

Third-Party Funding in International Arbitration:  
A Transnational Study of Ethical Implications and Responses

by

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**Third-Party Funding in International Arbitration:  
A transnational study of ethical implications and responses**

Derdepartijfinanciering in internationale arbitrage:  
Een transnationale studie naar ethische implicaties en reacties

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## Abbreviations

AAA	American Arbitration Association
ABA	American Bar Association
ACICA	Australian Centre for International Commercial Arbitration
AO	Arbitration Ordinance (Hong Kong)
ALF	Association of Litigation Funders (England and Wales)
BAC/BIAC	Beijing Arbitration Commission/Beijing International Arbitration Centre
CAM-CCBC	Center for Arbitration and Mediation of the Chamber of Commerce Brazil-Canada
CCBE	Council of Bars and Law Societies of Europe
CETA	EU-Canada Comprehensive Economic and Trade Agreement
CIETAC	China International Economic and Trade Arbitration Commission
CIETAC HKAC	CIETAC Hong Kong Arbitration Center
DIFC	Dubai International Financial Centre
EPRS	European Parliamentary Research Service
EU	European Union
GAR ART	Global Arbitration Review's Arbitrator Research Tool
HKSAR	Hong Kong Special Administrative Region
HKIAC	Hong Kong International Arbitration Centre
IBA	International Bar Association
ICC	International Chamber of Commerce
ICCA	International Council for Commercial Arbitration
ICDR	International Centre for Dispute Resolution (AAA)
ICSID	International Centre for Settlement of Investment Disputes
IID	International Investment Disputes
ILFA	International Legal Finance Association
LCIA	London Court of International Arbitration
LPA	Legal Profession Act (Singapore)
LSS	Law Society of Singapore
NAI	Netherlands Arbitration Institute
PCR	Professional Conduct Rules (Singapore)
PRC	People's Republic of China
QMUL	Queen Mary University of London

## Abbreviations

SCC	Arbitration Institute of the Stockholm Chamber of Commerce
SIAC	Singapore International Arbitration Centre
SIArb	Singapore Institute of Arbitrators
SICC	Singapore International Commercial Court
TTIP	Transatlantic Trade and Investment Partnership
TPF	Third-Party Funding
TPFI	Third Party Funder Intelligence
TPLF	Third-Party Litigation Funding
UNCITRAL	United Nations Commission on International Trade Law

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## Summary

Third-party funding of international arbitration is a means of dispute financing in which a non-disputing party provides funds or other equivalent support to the disputing party to cover arbitration-related costs in exchange for reimbursement or remuneration that is wholly or partially dependent on the outcome of the arbitration. Recent years have seen a growing academic discussion of third-party funding in international arbitration as well as in litigation. The role of third-party funding in facilitating access to justice and sharing the risk of disputing parties has also attracted increased attention during the COVID-19 pandemic. However, there is no doubt that the use of third-party funding in international arbitration also involves various ethical, procedural and transactional issues and risks.

This research focuses on the ethical implications of third-party funders for the professional conduct of arbitrators and lawyers advising or representing clients which are seeking or have obtained third-party funding in international arbitration. These implications are specifically related to three areas: (a) in relation to the arbitrator's independence and impartiality; (b) in relation to the lawyer's independence and professional duties towards the funded client, the arbitral tribunal and the integrity of the legal profession; and (c) in relation to the lawyer's duty of confidentiality towards the funded client and legal privilege. In this regard, this research examines and answers whether the existing international arbitration system can sufficiently address the main ethical issues arising from third-party funding and the closely related procedural legal issues in international arbitration. In addition, this research discusses the regulation of third-party funding of international arbitration to complement the existing international arbitration system to address the ethical issues mentioned above.

This study is relevant to both international arbitration and legal professional ethics. It aims to address the micro-ethical issues raised by third-party funding in international arbitration in the ethics-related sociological and regulatory contexts. For the benefit of arbitrators, lawyers, funded parties and funders, it intends not only to contribute to the collective understanding of what constitutes appropriate and inappropriate conduct in dealing with arbitration involving a third-party funder, but also to provide ideas for policy-makers and law-makers to develop specialized professional standards or ethical rules for arbitrators and lawyers in relation to third-party funding as well as the introduction of appropriate regulation for third-party funders.

This book is comprised of 7 chapters, and in Chapter 1 it outlines the background, the research questions and aims, the concepts, the methodology, as well as the academic and societal relevance of this study. It adopts a doctrinal legal study and comparative law research. The former method is used to answer the question of ‘what is the law’ in relation to the ethical obligations of arbitrators and lawyers and of whether existing legal sources have sufficiently considered and responded to the implications of third-party funders for the professional conduct of arbitrators and lawyers. The comparative law analysis is used, where appropriate, to assess the feasibility and desirability of possibly adopting all or some of the existing rules and practices as best practices for arbitrators, lawyers and funders. Different legal sources have been chosen for this study in relation to the different ethical issues under discussion, but the selection of these representative sources of law has taken into account both the balance between ‘common law’ and ‘civil law’ as well as the level of development of international arbitration in these jurisdictions.

Chapter 2 delineates the ethical issues arising out of third-party funding in international arbitration. It discusses the impact of third-party funders on the independence or impartiality of the arbitrator due to potential financial, business, professional or personal relationships with the arbitrator. Besides, this chapter has also addressed the influence of the involvement of a funder in a lawyer-client relationship on the lawyer’s fulfilment of his or her professional duties, such as independence, loyalty, integrity and confidentiality. The lawyer’s confidentiality is also related to whether confidential information shared by funded clients and lawyers with funders can be protected from evidentiary disclosure by privilege, which is also noted in this chapter.

Chapter 3 discusses the international arbitration’s self-regulatory mechanism and argues that the ethical issues identified in Chapter 2 can be addressed within this mechanism. This chapter contends that the self-regulatory mechanisms of international arbitration can ensure that the sources of the ethical obligations of arbitrators and lawyers can be effectively implemented by the institution and/or the arbitral tribunal in the arbitral proceedings. This is because members of the international arbitration community have an incentive to ensure the integrity and professional conduct of their participants on the one hand, while, on the other, arbitral institutions and/or tribunals can enforce the ethical norms developed by members of the international arbitration community in the arbitral process. On this basis, it argues that the ethical issues in relation to third-party funding can be addressed in the procedural regime of international arbitration and its attached self-regulatory ethical regime by interpreting, refining and adapting existing sources of arbitral legal authorities and by introducing external regulation for the conduct of funders. Meanwhile, the self-regulation of international arbitration does not exclude national authorities from playing a backup role to facilitate the operation of this mechanism. National authorities may therefore help to ensure that the funded party’s retained lawyers comply with general ethical

obligations and introduce the appropriate regulation of third-party funders, which are matters that are beyond the reach of the self-regulatory mechanism of international arbitration.

Chapter 4 focuses on the arbitrator's independence and impartiality and conflicts of interest issues in relation to third-party funding. This chapter first discusses the mandatory disclosure of third-party funding in arbitral proceedings. This question relates to the possibility for the arbitrator to be aware of the identity of the funder in order to examine his or her own conflicts of interest. By examining the various legal sources in international arbitration, this chapter finds that there has been a trend towards the mandatory disclosure of the presence and identity of the funder but two main issues exist in introducing the disclosure model of third-party funding in international arbitration. One is the definition of a 'third-party funder' and 'third-party funding', and the other concerns the scope of any disclosure. Bearing these two issues in mind, this chapter provides corresponding recommendations. The chapter has also examined ethical norms in relation to the arbitrators' disclosure and disqualification in the context of third-party funding. It finds that difficulties exist for arbitrators and arbitral institutions with respect to the application of the inconsistent and abstract disclosure and disqualification standards to deciding whether to make any disclosure and whether any potential conflicts of interest exist between an arbitrator and a funder. Based on the analysis focusing on the 2014 IBA Conflicts of Interest Guidelines, this chapter highlights the ambiguities that exist in relation to the funding-related guidelines therein and provides corresponding suggestions for revision. Besides, in the context of the trend towards increased transparency in the selection of arbitrators in international arbitration, this chapter proposes professional guidelines for arbitrators in relation to the disclosure and investigation of potential conflicts of interest by arbitrators and the factors that the decision-makers in arbitrator challenges may consider in assessing whether a conflict of interest exists between an arbitrator and a funder.

Chapter 5 focuses on the professional obligations of the lawyer representing the funded client in relation to third-party funding transactions. It first discusses the question of whether existing international and national sources of lawyers' professional obligations in relation to professional independence, loyalty, integrity and the fair administration of justice can provide sufficient guidance to lawyers in addressing various conflicts of interest arising out of the tripartite relationship between the funder, the funded client and the lawyer. Based on an examination of the selected legal sources, it highlights the role of the independence of lawyers in balancing the tripartite funder-client-lawyer relationship and the importance of carefully crafting funding agreements aligning the interests of the funder, client and lawyer to reduce potential conflicts of interest. This chapter proposes some specialized professional guidelines for lawyers at the international level to compensate for the lack of specialized professional guidance

available to lawyers on third-party funding at both the international and national level. This chapter moves on to discuss the lawyer's confidentiality obligation in the context of third-party funding and the privilege issue in relation to the protection of case-related information or documents from being disclosed and shared with the funder because of having been used for obtaining funding and maintaining the funding relationship. Based on an examination of the framework for document production and the privilege defence in international arbitration and the national positions on the funding-related privilege issue, this chapter finds that there is a lack of certainty regarding privilege issues in international arbitration, and the national positions are divergent on the privilege protection for documents to be shared with the funder. In order to improve transnational consensus on funding-related privilege issues, this chapter argues that the privilege attached to the information or documents of the funded party should not be considered to have been waived simply because of sharing them with the funder for case evaluation and case monitoring in light of the aim of document production, the reasonable expectations of the parties, fairness, relevance and materiality in relation to privilege defences in international arbitration. In addition, this chapter discusses the role of formulating substantive transnational privilege standards to improve the legal certainty and predictability of privilege issues in international arbitration. In order to reduce the risk of waiving the privilege protection for the funded party, this chapter has also proposed professional guidelines to guide lawyers in addressing funding-related privilege issues without breaching their confidentiality obligations.

