

MEDIATION OF INVESTOR-STATE DISPUTES: SHOULD IT BE TRANSPARENT?

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ABSTRACT

A consensus is developing for the use of mediation in investor-state disputes. Therefore, what it must also be agreed is whether investment mediation should be transparent. The arguments which were presented in favor of making investment arbitration transparent, e.g. public policy, enhanced public confidence, legitimacy and accountability are also good in the context of the mediation of investment disputes. This paper argues that investments mediation should be transparent. In order to establish a transparent investment mediation, this paper suggests changes in rules such as those relating to confidentiality, admissibility of evidence, and the same person acting as a mediator and an arbitrator. This paper also proposes that mediation can be used for facilitating a deal, or parties can use project mediation to prevent any disputes arising from an investment.

KEYWORDS: *mediation, investment mediation, investor-state dispute, ADR*

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