

Summary

Legal status of an Arbitrator

Arbitration, standing aside civil court proceedings and ADRs, has become very commonly used procedure in the dispute resolution area. Very often arbitration is defined and being understood by comparing with the two options mentioned above. Comparing to civil procedures before the regular courts the advantages of arbitration are seen in the possibility to choose the arbitrator or members of arbitration tribunal or arbitral courts up to parties' will. Further unquestionable advantages are that arbitration is faster and usually less expensive. Arbitration can be categorized by various points but the thesis tries to present the differences of the status of an arbitrator in ad hoc arbitration and institutional arbitration.

As the goal the thesis shall set to describe essential terms of arbitration and further focus shall aim to analysis of an arbitrator's legal status. Despite the position of parties as masters of dispute, arbitrators are the main figure in arbitration. Arbitrators themselves are obliged to consider their ability to lead proceedings and to decide equitably, or they need to decide about which controversial circumstance to inform parties about so they can make an informed decision whether these circumstances make an arbitrator unable to decide or not. In some cases even not fulfilling the notification duty can lead to exclusion of an arbitrator from the arbitration proceedings.

Impartiality, independence and objectivity are the main characteristics which arbitrators are obliged to comply in order to arbitration staying unchallengeable. It is hardly possible to prove an inner relation of an arbitrator towards parties or result of arbitration so supportive criteria of justifiable doubts and an informed reasonable third party test are used.

A thought that arbitration needs more transparency has been phrased recently and it has its reason. Moreover some of international arbitral courts have already been publishing some amount of information about arbitration proceedings. Transparency needs to be opposed by the main principle of arbitration proceedings which is confidentiality, and the confidentiality obligation of arbitrators tightly connected.

Confidentiality of arbitration is often the point that convinces parties to enclose an arbitration agreement.