Chapter 6 focuses on the regulation of third-party funders. It examines the existing national regulatory regimes for third-party funding in England and Wales, Hong Kong, Singapore and the EU. On this basis, this chapter finds that the formulation of the professional standards for funders is a core component of the national regulatory regimes, and the common challenge for all is to ensure that they can be effectively implemented in practice. The appropriate regulation for third-party funders is related to the fulfilment of the professional obligations of arbitrators and lawyers, the protection of the interest of the funded party and the fairness and integrity of arbitral proceedings. This chapter argues that the statutory regulation of funders will be the way forward, and until it comes into being, third-party funding will be subject to self-regulation for some time to come with respect to the implementation of professional standards or ethical rules for funders. In this regard, this chapter has provided recommendations on 'professional standards' for the conduct of funders and for the drafting of the content of the funding agreement. Furthermore, in order to encourage and facilitate voluntary compliance with these guidelines by funders, this chapter proposes to resort to a market-based solution to drive the funders to embrace the higher standards of professionalism and expertise associated with market leaders.

This book concludes in Chapter 7 that 'the implications of third-party funders for the professional conduct of arbitrators and lawyers representing clients involved in third-

party funding are currently not sufficiently addressed, but this does not mean that the international arbitration system is entirely dysfunctional in addressing these implications. The members of the international arbitration community can preserve the legitimacy of international arbitration from being compromised by the involvement of third-party funders by interpreting, refining, and adapting the relevant arbitral laws, rules and subject-specific guidelines, or by developing new ethical norms for arbitral participants, where necessary, within international arbitration's self-regulatory mechanisms. At the same time, the external regulation of third-party funders, both statutory and market-based regulation, is necessary to support the good functioning of international arbitration self-regulatory mechanisms.' In addition to providing a summary of the professional guidelines and best practices for arbitrators, lawyers and funders on third-party funding transactions in international arbitration proposed in previous chapters, this chapter provides general policy prescriptions for the international arbitration community and national authorities as well as specific recommendations on the relevant rule amendments and refinements, in order to reduce the risk posed by funders to the administration of justice and the interests of the parties to the dispute and to enable third-party funding to be better integrated into the international arbitration system in order to promote access to (arbitral) justice for parties.



## Samenvatting

Derdepartijfinanciering van internationale arbitrage is een vorm van de financiering van geschillen waarbij 'een niet-betwistende partij fondsen of andere materiële steun verstrekt aan de betwistende partij om arbitrage gerelateerde kosten te dekken in ruil voor een terugbetaling of vergoeding die geheel of gedeeltelijk afhankelijk is van de uitkomst van de arbitrage'. De laatste jaren is de academische discussie over derdepartijfinanciering zowel in internationale arbitrage als in geschillen toegenomen. De rol van derdepartijfinanciering bij het vergemakkelijken van de toegang tot de rechter en het delen van het risico van de twistende partijen heeft ook tijdens de COVID-19-pandemie meer aandacht gekregen. Het lijkt echter geen twijfel dat het gebruik van de derdepartijfinanciering in internationale arbitrage ook verschillende ethische, procedurele en transactionele kwesties en risico's met zich meebrengt.

Dit onderzoek richt zich op de ethische implicaties van derdepartijfinancierders voor het professioneel gedrag van arbiters en advocaten die cliënten adviseren of vertegenwoordigen die derdepartijfinanciering zoeken of hebben verkregen in internationale arbitrage. Deze implicaties hebben specifiek betrekking op drie gebieden: (a) de onafhankelijkheid en onpartijdigheid van de arbiter; (b) de onafhankelijkheid en beroepslichten van de advocaat jegens de gefinancierde cliënt, het scheidsgerecht en de integriteit van de advocatuur; en (c) de geheimhoudingsplicht van de advocaat jegens de gefinancierde cliënt en de 'legal privilege'. In dit verband wordt in dit onderzoek onderzocht en beantwoord of het bestaande internationale arbitragesysteem de belangrijkste ethische kwesties die voortvloeien uit financiering door derden en de daarmee nauw samenhangende procesrechtelijke kwesties in internationale arbitrage voldoende kan aanpakken. Daarnaast bespreekt dit onderzoek ook de regulering van de financiering van internationale arbitrage door derden als aanvulling op het bestaande internationale arbitragesysteem om bovengenoemde ethische kwesties aan te pakken.

Deze studie is relevant voor zowel internationale arbitrage als juridische beroepsethiek omdat het tot doel heeft de micro-ethische kwesties die door derdepartijfinanciering in internationale arbitrage aan de oppervlakte komen, te behandelen in ethisch-sociologische en regelgevende context. Ten behoeve van arbiters, advocaten, gefinancierde partijen en financierders, wil deze studie niet alleen bijdragen tot een collectief begrip van wat gepast en ongepast gedrag is in de context van arbitrage waarbij een financierder betrokken is, maar ook ideeën aanreiken voor beleidsmakers en

wetgevers om gespecialiseerde professionele standaarden of ethische regels te ontwikkelen voor arbiters en advocaten in verband met derdepartijfinanciering, de invoering van passende regelgeving voor derdepartijfinancierders.

Dit boek bestaat uit 7 hoofdstukken. In hoofdstuk 1 worden de achtergrond, de onderzoeksvragen en -doelen, de concepten, de methodologie, alsmede de academische en maatschappelijke relevantie van deze studie geschetst. Er wordt in de gehele studie uitgegaan van een juridisch doctrinair en rechtsvergelijkend onderzoek. De eerstgenoemde methode wordt gebruikt om de vraag te beantwoorden 'wat is het recht' met betrekking tot de ethische verplichtingen van arbiters en advocaten. Bovendien beantwoordt deze methode de vraag of de bestaande rechtsbronnen voldoende rekening hebben gehouden met en hebben gereageerd op de implicaties van derdepartijfinanciering voor het professioneel gedrag van arbiters en advocaten. De rechtsvergelijkende methode wordt daarnaast, waar nodig, gebruikt om de haalbaarheid en wenselijkheid te beoordelen van het eventueel overnemen van alle of een deel van de bestaande regels en praktijken als inspiratiebron voor best practices voor arbiters, advocaten en financierders. Voor deze studie zijn verschillende rechtsbronnen gekozen naargelang de verschillende ethische kwesties die worden besproken, maar bij de selectie van deze representatieve rechtsbronnen is zowel rekening gehouden met het vinden van een evenwicht tussen de 'common law' en de civielrechtelijke traditie als met het ontwikkelingsniveau van internationale arbitrage in de verschillende rechtsgebieden.

Hoofdstuk 2 geeft een overzicht van de ethische kwesties die voortvloeien uit derdepartijfinanciering in internationale arbitrage. Het bespreekt de invloed van derdepartijfinancierders op de onafhankelijkheid of onpartijdigheid van de arbiter als gevolg van mogelijke financiële, zakelijke, professionele of persoonlijke relaties met de arbiter. Daarnaast behandelt dit hoofdstuk ook de invloed van de betrokkenheid van een financier in een advocaat-cliënt relatie op de vervulling door de advocaat van zijn of haar beroepsplichten zoals onafhankelijkheid, loyaliteit, integriteit en vertrouwelijkheid. De vertrouwelijkheid van advocaten houdt ook verband met de vraag of vertrouwelijke informatie die gefinancierde cliënten en advocaten met financierders delen, kan worden beschermd door een 'privilege' tegen de openbaarmaking van documenten, wat ook wordt opgemerkt in dit hoofdstuk.

In hoofdstuk 3 wordt het zelfreguleringsmechanisme van internationale arbitrage besproken en wordt betoogd dat de in hoofdstuk 2 geïdentificeerde ethische kwesties binnen dit mechanisme kunnen worden aangepakt. In dit hoofdstuk wordt betoogd dat de zelfreguleringsmechanismen van internationale arbitrage ervoor kunnen zorgen dat de ethische verplichtingen van arbiters en advocaten door arbitrale instellingen of arbitrage-tribunalen in de arbitrageprocedure effectief kunnen worden toegepast. Dit komt doordat leden van de internationale arbitragegemeenschap enerzijds een prikkel



hebben om de integriteit en het professioneel gedrag van hun deelnemers te waarborgen, terwijl anderzijds arbitrage-instellingen of arbitragetribunalen de ethische normen die door leden van de internationale arbitragegemeenschap zijn ontwikkeld, in het arbitrageproces kunnen afdwingen. Op basis hiervan wordt betoogd dat de ethische kwesties in verband met derdepartijfinanciering kunnen worden aangepakt in het procedurele regime van internationale arbitrage en het daaraan verbonden zelfregulerende ethische regime, door bestaande bronnen van arbitrale juridische autoriteiten te interpreteren, te verfijnen en aan te passen, en door externe regulering van het gedrag van financierders in te voeren. Ondertussen sluit de zelfregulering van internationale arbitrage niet uit dat nationale autoriteiten een ondersteunende rol spelen om de werking van dit mechanisme te vergemakkelijken. De nationale autoriteiten kunnen er aldus toe bijdragen dat de door de gefinancierde partij ingeschakelde advocaten de algemene ethische verplichtingen naleven en de passende regulering van derdepartijfinancierders invoeren, hetgeen zaken zijn die buiten het bereik van het zelfreguleringsmechanisme van internationale arbitrage vallen.

Hoofdstuk 4 gaat over de onafhankelijkheid en onpartijdigheid van de arbiter en over belangenconflicten in verband met derdepartijfinanciering. In dit hoofdstuk wordt eerst ingegaan op de verplichte openbaarmaking van derdepartijfinanciering in arbitrageprocedures. Deze kwestie houdt verband met de mogelijkheid voor de arbiter om op de hoogte te zijn van de identiteit van de financier om zijn of haar eigen belangenconflicten te onderzoeken. Door de verschillende rechtsbronnen in internationale arbitrage te onderzoeken, stelt dit hoofdstuk vast dat er een tendens is in de richting van verplichte openbaarmaking van de aanwezigheid en de identiteit van de financier, maar dat er twee belangrijke problemen bestaan bij de invoering van het openbaarmakingsmodel van derdepartijfinanciering in internationale arbitrage. Een daarvan is de definitie van 'derdepartijfinancierder' en 'derdepartijfinanciering', en de andere betreft de reikwijdte van de openbaarmaking. Op deze twee kwesties wordt in dit hoofdstuk een antwoord geboden. Dit hoofdstuk onderzoekt ook de ethische normen in verband met de openbaarmaking en diskwalificatie van arbiters in de context van derdepartijfinanciering. Er wordt vastgesteld dat er moeilijkheden bestaan voor arbiters en arbitrage-instellingen met betrekking tot de toepassing van de inconsistente en abstracte normen inzake openbaarmaking en diskwalificatie op de beslissing om al dan niet openbaar te maken en of er potentiële belangenconflicten bestaan tussen een arbiter en een financier. Op basis van de analyse die is toegespitst op de 2014 IBA Conflicts of Interest Guidelines, worden in dit hoofdstuk de onduidelijkheden belicht die bestaan met betrekking tot de daarin vervatte financiering gerelateerde richtlijnen en worden overeenkomstige suggesties voor herziening gedaan. Daarnaast worden in dit hoofdstuk, in het kader van de trend naar meer transparantie bij de selectie van arbiters in internationale arbitrage, professionele richtsnoeren voor arbiters voorgesteld met betrekking tot de openbaarmaking van en het onderzoek naar potentiële

belangenconflicten door arbiters en de factoren die de besluitvormers bij arbitrale aanvechtingen in overweging kunnen nemen bij de beoordeling of er sprake is van een belangenconflict tussen een arbiter en een financier.

