five and a half percent of the sentence	Subparagraph C, Paragraph 12, Article 3 of the law on Collecting Parts of Government's Income
2	Cost of appealing request in regard to injunctions that can be appealed before the Supreme Court	Three hundred thousand Rials	Paragraph 16, Article 3 of the law on Collecting Parts of Government's Income
3	Submission of petition to judicial authorities	Fifty thousand Rials	Paragraph 4, Article 3 of the law on Collecting Parts of Government's Income
4	Cost of each petition paper	Fifteen thousand Rials	Paragraph 6, Article 3 of the law on Collecting Parts of Government's Income

- *Proceeding Fee for Non-Financial Disputes*

Table 4- proceeding fee of non-financial disputes in primary stage

No.	Cost of Subject	Approved Tariff	Legal Article
1	Proceeding fee for non-financial disputes	According to the type of dispute, from three hundred thousand Rials to one million and five hundred thousand Rials	Paragraph 13, Article 3 of the law on Collecting Parts of Government's Income
2	Cost of request for securing evidence	According to the type of dispute, from three hundred thousand Rials to one million and five hundred thousand Rials	Paragraph 13, Article 3 of the law on Collecting Parts of Government's Income
3	Cost of petition for garnishment	According to the type of dispute, from three hundred thousand Rials to one million and five hundred thousand Rials	Paragraph 13, Article 3 of the law on Collecting Parts of Government's Income
4	Cost of temporary injunction	According to the type of dispute, from three hundred thousand Rials to one million and five hundred thousand Rials	Note 2, Article 325 of the Civil Procedure Law
5	Cost of requesting conciliation	According to the type of dispute, from three hundred thousand Rials to one million and five hundred thousand Rials	Note of Article 193 of the Civil Procedure Law
6	Submission of petition to judicial courts	Fifty thousand Rials	Paragraph 4, Article 3 of the law on Collecting Parts of Government's Income
7	Cost of each petition paper	Fifteen thousand Rials	Paragraph 6, Article 3 of the law on Collecting Parts of Government's Income

Table 5- proceeding fee of non-financial disputes in appealing stage

No.	Cost of Subject	Approved Tariff	Legal Article
1	Cost of appealing in courts of appeal	According to the type of dispute, from three hundred thousand Rials to one million and five hundred thousand Rials	Paragraph 13, Article 3 of the law on Collecting Parts of Government's Income
2	Cost of request for appealing appealable injunctions	Three hundred thousand Rials	Paragraph 16, Article 3 of the law on Collecting Parts of Government's Income
3	Cost of each petition paper	Fifteen thousand Rials	Paragraph 6, Article 3 of the law on Collecting Parts of Government's Income
4	Submission of petition to judicial authorities	One hundred thousand Rials	Paragraph 4, Article 3 of the law on Collecting Parts of Government's Income

Table 6- proceeding fee of non-financial disputes in the stage of appealing before the Supreme Court

No.	Cost of Subject	Approved Tariff	Legal Article
1	Cost of before the Supreme Court	According to the type of dispute, from three hundred thousand Rials to one million and five hundred thousand Rials	Paragraph 13, Article 3 of the law on Collecting Parts of Government's Income
2	Cost of request for appealing appealable injunctions in the Supreme Court	Three hundred thousand Rials	Paragraph 16, Article 3 of the law on Collecting Parts of Government's Income
3	Cost of each petition paper	Fifteen thousand Rials	Paragraph 6, Article 3 of the law on Collecting Parts of Government's Income
4	Submission of petition to judicial authorities	One hundred thousand Rials	Paragraph 4, Article 3 of the law on Collecting Parts of Government's Income

Furthermore, in order to harmonize receiving proceeding fees, the Regulation Regarding Harmonization of Proceeding Fees was adopted by the Head of the Judiciary on May 24, 2016 and it was amended on July 2, 2016 and it was provided for all courts of the country to act in accordance with this provision:

- 1) The following issues are declared in order to enforce paragraphs 12, 13 and 22 of the 1373 act regarding Collecting Parts of Government's Income and expending them on Certain Issues:
 - A. The proceeding fee regarding financial disputes at the retrial stage and third party objection is equal to the cost at Supreme Court appealing (5/5 percent of the sentence) and proceeding fee at the protest stage equals to the costs at appeal stage (4/5 percent of the sentence).
 - B. The proceeding fee subject of paragraph 13 of article 3 of the said law regarding non-financial disputes, request of securing evidence, garnishment and interim injunction is as provided in the attached table.

C. The fee regarding enforcement of non-judicial decisions before the judiciary and the decision enforcement fee provided in paragraph 22 of article 3 of the said act is as follows:

- Decisions regarding family (in the jurisdiction of family court): three hundred thousand IRR
- Other decisions: seven hundred and fifty thousand to one million and five hundred IRR

D. In regard to the proceeding fee in financial disputes regarding immovable property and eviction from real estate, subject of paragraph 12 of article 3 of the said act, the value of the claim shall be assessed in accordance with the transaction value of the real estate in the region and the proceeding fee shall be received according to the said value. Therefore, it is crucial that in order to calculate the related proceeding fee legally and precisely, the latest resolution of Real Estate Assessment Commission subject of article 64 of the 1366 act regarding Direct Taxes, be acquired and the evaluations be carried out in accordance with that resolution.

E. The basis of calculation regarding Gold Coins and Currency, shall be the actual price declared by the Central Bank.

2) The income resulting from enforcing Article 230 of the Criminal Procedure Law is deposited to the account of judicial services No. 140101 of the Budget Law.

This Regulation was approved by the head of the judiciary on May 24, 2016 and substitutes the regulation No. 9000/35739/100 dated August 9, 2015 and is binding from the ratification date.

No.	Title	Primary	Protest	Appeal	Appeal before the supreme court	Retrial and third party objection
1	Immovable property disputes	800,000	1,000,000	1,000,000	*	1,000,000
2	Commercial and corporate disputes	800,000	1,000,000	1,000,000	*	1,000,000
3	Identity documents disputes	500,000	1,000,000	1,000,000	*	1,000,000
4	Non-litigious matters	500,000	1,000,000	1,000,000	1,000,000	1,000,000
5	Family disputes (in the jurisdiction of family court), and related distress and interim injunction except for disputes that could be appealed before the supreme court	200,000	400,000	800,000	*	1,000,000
6	Distress and interim injunction request except for family matters	500,000	*	1,000,000	*	1,000,000

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7	Objection to non-judicial decisions	1,000,000	1,000,000	1,000,000	*	1,000,000
8	Disputes that could be appealed before the supreme court	500,000	1,000,000	1,000,000	1,000,000	1,000,000
9	Other disputes	500,000	800,000	1,000,000	*	1,000,000

I WOULD BE GLAD TO RECEIVE YOUR KIND REMARKS AND SUGGESTIONS IN ORDER TO COMPLETE MY ARTICLES IN THIS FIELD. FURTHERMORE, SHOULD YOU HAVE ANY QUESTIONS, PLEASE DO NOT HESITATE TO CONTACT ME.

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