

QUO VADIS ARBITRATION?

- SIXTY YEARS OF ARBITRATION PRACTICE -

A COMPARATIVE STUDY

BY

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KLUWER LAW INTERNATIONAL

Quo Vadis Arbitration sixty Years Of Arbitration Practice

**International Council for Commercial
Arbitration**



Quo Vadis Arbitration sixty Years Of Arbitration Practice:

Quo Vadis Arbitration?: Sixty Years of Arbitration Practice Pieter Sanders, 1999-06-16 Lawyer arbitrator negotiator author educator drafter rapporteur andndash for sixty years Pieter Sanders has been in the eye of the storm as during this period arbitration grew into the world's preferred method for the resolution of commercial disputes No one is better qualified to assess the current worldwide condition and prospects of arbitration and conciliation or to offer practical insightful solutions to the problems confronting arbitration practice today Quo Vadis Arbitration will not disappoint the many lawyers judges legislators and businesspeople to whom it is addressed Drawing on his wide and varied experience and especially on the occasions when resourceful measures had to be taken in the absence of clear legal guidance Professor Sanders presents cogent well reasoned arguments and recommendations for the main issues which may arise in any arbitration a revision of the UNCITRAL Model Law a harmonisation of Rules on Conciliation and drafting a Model Law on Conciliation refining Codes of Ethics and Codes of Taking Evidence to strengthen bridges between cultural differences A list of the author's achievements is virtually a history of the development of international arbitration since the 1930s With many warmly shared anecdotes of the conflicts compromises and triumphs of pivotal meetings and conventions Professor Sanders takes the reader behind the scenes for a rare glimpse into the inner workings of the complex and rewarding process that created this invaluable modern discipline Quo Vadis Arbitration also provides a masterful but simple exposition of the arbitral process from the validity of the arbitration agreement to the means of recourse against the award This is a book that will be warmly appreciated and used by arbitration specialists of any degree of expertise anywhere in the world **Die**

Nichtöffentlichkeit des Schiedsverfahrens Nassim Eslami, 2016-10-20 Die Schiedsgerichtsbarkeit ist aus dem System der Streitbeilegungsmechanismen nicht mehr wegzudenken Mit deren wachsender Bedeutung ist aber auch die Kritik wegen der mangelnden Transparenz der Verfahren laut geworden Inwieweit gewährleistet die Schiedsgerichtsbarkeit tatsächlich Vertraulichkeit Bei dieser Diskussion herrscht jedenfalls weitestgehend Einigkeit dass die Verfahren generell unter Ausschluss der Öffentlichkeit geführt werden und auch die Schiedssprüche ohne ausdrückliche Einwilligung der Parteien nicht publiziert werden dürfen Auf der anderen Seite wird die Schiedsgerichtsbarkeit als echte Rechtsprechung qualifiziert Vor diesem Hintergrund widmet sich Nassim Eslami der Frage ob für die Schiedsgerichtsbarkeit nicht ein Mindestmass an Öffentlichkeit zwingend zu fordern ist Die Autorin konzentriert sich auf die Handelsschiedsgerichtsbarkeit bezieht aber auch Fragen der Investitionsschiedsgerichtsbarkeit ausländisches Schiedsverfahrensrecht sowie zahlreiche institutionelle Schiedsordnungen mit ein Die Arbeit schliesst mit einem Gesetzgebungsvorschlag *Die Haftung des Schiedsrichters in der internationalen Handelsschiedsgerichtsbarkeit* Jens Gal, 2009 Mit stetig wachsender Zahl der Schiedsverfahren im internationalen Rechtsverkehr und zunehmender Verrechtlichung der Schiedsgerichtsbarkeit rückt auch der Schiedsrichter in seiner Funktion als Dienstleister vermehrt in das Blickfeld der Rechtswissenschaft Hierbei gewinnt auch die Frage einer m

