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ARBITRATION

Canada

Stay for oppression proceedings pending arbitration of contract claims

A potential tug-of-war between courts and arbitration tribunals concerning their respective roles in shareholder disputes involving both statutory and contractual claims has been averted. The Supreme Court of British Columbia has ruled that a claim for statutory oppression relief should be stayed until the determination, by arbitration, of the underlying issue of the proper interpretation of a unanimous shareholder agreement.

Author: **Gerald W Ghikas**

(Read article http://www.internationallawoffice.com/?i=55592&l=7G3D0P7)

Ukraine

Aspects of recognition and enforcement: lessons from case law

In the past few years the Ukrainian courts have addressed a number of significant issues relating to arbitration, including aspects of arbitrability, public policy defences against enforcement and recognition, the enforcement of awards against a state-owned entity and the enforcement of interim awards. These decisions provide a valuable indication of the courts' likely approach to recognition and enforcement.

Authors: **Eugene Blinov**, **Andrey Y Astapov**

(Read article http://www.internationallawoffice.com/?i=55592&l=7G2QHUE)

Canada

Stay denied where dispute fell under oral agreement and outside arbitration clause

The recent case of *Padmawar v Altig* provides a useful summary of the test for determining whether a stay of proceedings should be granted in accordance with the Commercial Arbitration Act of British Columbia. The court refused a stay, finding that the dispute fell under a separate oral agreement and not under the written agreement which contained the arbitration clause.

Author: **Sarah McEachern**

(Read article http://www.internationallawoffice.com/?i=55592&l=7G1DBH7)

Greece

Appeal court considers law governing objective arbitrability

In the context of a motion before a state court to refer a dispute to arbitration, the objective arbitrability of such a dispute is governed by Greek law and not by the law that governs the arbitration procedure or agreement. The Piraeus Court of Appeal recently issued a judgment that dealt with objective (rather than subjective) arbitrability, as the question of arbitrability that was raised related to the subject matter and not to the parties of the dispute.

Author: **Antonios D Tsavdaridis**

(Read article http://www.internationallawoffice.com/?i=55592&l=7G1DBJ6)

Kenya

Aspects of arbitration proceedings

Before entering into arbitration in order to resolve a dispute, all parties should pay close attention to the type of arbitration they are entering into and the manner in which the proceedings are to take place. The devil lies in the detail; the more astute a party, the greater its chances of achieving a successful outcome from the proceedings.

Author: **Priscilla Goes**

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Lithuania

Non-arbitrable public procurement disputes: on the right track?

A recent Supreme Court decision is the first in Lithuanian case law on the issue of the arbitrability of public procurement disputes. However, it has already sparked a debate among experts. Is it a Pandora's box, opening up the possibility of more disputes being deemed non-arbitrable, or is it a necessary weapon against bad-faith actions arising from public procurement relationships?

Authors: **Jurgita Petkutė**, **Rasa Grambaitė**

(Read article http://www.internationallawoffice.com/?i=55592&l=7G1DBKY)

Austria

Supreme Court sets requirements for arbitrability of corporate disputes

The Supreme Court recently handed down a decision relating to the arbitrability of shareholder disputes in which it generally confirmed their arbitrability, but declared them to be subject to certain criteria. The decision is in line with the general approach to uphold arbitral awards taken by the Supreme Court since the introduction of the arbitration law. In fact, only in rare cases has the court set aside arbitral awards.

Author: **Nikolaus Pitkowitz**

(Read article http://www.internationallawoffice.com/?i=55592&l=7G214YA)

India

Court rules on choice of curial law in international commercial arbitrations

In a recent case the Supreme Court held that there is an implied exclusion of Part I of the Arbitration and Conciliation Act 1996 if the parties have expressly chosen foreign law as the curial law to govern the arbitration procedure. Therefore, as a cautionary approach, where parties intend not to be governed by the act's provisions, it is best specifically to exclude the applicability of Part I of the act.

Author: **Sanjeev Kapoor**

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