

ABSTRACT

ARBITRATION AND SUCCESSION TO THE RIGHT UNDER DISPUTE

The rules for proceedings, relating to the succession on a specific title of a claim, have been included in the arbitration through the provision under third paragraph of Article 816-*quinquies* ICCP.

The importance of the reference made by the latter provision, which simply provides for the applicability of Article 111 ICCP in the proceedings subject to arbitrators' decision, and concerning the claim transferred by deed *inter vivos* or as a result of death, requires the commentator to make an effort, in order to combine the effects of regulations applying to the transfer of the *res litigiosa* with the need to comply with the essential rules for arbitration.

Indeed there is no doubt that the effectiveness of the arbitration award, considered equivalent to that of a judgement, toward a person who could be both *arbitrii extraneus* and outside the arbitration agreement itself, goes beyond the concept according to which the alternative dispute resolution is a *quid minus* compared to court litigation.

In any case, this study also focus on coordinating the introduction according to which the transfer of the right under dispute does not mean that the successor is automatically party to the arbitration agreement, applying provisions under Article 111 ICCP as a whole and with its resulting substantial effects.

This is due to the fact that this provision could now reach the status of a general rule of public policy in connection with procedural law, so that we can hope that it is not only applied to the informal arbitration, but even adopted as a precondition for the recognition of foreign arbitral awards.