

UNIVERSITÀ LUISS GUIDO CARLI

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“L'arbitrato societario”

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English abstract

This study examines the company arbitration that was introduced with the Legislative Decree nr. 5/2003 and outlines that this kind of arbitration was created to reply to specific needs of companies; these rules, besides, propose innovative solutions that 2006 legislator, with the relevant legislative amendment, adopted to regulate the arbitration by Italian Code of Civil Procedure. In detail, the analysis is finalized to verify existing conflicts between arbitration regulation and case law experience, if any.

The first section of this study contextualizes the company arbitration in Italian legal system, examining the tricky and hard-won topic of the arbitration legal nature and verifying the possible coexistence of the above arbitration with the arbitration regulated by the Italian Civil Code, even at the light of judgment of Cassation nr. 24867 of 9 December 2010. The final part of this section is about the analysis of the effectiveness of the pre-amendment arbitration clauses, analysis developed through the text of rules by the Italian Civil Code and the relevant doctrinal debate.

The second section, that is the main part of the study, examines the different aspects of the set of rules in comment, highlighting the relevant case law. In particular, the study examines the typical aspects of company arbitration, especially the “*soggetto estraneo alla società*” that is the subject who has the task to appoint the arbitrators.

The study ends with the possible existing room for an informal company arbitration, showing the different points of view that determine an incompatibility from this kind of arbitration and the regulation by Legislative Decree 5/2003.