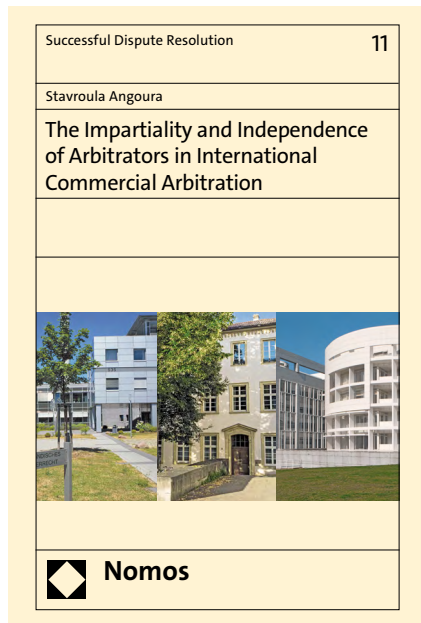


To Disclose or not Disclose



The Impartiality and Independence of Arbitrators in International Commercial Arbitration

By RAin Dr. Stavroula Angoura, LL.M.

2022, 269 pp., hc., € 76.00

ISBN 978-3-8487-8439-4

(*Successful Dispute Resolution*, vol. 11)

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Since arbitrator's impartiality and independence constitutes the bedrock of international arbitration, more and more recent arbitral awards have been annulled or vacated on the grounds of lack of arbitrator's impartiality. This work investigates whether a common international public policy core exists with regard to the concepts of impartiality and independence of arbitrators in international commercial arbitration. The book addresses the different constellations of arbitrator bias as considered by the courts of various jurisdictions, especially France, England, Switzerland, Greece and Germany. By introducing the 'justifiable doubts' to an arbitrator's impartiality criterion and analyzing the above-mentioned national case law, the book categorizes instances that constitute lack of impartiality with reference to and interpretation of the IBA Guidelines on Conflicts of Interest in International Arbitration 2014. The work examines and systematizes how arbitrator impartiality can be

contested at different stages of procedure: upon constitution of the arbitral tribunal, during arbitration proceedings, as well as after the rendering of the award at annulment, recognition or enforcement stage, while providing answers to the following questions: what must an arbitrator disclose; should an arbitrator investigate a possible fact or circumstance that may affect her impartiality, and to what extent; what is the relevance of the fact affecting arbitrator impartiality being obvious, well-known or easily accessible by the parties; under which preconditions could a party waive its right to contest lack of impartiality-implicitly or expressly. This study focuses specifically on the institution of waiver and analyses how it prevents a party from contesting arbitrator impartiality at the next procedural stage, should it fail to follow the specific procedures and preconditions - an issue that is unexamined in the literature to date.

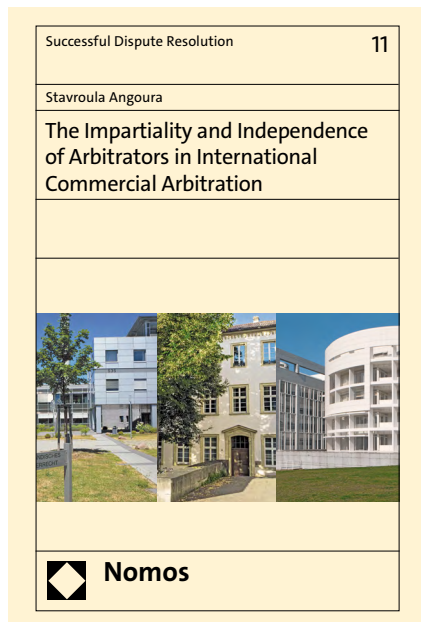
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Die Unabhängigkeit von Schiedsrichtern ist für die internationale Schiedsgerichtsbarkeit von grundsätzlicher Bedeutung. In der letzten Zeit wurden immer häufiger Schiedssprüche wegen mangelnder schiedsrichterlicher Unabhängigkeit aufgehoben.

Das vorliegende Werk ist dem praxisrelevanten Fragenkomplex der schiedsrichterlichen Unabhängigkeit und Unparteilichkeit gewidmet. Eingehend werden die ausgefallenen dogmatischen Strukturen und die relevante Rechtsprechung der für die internationale Schiedsgerichtsbarkeit wichtigen Rechtsordnungen (Frankreich, England, Schweiz, Deutschland) auf der pro-arbitralen, arbitralen und post-arbitralen Verfahrensebene untersucht. Ein detailliertes Stichwortverzeichnis und eine umfangreiche Literaturliste runden die Arbeit ab.

Aus dem Vorwort:

“Dr. Angoura’s book provides a detailed, systematic and comprehensive analysis of the concepts of independence and impartiality of arbitrators in international commercial arbitration. In addition to exploring the arbitrator’s duties of impartiality and independence on a conceptual and theoretical level, provides a valuable tool for practice in international arbitration. Its careful examination of national court decisions, institutional rulings and other authorities is an important contribution to parties, lawyers, arbitrators, institutions and national courts to facilitate decisions on questions of disclosure and waiver and its application to impartiality at the different arbitration stages. This book contributes in particular to the ongoing discussion of the arbitrator’s impartiality as one of the (most frequently-invoked) grounds for annulment or non-recognition of arbitral awards. I congratulate the author for her very thorough research and thoughtful writing and her valuable contribution to the dialogue between academia and practice.”

Gary B. Born, London, November 2021

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