

THE DUTY OF ARBITRAL INSTITUTIONS TO PRESERVE THE INTEGRITY OF ARBITRAL PROCEEDINGS

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“明者遠見於未萌, 智者避危於無形”¹

(司馬相如 上書諫獵)

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¹ English Translation by Yu-fen Chang: “*Those who have visions see things before they happen; those who have wisdom avoid dangers before they even appear.*” Shang Shu Jian Lie (A Petition against Hunting) by Sima Xang-Ru, Han Dynasty.

ABSTRACT

This paper deals with the power and the duty of arbitral institutions to preserve the integrity of arbitral proceedings by upholding and enforcing ethical minimum standards in international arbitration. Institutional arbitration presents significant advantages when it comes to enforcing ethical standards in comparison to ad hoc arbitration. The author highlights the crucial potential role of arbitral institutions in holding the participants of an arbitration accountable. This objective is achieved by the rule-making function of arbitral institutions. The objective may also be achieved by the institutions in exercising their multifarious power at the time of appointment and during the conduct of arbitration proceedings vis-à-vis arbitrators, parties and party representatives. This paper argues for a continued and enhanced involvement of arbitral institutions in preserving the integrity of arbitral proceedings. The author concludes that arbitral institutions could be much more courageous in leading the way other institutions should follow. He calls upon the younger generation of arbitral practitioners to help moving the arbitration community towards the right direction in order to ensure that arbitration delivers what it promises.

KEYWORDS: *ad hoc arbitration, admission of counsel, arbitration guerrillas, arbitrator appointment, blacklisting of arbitrators, blacklisting of counsel, codes of conduct, compensation of arbitrators, counsel conduct, cronyism, ethical minimum standards, exclusion of counsel, impartiality and independence, institutional arbitration, integrity of arbitral proceedings, publication of misbehavior, sanctions, suspension of arbitrators, suspension of counsel, transparency*