

ABSTRACT

The essay aims at developing the topic of impartiality which characterises judge in the arbitration process.

The analysis begins with the study of the values of independence, neutrality and impartiality, *strictu sensu* considered, which constitute the impartiality in a wider significance.

Independence is the lack of past and present relations between the arbiter and one of the parties or their defenders; in particular, it consists in lack of economic, professional or psychological dependence.

As regards the “value” of neutrality, the arbiter should be culturally and ideologically independent and it should be tolerant of other parties values and convictions.

Finally, impartiality, *strictu sensu* considered, is a subjective qualification which involves the lack of prejudices of the arbitral “soul” towards the parties.

Nevertheless, impartiality is the only condition which is absolutely indispensable because neutrality and independence are just its instrumental conditions.

It must be considered that the globalization of markets influences the arbitration rules because it determines the necessity of finding same levels of protection and order. Consequently, the topic of arbitral impartiality should involve other countries.

In particular, the essay concerns the most important European process systems such as the German, French, Spanish and English systems.

Furthermore, while it deeply examines national systems, the most important arbitral regulation made by the most famous European arbitral Chambers are considered *a latere*.

More specifically, the work analyses the instruments that each Country has elaborated to guarantee the impartiality of the arbiter.

Firstly, I have analysed the rules which concern the capacity of the arbiters and the procedures to build tribunals. These procedures are very important because they are the tools used to ensure the equal participation of parties in the building of arbitral colleges.

Secondly, I have analysed the remedies found by each Country to protect the impartiality of the arbiter such as the duty of disclosure, which ensures the complete transparency in relations between arbiters and litigants. I have also analysed remedies found to fight the partiality such as challenge and the appeal of the arbitration award.

The comparison aims at finding international standards which help the Italian legislator to adapt our rules to the international ones.

The result of the studies is that the Italian legislator moves in countertrend in comparison with the other European countries because it continues to favourite the old tools to fight partiality. In particular, Italy is the only Country which rules challenge with an imperative list of reasons and it continues not to impose duties of disclosure.

This insufficient Italian regulation determines many doubtful hypotheses and dangerous standards for the impartiality of the private judge such as the preliminary interviews between parties and possible arbiters, the “serial” arbiters and the possibility to nominate the colleague of a defender as arbiter.