Hoofdstuk 5 richt zich op de professionele verplichtingen van de advocaat die de gefinancierde cliënt vertegenwoordigt met betrekking tot financieringstransacties met derden. Dit hoofdstuk bespreekt eerst de vraag of de bestaande internationale en nationale bronnen over de professionele verplichtingen van advocaten met betrekking tot professionele onafhankelijkheid, loyaliteit, integriteit en de eerlijke rechtsbedeling voldoende houvast kunnen bieden aan de advocaten bij het aanpakken van de verschillende belangenconflicten die voortvloeien uit de tripartiete relatie tussen de financier, de gefinancierde cliënt en de advocaat. Gebaseerd op het onderzoek van de geselecteerde juridische bronnen, benadrukt het de rol van de onafhankelijkheid van advocaten bij het in evenwicht brengen van de tripartiete financier-client-advocaat relatie en het belang van het zorgvuldig opstellen van financieringsovereenkomsten die de belangen van de financier, cliënt en advocaat op elkaar afstemmen om potentiële belangenconflicten te verminderen. Dit hoofdstuk stelt een aantal gespecialiseerde professionele richtlijnen voor advocaten op internationaal niveau voor om het gebrek aan gespecialiseerde professionele richtlijnen te compenseren die beschikbaar zijn voor advocaten over derdepartijfinanciering op zowel internationaal als nationaal niveau. Dit hoofdstuk bespreekt vervolgens de beroepsgeheim van de advocaat in de context van derdepartijfinanciering en de kwesties van 'privilege' met betrekking tot de bescherming van zaak-gerelateerde informatie of documenten tegen openbaarmaking en uitwisseling met de financier omdat ze zijn gebruikt voor het verkrijgen van financiering en het onderhouden van de financieringsrelatie. Op basis van een onderzoek van het kader voor de openbaarmaking van documenten en de bescherming van het 'privilege' in internationale arbitrage en de nationale standpunten over de kwestie van 'privileges' in verband met derdepartijfinanciering, concludeert dit hoofdstuk dat er een gebrek aan zekerheid is met betrekking tot 'privileges' in internationale arbitrage, en dat de nationale standpunten uiteenlopen wat betreft de bescherming van de 'privilege' voor documenten die met de financier moeten worden uitgewisseld. Teneinde de transnationale consensus over 'privileges' in verband met derdepartijfinanciering te verbeteren, wordt in dit hoofdstuk betoogd dat het 'privilege' dat rust op de informatie of documenten van de gefinancierde partij niet als opgeheven mag worden beschouwd louter omdat zij met de financier worden gedeeld voor de evaluatie van en het toezicht op de zaak, in het licht van het doel van de openbaarmaking van documenten, de redelijke verwachtingen van de partijen, de billijkheid, de relevantie en het materiële belang in verband met de verdediging tegen 'privileges' in internationale arbitrage. Daarnaast bespreekt dit hoofdstuk de rol van het formuleren van inhoudelijke transnationale normen voor 'privilege' om de rechtszekerheid en voorspelbaarheid van 'privilege' kwesties in internationale arbitrage

te verbeteren. Om het risico te beperken dat de gefinancierde partij afziet van de bescherming van 'privilege', worden in dit hoofdstuk ook professionele richtlijnen voorgesteld die de advocaten als leidraad kunnen gebruiken bij het behandelen van de 'privilege' kwesties die verband houden met derdepartijfinanciering.

Hoofdstuk 6 gaat over de regelgeving voor derdepartijfinancierders. Er wordt gekeken naar de bestaande nationale regelgevingsstelsels voor derdepartijfinanciering in Engeland en Wales, Hongkong, Singapore en de EU. Op basis hiervan komt dit hoofdstuk tot de bevinding dat de formulering van de professionele normen voor financierders een kernonderdeel van de nationale regelgevingsstelsels is en dat de gemeenschappelijke uitdaging voor allen erin bestaat ervoor te zorgen dat zij in de praktijk effectief kunnen worden toegepast. De passende regelgeving voor derdepartijfinancierders houdt verband met de nakoming van de professionele verplichtingen van arbiters en advocaten, de bescherming van de belangen van de gefinancierde partij en de eerlijkheid en integriteit van arbitrale procedures. In dit hoofdstuk wordt betoogd dat wettelijke regulering van financierders de weg voorwaarts zal zijn en dat, zolang die er niet is, derdepartijfinanciering nog enige tijd aan zelfregulering onderworpen zal zijn met betrekking tot de uitvoering van professionele standaarden of ethische regels voor financierders. In dit verband zijn in dit hoofdstuk aanbevelingen gedaan voor professionele normen voor het gedrag van financierders en voor het opstellen van de inhoud van de financieringsovereenkomst. Om de vrijwillige naleving van deze richtsnoeren door de financierder aan te moedigen en te vergemakkelijken, wordt in dit hoofdstuk bovendien voorgesteld een marktconforme oplossing te gebruiken om de financierder ertoe aan te zetten de hogere normen inzake professionalisme en deskundigheid te omarmen die met marktleiders worden geassocieerd.

Dit boek concludeert in hoofdstuk 7 dat de implicaties van financierders voor het professioneel gedrag van arbiters en advocaten die cliënten vertegenwoordigen die betrokken zijn bij derdepartijfinanciering momenteel niet voldoende worden aangepakt, maar dit betekent niet dat het internationale arbitragesysteem volledig disfunctioneel is in het aanpakken van deze implicaties. De leden van de internationale arbitragegemeenschap kunnen ervoor zorgen dat de legitimiteit van internationale arbitrage niet in het gedrang komt door de betrokkenheid van derdepartijfinancierders door de relevante arbitragewetten, regels en onderwerpspecifieke richtsnoeren te interpreteren, te verfijnen en aan te passen, of door nieuwe ethische normen voor arbitrale deelnemers te ontwikkelen, waar nodig binnen de zelfregulerende mechanismen van de internationale arbitrage. Tegelijkertijd is externe regulering van derdepartijfinancierders, zowel wettelijke als marktconforme regulering, noodzakelijk om de goede werking van de zelfreguleringsmechanismen van internationale arbitrage te ondersteunen.' Naast een samenvatting van de in eerdere hoofdstukken voorgestelde professionele richtsnoeren en beste praktijken voor arbiters, advocaten en financierders

## Samenvatting

met betrekking tot derdepartijfinanciering in internationale arbitrage, bevat dit hoofdstuk algemene beleidsvoorschriften voor de internationale arbitragegemeenschap en de nationale autoriteiten, alsmede specifieke aanbevelingen voor relevante regelwijzigingen en -verfijningen, teneinde het risico dat financierders vormen voor de rechtsbedeling en de belangen van de partijen bij het geschil te verminderen en derdepartijfinanciering beter te kunnen integreren in het internationale arbitragesysteem opdat de toegang tot (arbitrale) rechtspraak voor partijen bevorderd wordt.

## Bibliography

### A

- Ahdab, Jalal El; Pierre Pic, 'France' in Nikolaus Pitkowicz (ed), *Handbook on Third-Party Funding in International Arbitration* (JurisNet, LLC 2018), 213-224.
- Ahdab; Jalal El, 'The French Approach to Third-Party Funding: A Balance between Liberalism and Cautiousness' (2018) 5 BCDR International Arbitration Review, 329-334.
- Ahdab; Jalal El; Amal Bouchenaki, 'Discovery in International Arbitration: A Foreign Creature for Civil Lawyers?' in Albert Jan Van den Berg (ed), *Arbitration Advocacy in Changing Times (ICCA Congress Series, Vol. 15)* (ICCA & Kluwer Law International 2011), 65-113.
- Akulina, Arina; Katarina Piskunovich, 'Arbitral Institutions' Conflicts of Interest' (Kluwer Arbitration Blog, 28 July 2021) <<http://arbitrationblog.kluwerarbitration.com.eur.idm.oclc.org/2021/07/28/arbitral-institutions-conflicts-of-interest/>> accessed 10 August 2021.
- Alrashid, Meriam N.; Jane Wessel; John Laird, 'Impact of Third Party Funding on Privilege in Litigation and International Arbitration' (2012) 6 Dispute Resolution International, 101-129.
- Annabelle, Möckesch, *Attorney-Client Privilege in International Arbitration* (Oxford University Press 2017).
- Ashford, Peter, *The IBA Guidelines on Party Representation in International Arbitration: A Guide* (Cambridge University Press 2015).
- Association of Litigation Funders of England and Wales, 'About the Association of Litigation Funders' <<https://associationoflitigationfunders.com/about-us/>> accessed 13 July 2021.
- Attrill, Wayne, 'Ethical Issues in Litigation Funding' (presented at the Globalaw Conference on 16 February 2009, 2009) 53 <[https://www.imf.com.au/pdf/Ethical Issues Paper IMF09 - Globalaw Conference.pdf](https://www.imf.com.au/pdf/Ethical%20Issues%20Paper%20IMF09%20-%20Globalaw%20Conference.pdf)> accessed 9 January 2019.
- Australian Securities & Investments Commission, 'Litigation Funding' (11 December 2020) <<https://asic.gov.au/regulatory-resources/funds-management/litigation-funding>> accessed 5 February 2021.

### B

- Bajpai, Ananya; Shambhavi Kala, 'Data Protection, Cybersecurity and International Arbitration: Can They Reconcile?' (2019) VIII Indian Journal of Arbitration Law, 1-18.
- Baldwin, Charles S., 'Protecting Confidential and Proprietary Commercial Information in International Arbitration' (1996) 31 Texas International Law Journal, 451-494.

