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ICC launches new initiatives to make arbitration proceedings more transparent and efficient

At the beginning of this year, the Court of Arbitration of the International Chamber of Commerce (ICC) in Paris announced two new measures to increase the transparency and efficiency of arbitration proceedings. Both measures apply to proceedings that are filed with the ICC after 1 January 2016.

Firstly, the names of the arbitrators, their nationality, the manner of their appointment (by the parties or by the Court of Arbitration) and whether they sit as chairman will henceforth be published on the website of the ICC. This information also remains available after the proceeding is concluded. With this, the ICC seeks to create transparency about who in practice is (regularly) appointed as an arbitrator. Given that the confidential character is traditionally regarded as one of the great advantages of arbitration, the number of the case, the names of the parties involved and their counsel will (naturally) not be published. Moreover, the parties can opt to exclude the disclosure of the identity of the arbitrators.

In addition, the ICC will, in order to allow arbitration proceedings to take place faster and more efficiently, henceforth be able to decrease the fees of the arbitrators if they issue their decision too late. The arbitrators are expected to communicate their judgement to the Court of Arbitration of the ICC within three months after the last hearing or the submission of the last pleading (for a sole sitting arbitrator, this period amounts to only two months). If this period is not respected, the fees of the arbitrators, depending on the duration of the delay, can be reduced by 5 and up to even more than 20 percent. However, there is one major exception to this rule. This sanction is not applicable if the delay is justified by unforeseen circumstances that are not imputable to the arbitrators. Think, for example, of the situation where the parties themselves ask the arbitrators for postponement, to negotiate a possible amicable settlement.

Both measures are to be welcomed, although it is very much an open question whether their application will not be undermined by the exceptions that are provided. Time will tell. In addition, we will have to wait and see whether these initiatives will be adopted by other arbitration institutions (such as the Belgian CEPANI) as well.

For more information, you can consult Joost Bats (author) and Geert De Buyzer (author and unit

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