Summaries

RULES OF ARBITRATION OF THE VILNIUS COURT OF COMMERCIAL ARBITRATION (2023): WHAT'S NEW?

Vitalija Baranovienė

The article presents the main novelties in the Rules of Arbitration of the Vilnius Court of Commercial Arbitration that came into force on 1 January 2023. The author explains in detail the main amendments made to the said rules and concludes that the new rules reflect the tendencies of the contemporary arbitration procedure, establishes clear procedural rules concerning the third-party financing, etc.

Impecuniosity in international commercial arbitration

IMPECUNIOSITY IN INTERNATIONAL COMMERCIAL ARBITRATION

Vytautas Vaicekauskas

This paper explores the issue of financial resources in international commercial arbitration. Namely, the effect of impecuniosity to the enforcement of an arbitration agreement or an arbitral award. This paper aims to provide key considerations which may determine the enforceability an arbitration agreement or an arbitral award where a party to an arbitration agreement lacks funds to fulfil its obligation to arbitrate disputes. For that reason, 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards and case law relating to the issue of impecuniosity in arbitration is analysed.

PARALLEL AND CONCURRING ARBITRATION AND WAYS TO PREVENT CONFLICTING OR IRRECONCILABLE AWARDS

Albertas Šekštelo

The publication argues that the doctrine of *lis pendens* and related claims is also applicable in cases where identical or related cases are subject to arbitration. Such a position is justified by the public order to avoid conflicting or irreconcilable awards. Such an obligation is confirmed by the *Residental Management* case examined by the Supreme Court of Lithuania, where the court annulled the award of the arbitration court due to the fact that he objected to the court's decision in a related case, which was initiated before specific claims were made in the arbitration case. Therefore, the arbitration court must avoid conflicting or irreconcilable awards.

This publication discusses several ways to achieve such a goal by way of administering of arbitration cases, if it fails, consolidation of cases, and, in case of failure - suspension of one of the pending arbitrations in exceptional cases. The latter option, although exceptional, is possible and justified in both national and international arbitration. However, when evaluating the effectiveness and efficiency of the arbitration process, the suspension of the arbitration case may violate the interests of the parties or the party, so the arbitration court must use this procedural option with extreme caution.

TRANSPARENCY IN INTERNATIONAL COMMERCIAL ARBITRATION: HOW MUCH OF IT IS REALLY NEEDED?

Ovidijus Speičys

Confidentiality is one of the main features of international commercial arbitration. It allows business entities and other private actors to resolve their disputes without providing the public with an access to their commercial secrets and other sensitive information. Notwithstanding the importance of confidentiality, a need for more transparency was recognised in recent years. However, it is important that these changes are not reckless, made in service of solely such hardly definable concepts as public interest. Consensual and private nature of arbitration must be given due respect and the current state of affairs should only be altered if it is in the interest of the parties involved in the arbitral proceedings and allows them to achieve the end result, that is the final and enforceable award, in a more efficient manner.

THE IMPACT OF EU LAW ON INTERNATIONAL COMMERCIAL ARBITRATION

Patricija Mažeikaitė

The EU law does not regulate international commercial arbitration, and arbitration is excluded from the scope of the Brussels I bis Regulation. These circumstances imply that the two legal systems are separate and mutually exclusive. This paper analyses the topic of the European Union's impact on international commercial arbitration, primarily by examining the judgments of the Court of Justice of the European Union, which set out the rules relating to the notion of a "court or tribunal" forming part of the EU judicial system, the notion of public policy in the European Union, the exception to arbitration in the Brussels I bis Regulation, and the rules relating to the EU's international investment arbitration, its compatibility with the EU's legal framework and the possibility to apply these rules to commercial arbitration. The analysis carried out in this paper suggests that the EU legal system and commercial arbitration are not mutually exclusive systems and have several intersection points. Finally, the paper analyses the impact of the Brussels I bis Regulation on commercial arbitration in relation to the possibility of securing the arbitral process by issuing an anti-suit injunction. The analysis leads to conclusions concerning the EU's impact on international commercial arbitration, manifested through the restriction of the power of Member States' courts to recognise an arbitral award and the limitation of the application of measures to ensure the arbitral process.

INTELLECTUAL PROPERTY AND ARBITRABILITY: ANALYSIS OF ONE SIGNIFICANT JUDGEMENT

Tadas Varapnickas

As a general rule, all disputes can be resolved via the means of arbitration. However, some types of disputes are usually considered non-arbitrable by different lawmakers around the world. One of the most common types of non-arbitrable disputes concerns the intellectual property disputes. Indeed, the views in different jurisdictions differ with respect to the intellectual property disputes: while some jurisdictions forbid the arbitration in the realm of intellectual property, the others are much more liberal.

Desputeaux case in Canada is a good example of how the approaches of different courts even in one state may differ. Yet, this case sets clear guidelines concerning the arbitrability of IP disputes that may be relevant outside Canada. This article aims to discuss this case as well as to describe the main issues that usually arise with respect to intellectual property disputes in Lithuania and other countries. The article concludes that as a preferred method of dispute settlement, arbitration is fully capable of dealing with IP issues. The only issue that still might create some uncertainty and where the regulations differ the most, is whether issues directly concerning the validity of IP rights could be brought before arbitrators.

APPOINTMENT OF ARTIFICIAL INTELLIGENCE AS ARBITRATOR: RAISING THEORETICAL QUESTIONS

Jovita Bislytė

In 2017, Alexis Mourre, President of the ICC International Court of Arbitration, said that remote dispute resolution is the future of dispute resolution, and technology offers arbitration unprecedented opportunities to save time and costs. In a survey conducted by Queen Mary University of London and White & Case (QMUL), more than half of respondents said they believe that the most essential factor in the evolution of arbitration will be the increased efficiency brought about by technology. In line with the idea that the application of technology in dispute resolution can have a positive impact and that the arbitration process is the best place to test new technologies in the dispute resolution market, this article looks at the possibility of outsourcing to artificial intelligence.

The article seeks to answer three main questions: (i) What is artificial intelligence, and what characteristics does it have to have to be appointed as an arbitrator; (ii) Does the law prohibit parties from choosing to have their dispute handled by artificial intelligence; (iii) Could an award rendered by artificial intelligence be recognised and enforced under the New York Convention?

ARBITRAL AWARDS UNDER THE ARBITRATION ACT 1996: RECENT JUDGMENTS AND PROPOSALS FOR REFORM

Arnas Urbutis

The article discusses two recent judgments of English courts in cases *EGF v HVF* and *Union of India v Reliance Industries Limited and others* that concern Sections 68 and 69 of the English Arbitration Act. The author discusses these judgements in the light of the potential changes to the English Arbitration Act currently discussed by the Law Commission.