

ARBITRATION IN PRIVATE INTERNATIONAL LAW: DOCTRINE AND COMPETENCE SEPARABILITY

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Abstract

International arbitration is a mix of elements with its specifications and profile always clear and well defined through practice. And to highlight the complexities of international arbitration, can help us to express an international arbitrator : "International arbitration is also a lot of work and a great pleasure, but it is not easy for anyone. You need to structure your your arguments under a law that does not have substantial ever known, which applied during hearings in a place different from your country, before three arbitrators educate different legal systems, which apply some specific procedural rules during the arbitration process. If you're really lucky, your question will depend on your skills in dealing with a brilliant speculating who claims that can be expressed only in Greek, Danish or Thai and answers questions took so he thinks you should have asked, through a baffling interpretation, where all the time is obvious that the president has focused attention exclusively to his hour. Many litigant who perform magnificently in their domestic courts are not capable of operating in this kind of environment. "In a fast pace world where international commercial arbitration is monopolizes the market ways of resolving disputes of this kind, appears at first to increase the efficiency, speed and integrity of this process. The doctrine of separability, or in other words, the concept of separation of the main contract and the arbitration clause contained in it, the latter gives a special status in comparison with the way we handled this clause. From this derives the authority of the arbitrator to rule on the contract, the arbitration clause, the arbitration agreement and its jurisdiction. These two doctrines embodied in the regulations of the major arbitration institutions in the world have given the opportunity arbitration process totally disconnected from ordinary judicial system (if an ordinary court would decide the issues of jurisdiction of the arbitral tribunal the latter will always remain subservient to the front). This makes the process can be controlled totally by the arbitration court respects the will of the parties, distance from Litigation multiple links that will compromise the time factor, which is one of the main ones who rely on arbitration, and makes it more flexible to settle disputes. These processes therefore I find totally justifiable in light of the definition of the concept of arbitration, its purpose and to protect the interests of parties who have trusted this system.

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