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PUNITIVE DAMAGES - A RISING STAR IN INTERNATIONAL COMMERCIAL ARBITRATION?

Abstract:

Punitive damages in international commercial arbitration has been considered more a theoretical than a practical issue, especially in civil law countries. Nevertheless, the national law regulations must provide a way how to react on such claims, particularly in the area of international commercial arbitration. This article is considered primarily with the analysis of the current status quo of certain civil law countries related to punitive damages since not only applicable substantive law, but also procedural law of the seat of arbitration has an impact on the availability of punitive damages in international arbitration. It also discusses legal reasons why punitive damages are of limited relevance in international commercial arbitration that consequently leads to a minimal number of arbitral awards of punitive damages. Despite of infrequency, the importance and clear approach to whether punitive damages should have a place in international commercial arbitration must be drawn.

Keywords:

Arbitral award; international commercial arbitration; punitive damages; compensatory principle; enforcement and recognition of arbitral award.

JEL Classification: K13, K33, K40