

Editorial

Among the many studies dedicated to international arbitration, surprisingly few deal with those who are at the core of the arbitration process: the arbitrators.

Attractiveness of international arbitration as a dispute - solving method lies for a good part in the quality of the arbitration proceedings. And the quality of such proceedings resides primarily in the quality of the arbitrators themselves, rather than in the type of the procedural rules or the place of arbitration. Questions relating to the function of arbitrator are consequently of paramount importance.

One of these questions is the ability of the arbitrator—and above all of the presiding arbitrator—to manage international arbitration proceedings. How to ensure that the two possibly conflicting requirements of respecting the due process right of the parties to be fully heard on one hand, and reaching an award with all due speed on the other hand, will be met – while on the way so many obstacles may have to be overcome: conflicting conceptions by each party of the procedure to be followed; absence of a common language; difficulty of communication with parties, or between arbitrators, due either to deficient telecommunication systems or State censorship; restrictions on the freedom of travel imposed on parties and arbitrators; unavailability of foreign exchange for covering costs of the proceedings; default of a party or of an arbitrator during the course of the proceedings. Clearly such a task calls for organisational techniques and skills which are much too rarely discussed.

Another question of increasing importance: the role of the party appointed arbitrator. For those who have practiced international arbitration under different skies, the difference of conception of such role is striking: at one extreme the arbitrator is practically an advocate of his appointing party within the arbitral tribunal, while at the other extreme the arbitrator had no prior dealings with his appointers and has no direct contact whatsoever with them during the proceedings. Yet this disparity of conceptions is not innocent; it may lead unaware parties to disillusionment with the integrity of the arbitration process, and cause serious tensions between arbitrators who have different conceptions of their role. A broad discussion of the role of the party-appointed arbitrator is called for.

These questions – and many others – must be addressed in order to increase the appeal of international arbitration. With the active contribution of its readers, our Journal will work in that direction.

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