## Bibliography

- Ballantyne, Jack, 'EU Parliament Calls for Regulation of Third-Party Funding' (Global Arbitration Review, 23 September 2022) <<https://globalarbitrationreview.com/article/eu-parliament-calls-regulation-of-third-party-funding>> accessed 15 October 2022.
- Barnes, Jonathan; Steven Friel, 'Litigation Funding in United Kingdom (England & Wales)' (Lexology, 17 December 2019), <<https://www.lexology.com/library/detail.aspx?g=9e023e30-cce3-43c3-bc35-7047fde7c450>> accessed 24 June 2021.
- Barreau de Paris, 'Rapport Du Groupe de Travail de La Commission Arbitrage International, in Le Financement de l'Arbitrage Par Les Tiers ("Third Party Funding")' (2017).
- Barrington, Louise, 'Third-Party Funding and the International Arbitrator' in Patricia Louise Shaughnessy and Sherlin Tung (eds), *The Powers and Duties of an Arbitrator* (2017), 15-24.
- Bao, Chiann, 'Third Party Funding in Singapore and Hong Kong : The Next Chapter' (2017) 34 *Journal of International Arbitration*, 387-400.
- Baumann, Antje; Michael M. Singh, 'New Forms of Third-Party Funding in International Arbitration: Investing in Case Portfolios and Financing Law Firms' (2019) 7 *Indian Journal of Arbitration Law*, 29-44.
- Beechey, John, 'The Pandora's Box of Third-Party Funding: Some Practical Suggestions for Arbitrators in Light of Recent Developments' in Jean Kalicki and Mohamed Abdel Raouf (eds), *Evolution and Adaptation: The Future of International Arbitration* (2019), 558-586.
- Benson, Cyrus, 'The IBA Guidelines on Party Representation: An Important Step in Overcoming the Taboo of Ethics in International Arbitration' (2014) 1 *Les Cahiers de l'Arbitrage* (The Paris Journal of International Arbitration), 47-58.
- Benson, Cyrus, 'Can Professional Ethics Wait? The Need for Transparency in International Arbitration' (2009) 3 *Dispute Resolution International*, 78-94.
- Bernasconi-Osterwalder, Nathalie; Lise Johnson; Fiona Marshall, 'Arbitrator Independence and Impartiality: Examining the Dual Role of Arbitrator and Counsel' (IV Annual Forum for Developing Country Investment Negotiators Background Papers New Delhi, 27-29 October 2010) <[https://www.iisd.org/system/files/publications/dci\\_2010\\_arbitrator\\_independence.pdf](https://www.iisd.org/system/files/publications/dci_2010_arbitrator_independence.pdf)> accessed 4 April 2019.
- Bert, Peter, 'Litigation Funding and Success Fees: A Risky Combination' (Dispute Resolution Germany, 18 July 2012) < <http://www.disputeresolutiongermany.com/2012/07/litigation-funding-and-success-fees/> > accessed 17 April 2021.
- Bertrand, Edouard, 'The Brave New World of Arbitration: Third-Party Funding' (2011) 29 *ASA Bulletin*, 607-615.
- Bishop, Raymond Doak; Margrete Stevens, 'The Compelling Need for a Code of Ethics in International Arbitration: Transparency, Integrity and Legitimacy' in Albert Jan Van den Berg (ed), *Arbitration Advocacy in Changing Times, ICCA Congress Series, Volume 15* (ICCA & Kluwer Law International 2011), 391-407.
- Bishop, Raymond Doak; Margrete Stevens, 'International Code of Ethics for Lawyers Practicing Before International Arbitral Tribunals' in Albert Jan Van den Berg (ed), *Arbitration Advocacy in Changing Times, ICCA Congress Series, Volume 15* (ICCA & Kluwer Law International 2011), 408-420.
- Bishop, Raymond Doak, 'Advocacy and Ethics in International Arbitration: Ethics in International Arbitration' in Albert Jan Van den Berg (ed), *Arbitration Advocacy in Changing Times (ICCA Congress Series, Vol. 15)* (Kluwer Law International 2011), 383-390.

- Bishop, Raymond Doak; Margrete Stevens, 'Document Exchanges and the Collision of Ethical Duties of Counsel from Different Legal Systems' in Bernard Hanotiau and Alexis Mourre (eds), *Players Interaction in International Arbitration* (Kluwer Law International 2012), 24-32.
- Blackaby, Nigel; et al., *Redfern and Hunter on International Arbitration* (6th edn, Oxford University Press 2015).
- Bockstiegel, Karl-Heinz, 'The Role of Party Autonomy in International Arbitration' (1997) 54 *Dispute Resolution Journal*, 24-30.
- Bogart, Christopher P., 'Overview of Arbitration Finance' in Bernardo Cremades Sanz Pastor and Antonias Dimolitsa (eds), *Third-Party Funding in International Arbitration (ICC Dossier)* (Kluwer Law International; International Chamber of Commerce 2013), 50-56.
- Bohórquez, Oscar Suárez; Lena Stoll, 'Third Party Litigations Funds And The Lawyer's Ethics' (*leidenlawblog*, 28 September 2018) <<https://leidenlawblog.nl/articles/third-party-litigations-funds-and-the-lawyers-ethics>>.
- Born, Gary B., *International Commercial Arbitration* (3rd edn, Kluwer Law International 2021).
- Born, Gary B., 'Critical Evaluation of Ethical Rules in International Arbitration' (*The Inaugural conference of the Queen Mary Institute for Regulation and Ethics on the Future of Ethics in International Arbitration*, 11 September 2014) <[https://youtu.be/AwKcQRZ\\_oiw?list=PL5357F93E64E24A80](https://youtu.be/AwKcQRZ_oiw?list=PL5357F93E64E24A80)> accessed 12 May 2021.
- Born, Gary B., *International Arbitration: Law and Practice* (2nd edn, Kluwer Law International 2015) .
- Boutros, Theodore J., 'The Lessons from the Chevron Litigation: The Defense Perspective' (2013) 1 *Stanford Journal of Complex Litigation*, 219-240.
- Brand, Oliver, 'Conceptual Comparisons: Towards a Coherent Methodology of Comparative Legal Studies' (2007) 32 *Brooklyn Journal of International Law*, 405-466.
- Bradford, Steven, 'Conflict of Laws and the Attorney-Client Privilege: A Territorial Solution' (1991) 52 *University of Pittsburgh Law Review*, 909-953.
- Brown, Alexis C., 'Presumption Meets Reality: An Exploration of the Confidentiality Obligation in International Commercial Arbitration' (2001) 16 *American University International Law Review* 969, 969-1025.
- Brekoulakis, Stavros; Catherine Rogers, 'Third-Party Financing in ISDS: A Framework for Understanding Practice and Policy (31 July 2019)' *Academic Forum on ISDS Concept Paper 2019/11* <[www.jus.uio.no/pluricourts/english/projects/leginvest/academic-forum/](http://www.jus.uio.no/pluricourts/english/projects/leginvest/academic-forum/)> accessed 4 January 2020.
- Breton, Mireille Bouzols ; et al., 'Guide Pratique Sur Le Financement de l'arbitrage Par Les Tiers (Third Party Funding) (ICC-France 2014)'.
- Brower, Charles N.; Stephan W Schill, 'Regulating Counsel Conduct Before International Arbitral Tribunals' in Pieter HF Bekker, Rudolf Dolzer and Michael Waibel (eds), *Making Transnational Law Work in the Global Economy: Essays in Honour of Detlev Vagts* (University of Cambridge 2010), 488-509.
- Brower, Charles N., 'Keynote Address: The Ethics of Arbitration: Perspectives from a Practicing International Arbitrator' (2010) 5 *Berkeley Journal of International Law Publicist*, 1 -31.
- Brunet, Edward J., 'The Core Values of Arbitration' in Edward Brunet and others (eds), *Arbitration Law in America : A Critical Assessment* (Cambridge University Press 2006).

## Bibliography

- Buckland, Isaac J., 'A Comparative Approach to Consistent Ethical Standards in International Commercial Arbitration' (2019) 85 *Arbitration: The Journal of International Arbitration, Mediation, and Dispute Management*, 230-250.
- Burford Capital, 'Burford Capital 2020 Annual Report' 4-5 <<https://www.burfordcapital.com/media/2080/fy-2020-report.pdf>> accessed 15 March 2021.
- Burford Capital, '2020 Legal Finance Report: A Survey of In-House and Law Firm Lawyers' (2020) 12 <[https://issuu.com/burfordcapital/docs/burford\\_2020\\_legal\\_finance\\_report/2?ff](https://issuu.com/burfordcapital/docs/burford_2020_legal_finance_report/2?ff)> accessed 15 November 2020.
- Button-stephens, Benjamin, 'Paris Bar Approves Third-Party Funding' (*Global Arbitration Review*, 4 May 2017) <[http://www.teynier.fr/wp-content/uploads/2013/10/20170505\\_Article-GAR-Pierre-Paris-Bar-approves-third.pdf](http://www.teynier.fr/wp-content/uploads/2013/10/20170505_Article-GAR-Pierre-Paris-Bar-approves-third.pdf)> accessed 22 December 2017.