glichen Haftung des Schiedsrichters deutlich an Interesse Jens Gal vergleicht die in Deutschland England Frankreich Österreich der Schweiz und den Vereinigten Staaten von Amerika entworfenen Haftungsmodelle Sein besonderes Augenmerk liegt hierbei auf dem als Haftungsgrundlage dienenden sogenannten Schiedsrichtervertrag auf m glichen haftungsrelevanten Pflichtverletzungen auf dem in allen untersuchten Rechtsordnungen mit unterschiedlichem Umfang propagierten Haftungsprivileg sowie auf M glichkeiten des Schiedsrichters sein Haftungsrisiko zu minimieren *Die Veröffentlichung von Schiedssprüchen als Beitrag zur Normbildung* Philip Wimalasena, 2016-06-23 Handelsschiedsgerichte nehmen im globalen Wirtschaftsverkehr mittlerweile eine bedeutende Stellung ein Ihr anhaltender Erfolg hat jedoch einen Preis Anders als das durch den Öffentlichkeitsgrundsatz gepragte staatliche Zivilverfahren finden Handelsschiedsverfahren in aller Regel ausserhalb der Öffentlichkeit statt ihre Entscheidungen werden nur selten einmal öffentlich bekannt Eine diskursive insbesondere eine richterrechtliche Fortbildung des Rechts wird auf diese Weise weitgehend verhindert Daraus entstehen Nachteile nicht nur für die Verfahrensbeteiligten sondern auch für den Normbildungsprozess insgesamt Philip Wimalasena wirbt vor diesem Hintergrund für eine grossere Entscheidungstransparenz in der Handelsschiedsgerichtsbarkeit die vor allem durch die systematische Veröffentlichung von Schiedssprüchen verwirklicht werden soll Er analysiert die strukturellen Voraussetzungen einer solchen allgemeinen Veröffentlichungspraxis und pladiert im Ergebnis für eine anonymisierte Veröffentlichung schiedsrichterlicher Entscheidungen Vertraulichkeit im Schiedsverfahren Heiner Kahlert, 2015-03-18 English summary Confidentiality in arbitration touches many different private and public interests Should decisions rendered by arbitral tribunals be made public Can arbitral proceedings be confidential if one of the parties is a state Heiner Kahlert explores these and many other questions in his comprehensive treatise on confidentiality in arbitration German description Die Schiedsgerichtsbarkeit bewegt sich zwischen Privatautonomie und Rechtsprechungsfunktion zwischen privaten und öffentlichen Interessen In diesen Spannungsfeldern stellt sich die immer aktueller werdende Frage inwieweit Schiedsverfahren vertraulich sind Was bedeutet die verfassungsrechtliche Veröffentlichungspflicht für Gerichtsentscheidungen wenn in einigen Bereichen Streitigkeiten nur noch von Schiedsgerichten entschieden werden Kann ein Schiedsverfahren vertraulich sein wenn ein Hoheitsträger beteiligt ist Diesen und vielen anderen Fragen geht Heiner Kahlert in seiner umfassenden Untersuchung nach Er spannt den Bogen zum allgemeinen Schutz von Vertraulichkeit im deutschen Recht analysiert die Einflüsse des Völker Europa und Verfassungsrechts und berücksichtigt den Diskussionsstand in anderen Rechtsordnungen Zahlreiche Schiedsordnungen werden ebenso untersucht wie anwendbares Recht Zuständigkeitsprobleme und Rechtsfolgen von Vertraulichkeitsbrüche n Es erweist sich dass einige vermeintliche Gewissheiten zur Vertraulichkeit im Schiedsverfahren auf unsicherem Grund stehen Die Unterstützung ausländischer Schiedsverfahren durch staatliche Gerichte Ben Steinbrück, 2009 Die Effektivit t des schiedsgerichtlichen Rechtsschutzes setzt voraus dass staatliche Gerichte die Einleitung und Durchführung des Schiedsprozesses in bestimmten Situationen durch

geeignete Maßnahmen unterst tzen können Das deutsche Schiedsrecht erlaubt staatsgerichtliche Unterst tzung im Gegensatz zu vielen anderen Rechtsordnungen auch zugunsten ausländischer Schiedsverfahren Damit nimmt es eine internationale Vorreiterrolle ein da staatsvertragliche Regelungen für internationale Rechtshilfehandlungen zugunsten privater Schiedsverfahren fehlen Ben Steinbrück untersucht das Kooperationsverhältnis zwischen der staatlichen Gerichtsbarkeit und ausländischen privaten Schiedsgerichten anhand einer umfassenden rechtsvergleichenden Analyse des deutschen Schiedsrechts und zeigt auf warum und in welchen Fällen grenz überschreitende Unterst tzungsmassnahmen geboten sind

