

ARBITRATION

Canada

Validity of arbitration agreement is issue for arbitral tribunal, not court

Author: Mandy Moore

(Read article <http://www.internationallawoffice.com/?i=55592&l=7FF240E>)

A recent British Columbia Supreme Court decision confirms that the courts are not empowered to determine the validity of an alleged arbitration agreement before the commencement of an arbitration proceeding. The court concluded that the proper procedure for such a determination contemplates that decision being made by an arbitral tribunal, with the arbitral tribunal's decision to accept jurisdiction ultimately being reviewable by the court.

Brazil

Let's continue to talk about arbitration!

Authors: Antonio M Barbuto Neto, Fernando Eduardo Serec

(Read article <http://www.internationallawoffice.com/?i=55592&l=7FFYN62>)

Not so long ago, the general perception in Brazil was that the number of seminars, symposia and congresses about arbitration far outnumbered the actual cases submitted. Although the subject remains a hot topic at these events (as is appropriate), the recent explosion in the number of proceedings serves to put to rest, once and for all, the initial scepticism of some practitioners towards arbitration.

Kenya

Court of Appeal affirms the final and conclusive nature of arbitral awards

Authors: Paul Njoroge Kimani, Grishon Ng'ang'a Thuo

(Read article <http://www.internationallawoffice.com/?i=55592&l=7FFYN7A>)

An ever-increasing number of parties to disputes have perfected the art of agreeing to arbitration in the first instance, only to resort to the courts if the arbitral award is not in their favour, thus wasting a lot of time and resources and defeating the purpose of having gone to arbitration in the first place. It is hoped that a recent Court of Appeal decision will bring this practice to an end.

Lithuania

Supreme Court upholds enforcement of sports arbitration awards

Author: Jurgita Petkutė

(Read article <http://www.internationallawoffice.com/?i=55592&l=7FFYN8M>)

Disputes arising from contractual and other relations in the world of sport are normally settled by specialised sports arbitration bodies. A Court of Appeal decision recently raised the prospect that arbitration awards to settle disputes between professional sportspeople and their clubs might be ineligible for recognition and enforcement. However, the position of the courts now looks more reassuring.

Portugal

Overview (June 2011)

Authors: José Miguel Júdice, António P Pinto Monteiro

(Read article <http://www.internationallawoffice.com/?i=55592&l=7FFYN9H>)

Including: A decade of growth; Case law; New arbitration legislation.

Russia

Constitutional Court confirms arbitrability of real estate disputes

Authors: Francesca Albert, Ekaterina Ushakova

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

A landmark Constitutional Court ruling is a significant step towards a greater and more secure role for international and domestic arbitration in Russia, as it ends a lengthy debate concerning the arbitrability of real estate disputes, at least for the purposes of domestic arbitration.

Mexico

Liability for interim measures: can tribunals mitigate risk?

Authors: Luis Alberto Aziz Checa, Rebeca Sanchez Perez

(Read article <http://www.internationallawoffice.com/?i=55592&l=7FGX0HA>)

Recent Commerce Code changes provide that an arbitral tribunal and a requesting party are

liable for interim measures and any damages that such measures may cause to the other party. It has been argued that this will deter tribunals from granting interim measures. However, in practice an arbitral tribunal has a range of arguments at its disposal that may limit or exclude its liability.