## C

- Cai, Wei, '国际商事法庭：制度比较、规则冲突与构建路径 (International Commercial Courts: Institutional Comparison, Conflicting Rules and Approach Formulation)' (2018) 5 *环球法律评论 (Global Law Review)*, 175-192.
- Caher, Charlie; Jonathan Lim, 'Regulation of Counsel and Professional Conduct in International Arbitration' in Steven Finizio and Charlie Caher (eds), *The International Comparative Legal Guide to: International Arbitration 2019* (16th edn, Global Legal Group 2019), 1-8.
- Callanan, Audra K., 'Government of Uruguay Taps Foley Hoag for Representation in International Arbitration Brought by Philip Morris to Overturn Country's Tobacco Regulations' (Press Release by Uruguay's Counsel, Foley Hoag LLP, 8 October 2010) available at <<https://foleyhoag.com/news-and-events/news/2010/october/uruguay-taps-foley-hoag-for-representation>> accessed 26 May 2021.
- Carlevaris, Andrea; Rocio Digon, 'Arbitrator Challenges under the ICC Rules and Practice' [2016] *ICC Dispute Resolution Bulletin*.
- Carmody, Matthew, 'Overturning the Presumption of Confidentiality: Should the UNCITRAL Rules on Transparency Be Applied to International Commercial Arbitration' (2016) 19 *International Trade and Business Law Review*, 96-179.
- Carter, James H., 'Rights & Obligations of the Arbitrator' (1997) 52 *Dispute Resolution Journal*, 56-66.
- Carter, James H., 'Privilege Gets a New Framework' (2010) 13 *International Arbitration Law Review* 177-179.
- Carter, Orrin N., *Ethics of the Legal Profession* (Northwestern University Press 1915).
- Chan, Elizabeth, 'Proposed Guidelines for the Disclosure of Third-Party Funding Arrangements in International Arbitration' (2015) 26 *American Review of International Arbitration*, 281-322.
- Chevron and Burford, 'Chevron and Burford Joint Statement Regarding the Lago Agrio Litigation' (17 April 2013) <<https://www.chevron.com/stories/chevron-and-burford-joint-statement-regarding-the-lago-agrio-litigation>> accessed 12 February 2021.
- Chitty, Joseph; Anthony Gordon Guest, *Chitty on Contracts* (28th edn, Sweet & Maxwell 1999, Vol 1).
- Chynoweth, Paul, 'Legal Research' in Andrew Knight and Les Ruddock (eds), *Advanced Research Methods in the Built Environment* (Wiley-Blackwell Publication 2008), 28-39.



- Clanchy, James, 'Third Party Funding in Arbitration: Breaking down Barriers and Building Bridges' (2016) 23 *Croatian Arbitration Yearbook*, 53-69.
- Clanchy, James, 'Navigating the Waters of Third Party Funding in Arbitration' (2016) 82 *Arbitration: The International Journal of Arbitration, Mediation and Dispute Management*, 222-232.
- Clanchy, James., "'Rigorous Steps Short of Champerty": The Excalibur Standard for Control by Funders' (*LexisNexis*, 9 January 2017) <<https://www.lexisnexis.co.uk/blog/dispute-resolution/rigorous-steps-short-of-champerty-the-excalibur-standard-for-control-by-funders>> accessed 20 April 2021.
- Cleis, Maria Nicole, *The Independence and Impartiality of ICSID Arbitrators* (Brill 2017) .
- Craig, W. Laurence, William W Park and Jan Paulsson, *International Chamber of Commerce Arbitration* (3rd edn, Oxford University Press 2000).
- Cranston, Ross, *Legal Ethics and Professional Responsibility* (Oxford University Press 1995).
- Cremades, Anne-Carole, 'The Creation of a Global Arbitration Ethics Council: a Truly Global Solution to a Global Problem' (Kluwer Arbitration Blog, 24 November 2015) <<http://arbitrationblog.kluwerarbitration.com/2015/11/24/the-creation-of-a-global-arbitration-ethics-council-a-truly-global-solution-to-a-global-problem/>> accessed 12 May 2021.
- Cremades Sanz-Pastor, Bernardo, 'Concluding Remarks' in Bernardo Cremades Sanz-Pastor and Antonias Dimolitsa (eds), *Third-Party Funding in International Arbitration (ICC Dossier)* (Kluwer Law International 2009), 153-156.
- Cremades, Bernardo M., 'Third Party Litigation Funding: Investing in Arbitration' (2011) 8 *Transnational Dispute Management*, 1-40.
- Cremades, Bernardo M.; Rodrigo Cortés, 'The Principle of Confidentiality in Arbitration: A Necessary Crisis' (2013) 23 *Journal of Arbitration Studies*, 25-38.
- Crivellaro, Antonio, 'Third-Party Funding and "Mass" Claims in Investment Arbitrations' in Bernardo Cremades Sanz Pastor and Antonias Dimolitsa (eds), *Third-Party Funding in International Arbitration (ICC Dossier)* (Kluwer Law International; International Chamber of Commerce (ICC) 2013), 137-152.
- Crivellaro, Antonio; Lorenzo M Elchionda, 'Disclosure and Conflicts of Interest in Relation to Third-Party Funding' (2018) 5 *BCDR International Arbitration Review*, 281-306.
- Commission, Jeffery, 'The Rise of Portfolio Financing in International Arbitration' (2018) 5 *BCDR International Arbitration Review*, 261-280.
- Commission; Jeffery; Rahim Moloo, *Procedural Issues in International Investment Arbitration* (Oxford University Press 2018).
- Committee on Legal Affairs of the European Parliament, 'Draft Report with Recommendations to the Commission on Responsible Private Funding of Litigation' ((2020/2130(INL)), 17 June 2021).
- Committee on Legal Affairs of the European Parliament, 'Report with Recommendations to the Commission on Responsible Private Funding of Litigation' ((2020/2130(INL)), 25 July 2022).

## D

## Bibliography

- Daele, Karel, *Challenge and Disqualification of Arbitrators in International Arbitration* (Kluwer Law International 2012).
- Daly, Mary, 'The Dichotomy between Standards and Rules: A New Way of Understanding the Differences in Perceptions of Lawyer Codes of Conduct by U.S. and Foreign Lawyers' (1999) 32 *Vanderbilt Journal of Transnational Law*, 1117-1163.
- Darwazeh, Nadia; Adrien Leleu, 'Disclosure and Security for Costs or How to Address Imbalances Created by Third-Party Funding' (2016) 33 *Journal of International Arbitration* 125, 130-131.
- Dasser, Felix; Elliott Geisinger; Michael E Schneider, 'IBA Guidelines on Party Representation in International Arbitration: Comments and Recommendations by the Board of the Swiss Arbitration Association' (4 April 2014) <<https://www.swissarbitration.org/wp-content/uploads/2021/05/asa-board-position-on-iba-guidelines-on-party-representation.pdf>> accessed 3 November 2021.
- Dasser, Felix J., *"Soft Law" in International Commercial Arbitration* (Brill 2019).
- Degelingm Simone; Michael Legg, 'Fiduciaries and Funders: Litigation Funders in Australian Class Actions', (2017) 36 *Civil Justice Quarterly*, 244-264.
- De Ly, Filip, Luca G. Radicati di Brozolo; Mark Friedman, 'ILA Report on the Inherent Powers of Arbitrators in International Commercial Arbitration' (2014).
- De Morpurgo, Marco, 'A Comparative Legal and Economic Approach to Third-Party Litigation Funding' (2011) 19 *Cardozo Journal of International and Comparative Law* 343, 351-256.
- DeMott, Deborah A., 'The Lawyer As Agent' (1998) 67 *Fordham Law Review*, 301-326.
- De Patoul, Olivia, 'In Review: Third Party Litigation Funding in Singapore' (*Lexology*, 22 November 2021) <<https://www.lexology.com/library/detail.aspx?g=dif23fa5-28ba-445c-b72d-8ed2dd179166>> accessed 2 December 2021.
- DeStefano, Michele, 'Claim Funders and Commercial Claim Holders: A Common Interest or a Common Problem?' (2014) 63 *DePaul Law Review*, 305-376.
- DeStefano, Michele, 'Nonlawyers Influencing Lawyers: Too Many Cooks in the Kitchen or Stone Soup?' (2012) 80 *Fordham Law Review*, 2791-2845.
- Dholandas, Shashi K., 'Preservation of Privilege' in Nikolaus Pitkowicz (ed), *Handbook on Third-Party Funding in International Arbitration* (JurisNet, LLC 2018), 71-80.
- Duca, Louis F. Del, 'Developing Global Transnational Harmonization Procedures for the Twenty-First Century: The Accelerating Pace of Common and Civil Law Convergence' (2006) 42 *Texas International Law Journal*, 625-660.
- Dugan, C. F., 'Foreign Privileges in U.S. Litigation' (1996) 5 *Journal of International Law and Practice*, 33-50
- Duggal, Kabir; Khushboo Shahdadpuri, 'General Duties of Counsel' in Nikolaus Pitkowicz (ed), *Handbook on Third-Party Funding in International Arbitration* (JurisNet, LLC 2018), 23-42.

## E

- Egonu, Mabel I., 'Investor-State Arbitration Under ICSID A Case for Presumption Against Confidentiality?' (2007) 24 *Journal of International Arbitration*, 479-489.
- European Parliamentary Research Service, 'Responsible Private Funding of Litigation- European Added Value Assessment (PE 662.612)' (2021).
- Eyskens, Werner; Gerard Meijer, 'CEPANI Rules 2020 and NAI Rules 2022 – What You See Is What You Get' in Gerard Meijer (eds), *The CEPANI & NAI Approach Towards Topical Trends in Arbitration* (Wolters Kluwer 2022), 59-65.
- F**
- Faure, Michael; Jef De Mot, 'Comparing Third-Party Financing of Litigation and Legal Expenses Insurance' (2012) 8 *The Journal of Law, Economics and Policy*, 743-777.
- Feliciano, Florentino P., 'The Ordre Public Dimensions of Confidentiality and Transparency in International Arbitration: Examining Confidentiality in the Light of Governance Requirements in International Investment and Trade Arbitration' (2012) 87 *Transparency in International Trade and Investment Dispute Settlement*, 1-20.
- Fesler, Michael, 'The Extent of Confidentiality in International Commercial Arbitration' (2012) 78 *Arbitration*, 48-58.
- Fletcher, Barry, 'Populating the Ethical No Man's Land—a Conference Report' (*Conference on "The Arguments For and Against Further Regulation of Arbitration Counsel" hosted by Queen Mary Institute for Regulation and Ethics, LexisNexis, 18 September 2014*) <<https://www.lexisnexis.co.uk/blog/dispute-resolution/populating-the-ethical-no-mans-land-a-conference-report> > accessed 7 May 2021.
- Friedland, Paul, 'Soft Law and Power' in Stavros Brekoulakis, Julian DM Lew and Loukas Mistelis (eds), *The Evolution and Future of International Arbitration* (Wolters Kluwer 2016), 341-344.
- Friendly, Henry J., 'Some Kind of Hearing' (1975) 123 *University of Pennsylvania Law Review*, 1267-1317.
- Friel, Steven, Jonathan Barnes and Alex Hickson, 'England & Wales' in Steven Friel and Jonathan Barnes (eds), *Litigation Funding 2020* (4th edn, Law Business Research Ltd 2019), 27-33.
- Frignati, Valentina, 'Ethical Implications of Third-Party Funding in International Arbitration' (2016) 32 *Arbitration International*, 505-522.
- Frischknecht, Andreas; Vera Schmidt, 'Privilege and Confidentiality in Third Party Funder Due Diligence: The Positions in the United States and Switzerland and the Resulting Expectations Gap in International Arbitration' (2011) 8 *Transnational Dispute Management*, 1-35.
- Fry, Jason; Simon Greenberg 'The Arbitral Tribunal: Applications of Articles 7-12 of the ICC Rules in Recent Cases', (2009) 20/2 *ICC Arbitration Bulletin*, 12-29.
- Forbes, William O'Malley, 'Rules of Ethics for Arbitrators and Their Application' (1992) 5 *Journal of International Arbitration*, 5-26.
- Fouchard, Clement, 'Tecnimont Saga: Episode v. – The Paris Court Strikes Back' (*Kluwer Arbitration Blog*, 3 August 2016) <<http://arbitrationblog.kluwerarbitration.com/2016/08/03/tecnimont-saga-episode-v-the-paris-court-strikes-back/>> accessed 2 June 2021.

