



Consent in International Arbitration (Oxford International Arbitration)

Andrea M. Steingruber

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Arbitration is consensual by nature and the arbitrators' jurisdiction derives exclusively from the parties' agreement to use arbitration as a means to resolve their disputes. The concept of consent in arbitration - especially as cases become more complex - is taking on increasing importance, and issues with regard to the parties' consent to arbitrate are the topic of many articles and discussions.

Examining the notion, nature, and extent of consent in both commercial arbitration and investment arbitration, this book provides practitioners and academics with a thorough, case-related analysis of an issue which raises many questions.

While considering the differences between consent under State legislation and treaties, it addresses important theoretical questions to offer practical solutions. These include: how consent to arbitrate is given; which law shall govern the arbitration agreement or, more particularly, consent as an element of the substantive validity of it; and, conversely, according to which law will a possible lack of consent be judged; how consent should be interpreted; which relationship exists between consent as part of the substantive validity of an arbitration agreement and its formal validity (requirement to be "in writing"); which, if any, are the implied terms when consenting to arbitration; how consent to arbitrate influences procedural mechanisms like joinder and intervention of third parties or consolidation of arbitral proceedings, and which solutions adopted (or to be adopted) by treaties, national laws or arbitral rules are, or would be, the most respectful of parties' consent in this respect.

The book includes original arguments and puts forward new suggestions with regard to the changeable consensual character of arbitration. It also provides a particular focus on problems that frequently arise in practice of international arbitration, for example issues related to complex multiparty arbitration and to jurisdictional questions in investment arbitration.

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