

L'ACCERTAMENTO DI QUESTIONI NELL'ARBITRATO

LA PERIZIA CONTRATTUALE

Abstract

In this work, the Author reconstructs and analyzes the institutional practice of *perizia contrattuale*. It can be called also expert determination, and It consists in a mechanism through which two subjects commission one or more third parties with specific technical-scientific skills – so called “periti,” field-experts – to verify a relevant technical matter in a legal relationship or a controversy. The verification is considered binding by the parties involved. The “history” about the phenomenon in question shows that it has been always compared to *arbitraggio* and arbitration.

In short, the work is organized in six chapters.

The first chapter begins with a short investigation into the historical context about arbitration and *arbitraggio*, in particular in the roman and medieval law.

In the second chapter, the Author explains the main theories about *perizia contrattuale*; in this chapter there is also an evaluation about the irregular arbitration and a short investigation into institutions in other legal systems which have the same characteristics of *perizia*.

The third chapter analyzes Spanish system of arbitration law; in this system *perizia contrattuale* is considered something different to arbitration.

In the fourth chapter, that is the heart of the work, after a description of the main differences between *perizia contrattuale* and *arbitraggio*, the Author compares *perizia contrattuale* to arbitration. He analyzes also the contract of ascertainment, and finally he explains that *perizia contrattuale* is a particular kind of irregular arbitration; *perizia* and arbitration differ only with regards to the object of verification.

In the fifth chapter, putting together the insights derived from the evolution of court decisions and making reference to the legal doctrine that has produced most in-depth studies of the phenomenon, the Author proposes the regulation of the phenomenon in question.

In the last chapter there is an investigation into the contestation of *perizia contrattuale*.