## Bibliography

### G

- Gabriel, Henry Deeb, 'The Advantages of Soft Law in International Commercial Law: The Role of UNIDROIT, UNCITRAL, and the Hague Conference' (2009) 34 *Brooklyn Journal of International Law*, 655-672.
- Garcia, Frank J., 'Third-Party Funding as Exploitation of the Investment Treaty System', (2018) 59 *Boston College Law Review*, 2911-2934.
- Garnett, Richard, 'International Arbitration Law: Progress towards Harmonisation' (2002) 3 *Melbourne Journal of International Law*, 400-413.
- Gayner, Oliver; Susanna Khouri, 'Singapore and Hong Kong: International Arbitration Meets Third Party Funding' (2017) 40 *Fordham International Law Journal*, 1033-1046.
- Geisinger, Elliott, "'Soft Law" and Hard Questions: ASA's Initiative in the Debate on Counsel Ethics in International Arbitration' in Daniele Favalli (ed), *Sense and Non-sense of Guidelines, Rules and Other Para-regulatory Texts in International Arbitration: ASA Special Series No. 37* (Juris Net LLC 2015), 17-32.
- Ginsburg, Tom, 'The Culture of Arbitration' (2003) 36 *Vanderbilt Journal of Transnational Law*, 1335
- Goldsmith, Aren; Lorenzo Melchionda, 'Third Party Funding in International Arbitration: Everything You Ever Wanted to Know (but Were Afraid to Ask)' (2012) 1 *International Business Law Journal*, 53-76.
- Goldsmith, Aren; Lorenzo Melchionda, 'Third Party Funding in International Arbitration: Everything You Ever Wanted to Know (but Were Afraid to Ask) - Part Two' (2012) 1 *International Business Law Journal*, 221-243.
- Goldsmith, Aren; Lorenzo Melchionda, 'The ICC's Guidance Note on Disclosure and Third-Party Funding: A Step in the Right Direction' (*Kluwer Arbitration Blog*, 14 March 2016) <<http://arbitrationblog.kluwerarbitration.com/2016/03/14/the-iccs-guidance-note-on-disclosure-and-third-party-funding-a-step-in-the-right-direction/>> accessed 20 March 2021.
- Goldsmith, Aren, 'Third-Party Funding in International Dispute Resolution' (2012) 25 *International Law Practicum (NYSBA)*, 147-157.
- Gómez, Katia Fach, *Key Duties of International Investment Arbitrators: A Transnational Study of Legal and Ethical Dilemmas* (Springer 2019).
- Goral, Radek, 'Justice Dealers: The Ecosystem of American Litigation Finance' (2015) 21 *Stanford Journal of Law, Business, and Finance*, 98-138.
- Goyal, Parita; Eeshan Pandey, 'Transnational Challenges and Desired Ethical Standards in International Arbitration' (2021) 2 *Queen Mary Law Journal*, 121-151.
- Greenblatt, Jonathan L.; Peter Griffin, 'Towards the Harmonization of International Arbitration Rules: Comparative Analysis of the Rules of the ICC, AAA, LCIA and CIETAC' (2001) 17 *Arbitration International*, 101-110.
- Guyen, Brooke; Lise Johnson, 'The Policy Implications of Third-Party Funding in Investor-State Dispute Settlement' (*CCSI Working Paper*, 2019) <[https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=1007&context=sustainable\\_investment\\_staffpubs](https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=1007&context=sustainable_investment_staffpubs)> accessed 31 October 2019.

- Guven, Brooke; et al., 'From Transparency to Prohibition: UNCITRAL WGIII Considers Options to Regulate Third-Party Funding' (*Investment Treaty News*, 14 September 2021) <[https://www.iisd.org/itn/en/2021/09/14/from-transparency-to-prohibition-uncitral-wgiii-considers-options-to-regulate-third-party-funding/#\\_ftnref5](https://www.iisd.org/itn/en/2021/09/14/from-transparency-to-prohibition-uncitral-wgiii-considers-options-to-regulate-third-party-funding/#_ftnref5)> accessed 28 October 2021.
- Gu, Weixia, 'Confidentiality Revisited: Blessing or Curse in International Commercial Arbitration?' (2005) 15 *The American Review of International Arbitration*, 1-29.

## H

- Hage, Jaap, 'Comparative Law as Method and the Method of Comparative Law (23 May 2014)' Maastricht European Private Law Institute Working Paper No. 2014/11 <<http://ssrn.com/abstract=2441090>> accessed 28 April 2021.
- Halprin, Peter; Stephen Wah, 'Ethics in International Arbitration' (2018) 2018 *Journal of Dispute Resolution*, 1-22.
- Hanefeld, Inka; Jörn Hombeck, 'International Arbitration between Standardization and Flexibility – Predictability and Flexibility Seen from A Client's Perspective' (2015) 13 *SchiedsVZ (German Arbitration Journal)*, 20-25.
- Heitzmann, P., 'Confidentiality and Privileges in Cross-Border Legal Practice The Need for a Global Standard?' (2008) 26 *ABA Bulletin*, 205-240.
- Hendrix, Glenn P.; Gonzalo S Zeballos, 'United States - General' in Nikolaus Pitkowitz (ed), *Handbook on Third-Party Funding in International Arbitration* (JurisNet, LLC 2018), 449-476.
- Henriques, Duarte G., 'Third-Party Funding - In Search of A Definition' (2017) 28 *The American Review of International Arbitration* 405, 329-430.
- Henriques, Duarte, 'Arbitrating Disputes "in" Third-Party Funding' (2019) 85 *Arbitration: The International Journal of Arbitration, Mediation and Dispute Management*, 169-184.
- Henriques, Duarte Gorjão, 'The Essar v. Norscot Case: A Final Argument for the "Full-Disclosure-Wingers" of TPF in International Arbitration' (*Kluwer Arbitration Blog*, 15 October 2016) <<http://arbitrationblog.kluwerarbitration.com.eur.idm.oclc.org/2016/10/15/the-essar-v-norscot-case-a-final-argument-for-the-full-disclosure-wingers-of-tpf-in-international-arbitration/>> accessed 14 February 2021.
- Herschkopf, Jayme, 'Federal Judicial Center Pocket Guide Series: Third-Party Litigation Finance' (*Federal Judicial Center Pocket Guide Series*, 2017) 10-13 <[https://www.fjc.gov/sites/default/files/materials/34/Third-Party\\_Litigation\\_Finance.pdf](https://www.fjc.gov/sites/default/files/materials/34/Third-Party_Litigation_Finance.pdf)> accessed 17 March 2021.
- Hodges, Christopher; John Peysner; Angus Nurse, 'Litigation Funding: Status and Issues (January 30, 2012)' (*Oxford Legal Studies Research Paper No. 55/2012*) 69 <<http://ssrn.com/abstract=2126506>> accessed 7 May 2019.
- Honlet, Jean-Christophe, 'Recent Decisions on Third-Party Funding in Investment Arbitration' (2015) 30 *ICSID Review*, 699-712.
- Horodyski, Dominik, 'Third Party Funding in International Arbitration – Legal Problems and Global Trends with a Focus on Disclosure Requirement' (2017) 4 *Zeszyty Naukowe Towarzystwa Doktorantów UJ*, 63-80.

## Bibliography

- Horvath, Günther J., 'Guerrilla Tactics in Arbitration, an Ethical Battle: Is There Need for a Universal Code of Ethics?' in Nikolaus Pitkowitz and Alexandre Petsche (eds), *Austrian Yearbook on International Arbitration 2011* (Manz'sche Verlags- und Universitätsbuchhandlung 2011, 297-313.
- Howie, Rachel; Geoff Moysa, 'Financing Disputes: Third-Party Funding in Litigation and Arbitration' (2019) 57 *Alberta Law Review*, 465-502.
- Husa, Jaakko, 'Comparative Law, Legal Linguistic and Methodology of Legal Doctrine', in Mark Van Hoecke (eds), *Methodologies of Legal Research: Which Kind of Method for What Kind of Discipline?* (Hart Publishing, 2011), 209-228.
- Hutchinsonm Terry; Nigel Duncan, 'Defining and Describing What We Do: Doctrinal Legal Research' (2012) 17 *Deakin Law Review*, 83-119.
- Huang, Bert, 'Litigation Finance: What Do Judges Need to Know?' (2021) 45 *Columbia Journal of Law and Social Problems*, 525-537.
- Hwang, Michael SC; Yin Wai Chan, 'Leading the Way: Third-Party Funding in International Arbitration in Singapore' (2018) 5 *BCDR International Arbitration Review*, 353-368.
- Hwang, Michael; Lynnette Lee, 'Standard of Proof for Challenge Against Arbitrators: Giving Them the Benefit of the Doubt' in Patricia Louise Shaughnessy and Sherlin Tung (eds), *The Powers and Duties of an Arbitrator: Liber Amicorum Pierre A. Karrer* (Kluwer Law International 2017), 169-186.
- Hwang, Michael; Jennifer Hon, 'A New Approach to Regulating Counsel Conduct in International Arbitration' in Stavros Brekoulakis, Julian DM Lew and Loukas Mistelis (eds), *The Evolution and Future of International Arbitration* (Kluwer Law International 2016), 345-356.
- Hylton, Keith N., 'The Economics of Third-Party Financed Litigation' (2012) 8 *Journal of Law, Economics & Policy*, 701-741.

