



ARBITRATION

Portugal

Back on the right track: Supreme Court rules on multi-contract arbitration

A recent case arose from the disputed connection between three contracts, of which only the first included an arbitration clause; however, the third contract generally incorporated the first. The Supreme Court held that the temporal, functional and economic connection between the contracts made clear that despite the autonomy of the contracts, the arbitration clause in the first contract applied to the third.

Authors: José Miguel Júdice, António P Pinto Monteiro

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

USA

US court rejects arbitrator bias challenge during enforcement proceedings

The US Court of Appeals for the Second Circuit recently refused to vacate an arbitral award under the US Federal Arbitration Act where a party argued that an arbitrator had failed to disclose prior experience that rendered the arbitrator potentially biased. The decision clarifies the boundaries of arbitrator bias relating to undisclosed prior experience.

Authors: JP Duffy, Kiran N Gore

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

France

Arbitrators cannot seek a ruling on the constitutionality of statutory provisions

Since March 2010 the ordinary French courts have been able to challenge the constitutionality of a statute or statutory provision through a specific procedure. However, the reform was silent on the issue of whether arbitral tribunals enjoy similar rights to ask the Supreme Court to refer a matter to the Constitutional Council. In a recent decision, the Supreme Court found no basis for such rights to be allowed to arbitrators.

Authors: Elie Kleiman, Shaparak Saleh

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Brazil

Superior Court sheds light on the concept of public order

Violation of public order has been a recurring argument in challenging the confirmation of arbitral awards rendered outside Brazil, particularly those arising from proceedings applying

foreign law. However, as confirmed by its decision in a recent case, the Superior Court of Justice continues to uphold a restrictive view of such an important, yet fluid concept of law.

Authors: Antonio M Barbuto Neto, Fernando Eduardo Serec

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Malaysia

Court empowered to issue injunction pending dispute resolution

Section 11 of the Arbitration Act 2005 empowers the court to issue an injunction pending the resolution of disputes between parties. In a recent decision, the court ruled that where (following a decision of the arbitral tribunal against the defendant) the damages that the defendant would be required to pay would be large and would ultimately come out of public funds, a grant of interim relief by way of an injunction was in order.

Author: K Shanti Mogan

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