

MORE TRANSPARENCY IN INTERNATIONAL COMMERCIAL ARBITRATION: TO HAVE OR NOT TO HAVE?

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ABSTRACT

Transparency in international arbitration has increasingly become a hot topic in recent years whether it is from the eyes of a party, arbitral institution or the legal community in general. Under a traditionalist view, confidentiality is one of the central pillars of arbitration. However, the evolution and rise in use of international arbitration, in particular investor-State arbitrations, has resulted in an increase in demand for more openness and transparency in international arbitral proceedings.

This article will examine the question of where the balance should be between confidentiality and transparency in international commercial arbitration proceedings. The authors will analyze this question by looking at the pros and cons of confidentiality and transparency in both ad hoc and institutional arbitration proceedings from the perspectives of the parties, arbitral institutions and international legal arena.

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