## I

- IBA Presidential Task Force, 'IBA Report on the Independence of the Legal Profession: Threats to the Bastion of a Free and Democratic Society' (2016).
- IBA Subcommittee on Recognition and Enforcement of Arbitral Awards, 'IBA Report on the Public Policy Exception in the New York Convention October' (October 2015).
- IBA Arbitration Guidelines and Rules Subcommittee, 'Report on the Reception of the IBA Arbitration Soft Law Products' (2016).
- ICSID, 'ICSID and UNCITRAL Release Version Three of the Draft Code of Conduct for Adjudicators in International Investment Disputes' (News & Events, 22 September 2021) <<https://icsid.worldbank.org/news-and-events/communiques/icsid-and-uncitral-release-version-three-draft-code-conduct>> accessed 1 November 2021.
- International Bar Association, 'IBA Publishes New Code of Conduct for the Global Legal Profession' (2011) <<https://www.ibanet.org/Article/NewDetail.aspx?ArticleUid=BC99FD2C-D253-4BFE-A3B9-C13F196D9E60>> accessed 14 May 2020.
- International Chamber of Commerce, 'ICC Issues Updated Note Providing Guidance to Parties' (19 December 2018) <<https://iccwbo.org/media-wall/news-speeches/icc-issues-updated-note-providing-guidance-parties/>> accessed 10 June 2020.

- International Chamber of Commerce, 'ICC Court Announces New Policies to Foster Transparency and Ensure Greater Efficiency' (5 January 2016) <<https://iccwbo.org/media-wall/news-speeches/icc-court-announces-new-policies-to-foster-transparency-and-ensure-greater-efficiency/>> accessed 10 June 2020.
- International Chamber of Commerce, 'ICC Court Adopts Guidance Note on Conflict Disclosure by Arbitrators' (23 February 2016) <<https://iccwbo.org/media-wall/news-speeches/icc-court-adopts-guidance-note-on-conflict-disclosures-by-arbitrators>> accessed 20 March 2021.
- International Council for Commercial Arbitration, 'Report of the ICCA-Queen Mary Task Force on Third-Party Funding in International Arbitration' (2018).
- International Legal Finance Association, 'The global Voice of Commercial legal Finance' <<https://www.ilfa.com/>> accessed 13 July 2021.

## J

- Jackson, Rupert, 'Review of Civil Litigation Costs: Final Report' (2009).
- Jaime, Margie, 'Counsel Conduct in International Arbitration: An Ethical "No-Man's Land"?' (2019) 85 *Arbitration: The Journal of International Arbitration, Mediation, and Dispute Management*, 211-229.
- Japaridze, Nana, 'Fair Enough? Reconciling the Pursuit of Fairness and Justice with Preserving the Nature of International Commercial Arbitration' (2007) 36 *Hofstra Law Review*, 1415-1446
- Jus Mundi, <<https://jusmundi.com/en/>> accessed 19 February 2021.

## K

- Kalajdzic, Jasminka, Peter Cashman and Alana Longmoore, 'Just for Profit: A Comparative Analysis of Australian, Canadian and U.S. Third Party Litigation Funding' (2013) 61 *The American Journal of Comparative Law* 93, 93-146.
- Kalderimis, Daniel, 'Third party funding in international arbitration – lessons from litigation?' (*Kluwer Arbitration Blog*, 15 December 2014) <<http://arbitrationblog.kluwerarbitration.com/2014/12/15/third-party-funding-in-international-arbitration-lessons-from-litigation/>> accessed 4 April 2018.
- Kalicki, Jean, 'Third-Party Funding in Arbitration: Innovations and Limits in Self-Regulation (Part 2 of 2)' (*Kluwer Arbitration Blog*, 14 March 2012) <<http://arbitrationblog.kluwerarbitration.com/2012/03/14/third-party-funding-in-arbitration-innovations-and-limits-in-self-regulation-part-2-of-2/>> accessed 4 February 2021.
- Kamnani, Pranav V., Aastha Kaushal, 'Regulation of Third Party Funding of Arbitration in India: The Road Not Taken' (2019) 8 *Indian Journal of Arbitration Law*, 151-165.
- Karton, Joshua, *The Culture of International Arbitration and The Evolution of Contract Law* (Oxford University Press 2013).
- Kaufmann-Kohler, Gabrielle, 'Soft Law in International Arbitration: Codification and Normativity' [2010] *Journal of International Dispute Settlement*, 1-17.

## Bibliography

- Kaufmann-Kohler, Gabrielle, 'The Arbitrator and the Law: Does He/She Know It? Apply It? How? And a Few More Questions' (2006) 21 *International Arbitration*, 631-638.
- Kaufmann-Kohler, Gabrielle; Philippe Bartsch, 'Discovery in International Arbitration: How Much Is Too Much?' (2004) 1 *Zeitschrift für Schiedsverfahren (German Arbitration Journal)*, 13-21.
- Kaufmann-Kohler, Gabrielle, 'Globalization of Arbitral Procedure' (2003) 36 *Vanderbilt Journal of Transnational Law*, 1313-1333.
- Kemp, Andrew, 'Pandemic to drive Asia's adoption of Third-Party Funding' (Conventus Leadership, 27 November 2020) <<https://www.conventusleadership.com/post/pandemic-to-drive-asia-s-adoption-of-third-party-funding>> accessed 22 April 2021.
- Kent, C. A., 'Legal Ethics' (1908) 6 *Michigan Law Review* 468, 468-479.
- Kenny, Caroline, 'A Comparison of Singapore and Hong Kong's Third-Party Funding Regimes to England and Australia' (2021) 87 *Arbitration: The International Journal of Arbitration, Mediation and Dispute Management*, 170-190.
- Khvalei, Vladimir, 'The Prague Rules – Dispelling Misconceptions' (*Global Arbitration Review*, 22 November 2018) <<https://globalarbitrationreview.com/the-prague-rules-dispelling-misconceptions>> accessed 17 December 2021.
- Kirby, Michael, 'Independence of the Legal Profession: Global and Regional Challenges' (Justice Kirby's address to the Law Council of Australia, Presidents of Law Associations in Asia Conference on 20 March 2005) <<https://www.icj.org/wp-content/uploads/2012/04/independence-legal-profession-occasional-paper-2005.pdf>> accessed 5 February 2021.
- Knoll-Tudor, Ioana, 'Arbitrating in CEE & CIS: Transparency, Accountability and Choice' (*Kluwer Arbitration Blog*, 16 May 2019) <<http://arbitrationblog.kluwerarbitration.com/2019/05/16/arbitrating-in-cee-cis-transparency-accountability-and-choice-of-arbitrators/>> accessed 31 March 2021.
- Kreindler, Richard; Aren Goldsmith, 'Should Parties Disclose the Existence of A Third-Party Funder? (Disclosure and Conflicts of Interest)' in Sherlin Tung, Fabricio Fortese and Crina Baltag (eds), *Finances in International Arbitration: Liber Amicorum Patricia Shaughnessy* (Wolters Kluwer 2019), 255-273.
- Krestin, Marc; Rebecca Mulder, 'Third-Party Funding In International Arbitration: To Regulate Or Not To Regulate?' (2017) <<http://arbitrationblog.kluwerarbitration.com/2017/12/12/>> accessed 23 July 2018.
- Kühn, Wolfgang; Hanneke Van Oeveren, 'The Full Recovery of Third-Party Funding Costs in Arbitration: To Be or Not to Be?' (2018) 35 *Journal of International Arbitration*, 307-328.

## L

- Lacey, Jessica, 'Third-Party Funding in International Arbitration: The Irish Perspective' (2018) 18 *University College Dublin Law Review*, 8-23.
- Lalive, Pierre, 'On the Neutrality of the Arbitrator and of the Place of Arbitration' in Claude Reymond and Eugene Bucher (eds), *Swiss Essays on International Arbitration* (Schulthess Polygraphischer Verlag 1984), 23-33.



- Lal, Paresh B., 'Dubious Ethics and Conduct in International Arbitration: Need for Clarity and Effective Enforcement', (2021) 24 *International Arbitration Law Review*, 292-308.
- Lamm, Carolyn B.; Eckhard R. Hellbeck, 'Third-Party Funding in Investor-State Arbitration Introduction and Overview' in Bernardo Cremades Sanz Pastor and Antonias Dimolitsa (eds), *Third-Party Funding in International Arbitration (ICC Dossier)* (Kluwer Law International 2013), 101-121.
- Landi, Niccolò, 'The Arbitrator and the Arbitration Procedure: Third Party Funding in International Commercial Arbitration – An Overview' in Christian Klausegger and Peter Klein (eds), *Austrian Yearbook on International Arbitration 2012* (Manz'sche Verlags- und Universitätsbuchhandlung), 101-121.
- Lee, Alexander; Arvindran Manoosegaran, 'Third-Party Funding: Is Funding of Commercial Litigation Permissible in Singapore?' (Law Gazette, June 2019) <<https://lawgazette.com.sg/feature/third-party-funding-is-funding-of-commercial-litigation-permissible-in-singapore/>> accessed 30 April 2021.
- Legg, Michael; et al., 'The Rise and Regulation of Litigation Funding in Australia' (2011) 38 *Northern Kentucky Law Review*, 625-672.
- Lévy, Laurent; Regis Bonnan, 'Third-Party Funding Disclosure, Joinder and Impact on Arbitral Proceedings' in Bernardo Cremades Sanz Pastor and Antonias Dimolitsa (eds), *Third Party Funding in International Arbitration (ICC Dossiers)* (Kluwer Law International 2013), 78-94.
- Lew, Julian D. M., 'Does National Court Involvement Undermine the International Arbitration Processes?' (2009) 24 *American University International Law Review*, 489-537.
- Lew, Julian D. M., Loukas A Mistelis and Stefan Michael Kröll, *Comparative International Commercial Arbitration* (Kluwer Law International 2003).
- Lim, Chin Leng; Jean Ho; Martins Paparinskis, *International Investment Law and Arbitration: Commentary, Awards and Other Materials* (Cambridge University Press 2018).
- Li, Robert, 'PAW2020: The Role of Arbitral Institutions' (CDR, 9 July 2020) <<https://iclg.com/cdr/arbitration-and-adr/13878-paw2020-the-role-of-arbitral-institutions>> accessed 9 May 2021.
- Lo, Chang-fa, 'On a Balanced Mechanism of Publishing Arbitral Awards' (2008) 1 *Contemporary Asia Arbitration Journal*, 235-253.
- Long, Paige, 'Reforms Abroad For Litigation Funders Raise Questions In UK' (*Law 360*, 6 July 2020) <<https://www.cov.com/-/media/files/corporate/publications/2020/07/reforms-abroad-for-litigation-funders-raise-questions-in-uk.pdf>> accessed 19 April 2021.

