

Status of an expert in international commercial arbitration

Abstract

This thesis focuses on the role and the status of experts in international commercial arbitration, specifically on the issue of their independence and impartiality. Expert evidence might have a significant impact on the outcomes of the arbitration. The importance of the expert evidence in international arbitration is thus considerable. Moreover, the importance of the expert evidence in international commercial arbitration is stressed out by the disputes dealt with in the international arbitration. The disputes in international commercial arbitration commonly relate to highly technical issues. The complexity of the issues enhances the role and status of experts. Nevertheless, the regulatory framework of international commercial arbitration is not usually focusing much on the issue of independence and impartiality of experts.

The first part of the thesis describes the international commercial arbitration in general and principles governing it. Then it describes the issue of independence and impartiality in international commercial arbitration. Subsequently it deals with role and status, significance, and division of the expert evidence on experts appointed by the arbitral tribunal and experts appointed by the parties. Author puts emphasis on the different approach to the expert evidence in civil law and common law countries.

The second part of the thesis describes and analyzes the regulation of the issue of independence and impartiality of experts in selected laws and regulations. Even if the law is not explicitly governing the issue the author tries to find solutions for the tribunal when dealing with the issue of (lacking) independence and/or impartiality of expert.

The last part of the thesis is an attempt to comprehensively analyze all possible solutions of the problem of the independence and impartiality of expert evidence in international commercial arbitration. It offers solutions based on the laws and regulations analyzed in the second part and also some of the solutions offered by the doctrine.

Keywords: arbitration, independence, expert