Die Unabhängigkeit und Unparteilichkeit des Mediators Peter Tochtermann, 2008 Die Unabhängigkeit und Unparteilichkeit des Mediators ist zentrale Voraussetzung für eine erfolgreiche Mediation Peter Tochtermann analysiert in welchem Umfang die Integrität des Mediators gewährleistet werden muss Der Autor richtet seinen Fokus auf die Frage welche Mechanismen vor während und nach Abschluss der Mediation die Unabhängigkeit und Unparteilichkeit des Mediators sicherstellen können Hierbei untersucht er neben den Regelungen des anwaltlichen und notariellen Berufsrechts in einem Rechtsvergleich mit den USA geeignete verfahrensrechtliche Mechanismen wie Beschwerde und Ablehnungsverfahren sowie die Effizienz vertragsrechtlicher Mechanismen mittels derer ein durch einen befangenen Mediator beeinflusster Vergleich aufgehoben werden kann Schließlich betrachtet der Autor hybride Verfahrensformen die sich aus der Kombination von Mediations und Schiedsverfahren ergeben Gestaltungsfreiheit bei antezipiertem Legalanerkennnis des Schiedsspruchs Frank Spohnheimer, 2010 Frank Spohnheimer zeigt auf dass die Integration des Schiedsspruchs in die Rechtsordnung auf der Grundlage eines antezipierten Legalanerkennnisses in 1055 ZPO erfolgt Hiervon ausgehend untersucht er welche prozessualen Gestaltungsmöglichkeiten die Rechtsordnung den Parteien und dem Schiedsgericht in einem Schiedsverfahren zugesteht und wo die Grenzen liegen bis zu denen sie bereit ist einen Schiedsspruch dauerhaft einem gerichtlichen Urteil gleichzustellen Der Schwerpunkt liegt dabei zum einen auf der Verfahrensvereinbarung der Parteien zum anderen auf der Gewährung rechtlichen Gehörs Die Regeln das Schiedsgericht habe den Parteien nicht ausreichend rechtliches Gehör gewährt spielt in der Praxis im Aufhebungs und Vollstreckungsverfahren eine große Rolle Der Autor zeigt grundlegende Wertungen auf und entwickelt handhabbare Regeln für die Praxis **Handbuch der internationalen und nationalen**

Schiedsgerichtsbarkeit Klaus Lionnet, 2001 Mit dem Handbuch liegt ein Werk vor dass sich vor allem an Praktiker richtet Trotz des Umfangs ist es nicht wissenschaftlich berfrachtet Wer mehr über die Theorie der Schiedsgerichtsbarkeit erfahren will ist mit Hinweisen zu vertiefenden Quellen in den Fußnoten gut beraten Das Fehlen von Informationen zur zukünftigen Entwicklung der Schiedsgerichtsbarkeit fällt bei einem Werk für Praktiker nicht ins Gewicht Hier berwiegt die detaillierte Schilderung der wichtigsten Punkte für die Schiedsvereinbarung und das Schiedsverfahren Dabei ist die Beschränkung auf die Handelsschiedsgerichtsbarkeit ernst zu nehmen Diese Darstellung privater Gerichte meint nicht Verfahren mit Beteiligung Privater **International Commercial Arbitration** Stephan Balthasar, 2022-02-10 Balthasar International Commercial

Arbitration The Handbook is a unique combination of international and domestic sources of arbitration law and practice It provides detailed commentary on the global framework of international commercial arbitration in particular the New York Convention the UNCITRAL Model Law and international investment treaties In addition it gives comprehensive insight into international arbitration laws of countries covering over 60% of the global economy Austria Belgium Brazil China England and Wales France Germany Hong Kong India the Netherlands Russia Singapore Spain Sweden Switzerland and the U S The new edition includes numerous references to recent case law material and legislative reform as well as topical developments in areas such as arbitrators jurisdiction the conduct of arbitral proceedings and the judicial control of arbitral awards

World Trade and Arbitration Materials ,1999 **Dispute Resolution Journal** ,2001-02 **Yearbook:**
Commercial Arbitration International Council for Commercial Arbitration,1999 **Guide to International Legal Research** ,2004 **Private Dispute Resolution in International Business: Handbook** Klaus Peter Berger,2009 Private Dispute Resolution in International Business consists of two books and an interactive DVD Rom Volume I follows the progress of a dispute between two companies in step by step detail through negotiation mediation and arbitration in turn Volume II provides precise informed solutions to the problems raised in the first volume s case study The DVD Rom contains not only all contracts and other written documentation produced during the dispute including all procedural orders and awards rendered by the arbitral tribunal during the arbitration the text of legal materials such as arbitration laws and rules and international conventions and further learning and teaching aids but also almost 100 videos dramatising the negotiation mediation and arbitration proceedings described in the books conducted by highly experienced practitioners active in the field of international dispute resolution Subtitles in the videos refer the viewer to paragraphs in the books where each relevant legal problem is analysed In addition an internet home page provides regular updates To summarise The Case Study Volume I provides a realistic and highly practical approach to learning and teaching the law and practice of private dispute resolution in international business The Handbook Volume II provides a comprehensive comparative study of the law of international dispute resolution The DVD Rom allows for a highly innovative interactive teaching and learning experience and provides a comprehensive collection of arbitration rules and other documentary material The videos on the DVD Rom clearly manifest the soft skills and advocacy skills required to successfully resolve international business disputes including the unique opportunity to draw on screen comparisons between the negotiation mediation and arbitration methods With its concrete and highly practical approach this innovative teaching and training tool for international dispute resolution will be of immeasurable value to students and teachers of dispute resolution corporate counsel international lawyers and business people DVD ROM put this in right column The DVD ROM has a large number of interactive teaching and learning features which you can use simultaneously with the books or separately The main menu of the DVD contains seven buttons Parties and Persons Case Development Documents and Events Materials Videos Soft Skills and Links The button Parties and Persons

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