

Authority and Powers of the Arbitral Tribunal

Introduction

An Arbitral Tribunal is a quasi-judicial body constituted by the agreement of parties to resolve disputes outside traditional court systems. Arbitration is widely recognized as an effective alternative dispute resolution (ADR) mechanism, particularly in commercial and international disputes. The authority and powers of the tribunal are derived primarily from the arbitration agreement, applicable arbitration laws, and institutional rules where applicable.

Source of Authority

The authority of an arbitral tribunal is grounded in the consent of the parties. This consent is usually expressed through an arbitration clause in a contract or a separate arbitration agreement. The tribunal also derives authority from:

- National arbitration laws (e.g., UNCITRAL Model Law, Arbitration Acts of respective jurisdictions)
- Institutional arbitration rules (e.g., ICC, LCIA, SIAC rules)
- Procedural agreements between the parties

Jurisdiction of the Tribunal

Jurisdiction refers to the tribunal's power to hear and determine a dispute. The tribunal has the authority to rule on its own jurisdiction, including:

- Validity of the arbitration agreement
- Scope of the arbitration clause
- Arbitrability of the subject matter

This principle is commonly known as "Kompetenz-Kompetenz," which allows the tribunal to decide objections concerning its jurisdiction.

Powers of the Arbitral Tribunal

1. Procedural Powers

The tribunal has broad discretion to determine procedural rules, subject to party agreement. These powers include:

- Deciding the place and language of arbitration

- Determining timelines and schedules
- Admitting or rejecting evidence
- Conducting hearings (oral or written)

2. Power to Grant Interim Measures

Arbitral tribunals may grant interim or provisional measures to preserve the status quo or prevent harm. These include:

- Injunctions
- Orders for preservation of assets
- Security for costs

3. Power to Decide Substantive Issues

The tribunal has authority to:

- Interpret contracts
- Apply relevant laws
- Determine rights and liabilities of parties

4. Power to Award Remedies

The tribunal can grant various remedies, such as:

- Damages (compensatory, sometimes punitive where permitted)
- Specific performance
- Declaratory relief

5. Power to Issue Final Award

The tribunal's most significant power is to render a final and binding award. The award:

- Resolves the dispute conclusively
- Is enforceable under national laws and international conventions (e.g., New York Convention)

6. Power to Correct and Interpret Awards

Tribunals may:

- Correct clerical or computational errors
- Interpret ambiguous portions of the award
- Issue additional awards on claims presented but omitted

Limits on Tribunal Powers

Despite broad authority, tribunals are subject to limitations:

- Must act within the scope of the arbitration agreement
- Must ensure fairness and due process
- Cannot decide non-arbitrable matters (e.g., criminal issues in many jurisdictions)
- Subject to judicial review in limited circumstances

Role of Courts in Supporting Tribunal Authority

Courts play a supportive role in arbitration by:

- Enforcing arbitration agreements
- Assisting in appointment of arbitrators
- Granting interim measures when tribunal lacks power
- Enforcing arbitral awards

Conclusion

The arbitral tribunal plays a crucial role in dispute resolution, exercising powers that closely resemble those of courts while maintaining flexibility and party autonomy. Its authority is rooted in consent and reinforced by legal frameworks, ensuring that arbitration remains an effective and enforceable mechanism for resolving disputes.