

ABSTRACT

The role of the Third parties in International Commercial Arbitration

This thesis precisely define the concept of third parties in the field of International Commercial Arbitration as well as the definition of the term itself. According to the author of this thesis, third parties are the key for the process of transformation of the contractual approach in an International Commercial Arbitration in the reaction on the economic reality. This work is based on analyses of laws, comments, literature, academic articles, arbitration awards and case law. This text was created using experiences from an international commerce and transforms actual theoretical contractual approach of the International Commercial Arbitration. Contribution of this thesis lies in completion of knowledges from decision making process and creation of a brand new theoretical concept of International Commercial Arbitration and capture the shift in view of consent to arbitrate. This theory further reflects actual state of the decision making process and the needs of an International Commerce. Using this approach entitles author's theory for the practical use as a model for decision making process of arbitrators and for judges of national courts with regard to recognition and enforcement of the arbitral awards.

Thesis is divided into four chapters. First chapter discuss the concept of third parties in the International Commercial Arbitration from the global point of view and third parties *stricto sensu*.

Following chapters define new theoretical conclusions as a reaction on findings discovered during thorough analysis of the issue of third parties. Second chapter deals with the influence of an International Commerce on the form of International Commercial Arbitration and reflects changes in recent history. Conclusion of the chapter is devoted to consideration of possibility of multi-party proceedings based on the same factual background and on a number of arbitration agreements and possible arbitral effect of the arbitral award with regard to the principle *ne bis in idem*.

Third chapter deals with theoretical definition of an International Commercial Arbitration, where author is proposing theory based on the three-pillar structure build upon the role of the state, usage of supranational rules and the autonomy of the will of the subjects involved. Author redefine the mixed theoretical concept of the International Commercial Arbitration based on previously mentioned three-pillar structure.

Fourth chapter describes the shift in perception of an agreement to arbitrate. The shift in perception is defined in theories allowing deduction of implied consent with arbitration agreement

by the third parties or in situations where the third party is being bound by deduction of awareness with arbitration agreement based on the theories leading to disregard the corporate personality.