

ADMINISTERED ARBITRATION

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Abstract

Institutions which administer arbitration proceedings are distinct both from the parties and the arbitrators. Administered arbitration is a fundamental dispute resolution tool, which has attracted the Lawmaker's attention: D. Lgs. 40/2006 introduced the renewed art. 832 c.p.c., specifically addressing this theme.

This work aims at analyzing both the theoretical problems and the practical mechanisms of administered arbitration, starting from its "sources", i.e. its legal framework. Administered arbitration relies on three different contracts: the arbitration contract between the arbitrators and the parties, the administration contract between the institution and the parties, and the cooperation contract between the institution and the arbitrators. The existence of this last contract is not unanimously accepted; its study, however, allows to clarify the nature of administered arbitration and the role of the various subject who operate in this context.

Arbitration rules are another root element of administered arbitration: the institution creates a set of rules, which the parties accept and include in their agreement *per relationem*. It is important, therefore, to analyze the role of the rules and their relationship with the parties' will, other relevant sets of rules and State laws (firstly, the aforementioned art. 832 c.p.c.).

This first section hence demonstrates the double nature of arbitration institutions: although they play a *super partes* role, which is similar to the position of the *juge d'appui* in *ad hoc* arbitration, on the other hand they are private subjects and they therefore have rights and duties. The following sections of this work reflect this dichotomy: the second section describes the administered proceedings, underlining the institutions' role in the single stages of the arbitration. It will thus be possible to understand the importance of arbitration chambers not only in the appointment

phase, but throughout the whole process, from challenge to terms of reference, from interim relief and the overall conduct of the arbitration to the scrutiny of the award.

The third section considers the institutions' position as private subjects: four distinct chapters are dedicated to confidentiality issues, statutes and organs of the institutions, costs and fees and liability problems.