

GOVERNMENT ATTITUDES TOWARD ARBITRATION AND JUDICIAL PRACTICE IN TAIWAN

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ABSTRACT

From Commercial Arbitration Act to Arbitration Law, the new Arbitration Law in Taiwan may be said to have reached an acceptable level of development in legislation. However, whether arbitration has obtained the reliance generally as a significant ADR system in practice is worth researching. This article observes Taiwan government's attitude towards arbitration in a historical context and finds that administrative entities, due to the distrust of arbitration awards in respect of the impartiality, objectivity, independence and qualifications of arbitrators, holds a negative one in the recent years. This article also analyzes several related Constitution Court Interpretation and Supreme Court judicial decisions and concludes that Taiwan courts give comparatively higher respect to arbitration than administrative entities. It finally points out that after the amendment of Article 85-1 of the Government Procurement Act, whether the administrative entities' attitude toward arbitration will be affected is worthy of further observations in the future.

KEYWORDS: *Taiwan Arbitration Law; setting aside of arbitral awards; Taiwan Government Procurement Act; Construction Arbitration Clause; compulsory arbitration; alternative dispute resolution*

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