## M

- MacKinnon, James., 'On & Beyond Third Party Funding' (*CIETAC Hong Kong Insight*, 2017) <<http://www.idf.org/membership/wp/hong-kong>> accessed 25 September 2019.
- Maïo, Helene, 'ICC and Jus Mundi launch partnership to publish ICC arbitral awards' (ICC News, 1 April 2021) <<https://iccwbo.org/media-wall/news-speeches/icc-and-jus-mundi-launch-partnership-to-publish-icc-arbitral-awards/>> accessed 12 August 2021.
- Maniruzzaman, Munir, 'Third-Party Funding in International Arbitration – A Menace or Panacea?' (*Kluwer Arbitration Blog*, 29 December 2012)

## Bibliography

- <<http://arbitrationblog.kluwerarbitration.com.eur.idm.oclc.org/2012/12/29/third-party-funding-in-international-arbitration-a-menace-or-panacea/>> accessed 4 February 2021.
- Marghitola, Reto, *Document Production in International Arbitration* (Kluwer Law International 2015).
- Martyn, Susan R., Lawrence J Fox and W Bradley Wendel, *The Law Governing Lawyers: National Rules, Standards, Statutes, and State Lawyer Codes* (2011th–2012th edn, Wolters Kluwer 2011).
- Marquais, Olivier; Alain Grec, 'Do's and Dont's of Regulating Third-Party Litigation Funding: Singapore vs. France' (2020) 16 *Asian International Arbitration Journal*, 49-68.
- Marquais, Olivier; Alain Grec, 'Investment Management and Corporate Structuring Considerations for Third-Party Litigation Funders in Luxembourg' (2020) 38 *ASA Bulletin*, 396-413.
- Mascarenhas, Viren; Andrew Larkin, 'Disclosure and Confidentiality' in Nikolaus Pitkowitz (ed), *Handbook on Third-Party Funding in International Arbitration* (JurisNet, LLC 2018), 57-70.
- Maxima Litigation Funding and Risk Solutions, 'Regulation of Third Party Litigation Funding' (15 February 2017) <<https://www.maximallp.com/regulation-of-third-party-litigation-funding/>> accessed 30 June 2021.
- Menkel-Meadow, Carrie, 'Are Cross-Cultural Ethics Standards Possible or Desirable in International Arbitration?' [2008] *Mélanges en l'honneur de Pierre Tercier*, 883-904.
- Menkel-Meadow, Carrie, 'Ethics Issues in Arbitration and Related Dispute Resolution Processes: What's Happening and What's Not' (2002) 56 *University of Miami Law Review*, 949-1007.
- Menkel-Meadow, Carrie, 'Ethics in Alternative Dispute Resolution: New Issues, No Answers from the Adversary Conception of Lawyers' Responsibilities' (1997) 38 *South Texas Law Review*, 407-454.
- Messina, Vienna, 'Third-Party Funding: The Road to Compatibility in International Arbitration' (2019) 45 *Brooklyn Journal of International Law*, 433-461.
- Meyer-Hauser, Bernhard; Philipp Sieber, 'Attorney Secrecy v. Attorney-Client Privilege in International Commercial Arbitration' (2007) 73 *Arbitration: The International Journal of Arbitration, Mediation and Dispute Management*, 148-188.
- Molot, Jonathan T., 'A Market in Litigation Risk' (2009) 76 *University of Chicago Law Review*, 367-439.
- Molot, Jonathan T., 'Litigation Finance: A Market Solution to a Procedural Problem' (2010) 99 *The Georgetown Law Journal*, 65-115.
- Moses, Margaret L., *The Principles and Practice of International Commercial Arbitration* (Cambridge University Press 2008).
- Moses, Margaret L., 'Ethics in International Arbitration: Traps for the Unwary' (2012) 10 *Loyola University Chicago International Law Review*, 73-80.
- Mosk, Richard M.; Tom Ginsburg, 'Privileges in International Arbitration' (2001) 50 *The International and Comparative Law Quarterly*, 345-385.
- Mourre, Alexis, 'Conflicts Disclosures: The IBA Guidelines and Beyond' in Stavros Brekoulakis, Julian DM Lew and Loukas Mistelis (eds), *The Evolution and Future of International Arbitration* (Wolters Kluwer 2016), 457-364.
- Mourre, Alexis, 'Soft Law as a Condition for the Development of Trust in International Arbitration' (2016) 13 *Revista Brasileira de Arbitragem*, 82-98.

Mourre, Alexis, 'About Procedural Soft Law , the IBA Guidelines on Party Representation and the Future of Arbitration' in Patricia Louise Shaughnessy and Sherlin Tung (eds), *The Powers and Duties of an Arbitrator: Liber Amicorum Pierre A. Karrer* (Kluwer Law International 2017), 239-250.

Mourre, Alexis, 'Challenges: Do Institutional Rules matter? The situation after Tecnimont II' (Kluwer Arbitration Blog, 5 November 2010) <<http://arbitrationblog.kluwerarbitration.com/2010/11/05/challenges-do-institutional-rules-matter-the-situation-after-tecnimont-ii/>> accessed 2 June 2021.

Mulheron, Rachael, 'England's Unique Approach to the Self-Regulation of Third Party Funding: A Critical Analysis of Recent Developments' (2014) 73 *The Cambridge Law Journal*, 570-597.

Müller, Christoph, 'Importance and Impact of the First PRT, the IBA Evidence Rules', *Sense and Non-Sense of Guidelines, Rules and Other Para-Regulatory Texts in International Arbitration* (ASA Special Series No 37 2015), 63-85.

## N

Nicolson, Donald; Julian Webb, *Professional Legal Ethics: Critical Interrogations* (Oxford University Press 2000).

Nieuwveld, Lisa Bench; Victoria Shannon Sahani, *Third-Party Funding in International Arbitration* (2nd edn, Kluwer Law International 2017).

Ng, Iris, 'Rethinking Counsel Ethics in International Arbitration' (*Kluwer Arbitration Blog*, 12 December 2019) <<http://arbitrationblog.kluwerarbitration.com/2019/12/12/rethinking-counsel-ethics-in-international-arbitration/>> accessed 7 May 2021.

## O

O'Malley, Nathan, *Rules of Evidence in International Arbitration: An Annotated Guide* (2nd edn, Routledge 2019).

Omini Bridgeway AG, 'Sample Litigation Funding Agreement' (*Law Insider*) <<https://www.lawinsider.com/contracts/b2aYuhQC6Lp>> accessed 17 July 2021, clause 3.7. Therium Litigation Funding (n 31).

Omni Bridgeway, 'Portfolio Funding: A Creative Approach to Managing Risk' (15 September 2016) <<https://omnibridgeway.com/insights/blog/blog-posts/blog-details/global/2016/09/14/portfolio-funding-a-creative-approach-to-managing-risk>> accessed 21 March 2021.

Osmanoglu, Burcu, 'Third-Party Funding in International Commercial Arbitration and Arbitrator Conflict of Interest' (2015) 32 *Journal of International Arbitration*, 325-349.

## P

## Bibliography

- Palmer, George Herbert, *The Field of Ethics: Being the William Belden Noble Lectures for 1899* (Houghton Mifflin 1902).
- Paris, Marie-Luce, 'The Comparative Method in Legal Research: The Art of Justifying Choices (21 June 2016)' UCD Working Papers in Law, Criminology & Socio-Legal Studies Research Paper No. 09/16 <<https://ssrn.com/abstract=2798643>> accessed 29 April 2021.
- Park, William W., 'A Fair Fight: Professional Guidelines in International Arbitration' (2014) 30 *Arbitration International*, 409-428.
- Park, William W., 'Rectitude in International Arbitration' (2011) 27 *Arbitration International*, 473-526.
- Park, William W., 'Arbitrator Integrity: The Transient and the Permanent' (2009) 46 *San Diego Law Review*, 629-703.
- Park, William W., 'The Procedural Soft Law of International Arbitration: Non-Governmental Instruments' in Loukas A Mistelis and Julian David Mathew Lew (eds), *Pervasive Problems in International Arbitration* (Kluwer Law International 2006) 145.
- Park, William W., 'The Specificity of International Arbitration: The Case for FAA Reform' (2003) 36 *Vanderbilt Journal of Transnational Law*, 1241-1311.
- Park, William W., 'National Legal Systems and Private Dispute Resolution Reviewed' (1988) 82 *The American Journal of International Law*, 616-631.
- Park, William W., 'Neutrality, Predictability and Economic Co-Operation' (1995) 12 *Journal of International Arbitration*, 99-112. Perrin, Leslie (ed), *Third Party Litigation Funding Law Review* (3rd edn, Tom Barnes 2019).
- Paulsson, Jan, *The Idea of Arbitration* (Oxford University Press 2014).
- Paulsson, Jan, 'Ethics, Elitism, Eligibility' (1997) 14 *Journal of International Arbitration*, 13-21.
- Paulsson, Jan, 'Standards of Conduct for Counsel in International Arbitration' (1992) 3 *The American Review of International Arbitration*, 214-225.
- Peterson, Luke Eric, 'Republic of Georgia Agrees to Pay 1/3rd of ICSID Award; Litigation Funder Eyes Recovery After Bumpy Ride' (*Investment Arbitration Reporter*, 31 December 2011) <<https://www-iareporter-com.eur.idm.oclc.org/articles/republic-of-georgia-agrees-to-pay-13rd-of-icsid-award-litigation-funder-eyes-recovery-after-bumpy-ride/>> accessed 5 July 2021.
- Pitkowitz, Nikolaus (ed), *Handbook on Third-Party Funding in International Arbitration* (JurisNet, LLC 2018).
- Pinkston, Jarred, 'The Case for Arbitral Institutions to Play a Role in Mitigating Unethical Conduct by Party Counsel in International Arbitration' (2017) 32 *Connecticut Journal of International Law*, 177-216.
- Pinsolle, Philippe, 'Third Party Funding and Security for Costs' (2013) 2 *Les Cahiers de l'Arbitrage* (The Paris Journal of International Arbitration), 399-416.
- Poorooye, Avinash; Ronan Feehily, 'Confidentiality and Transparency in International Commercial Arbitration: Finding the Right Balance' (275AD) 22 *Harvard Negotiation Law Review*, 275-323.
- Pryles, Michael, 'Limits to Party Autonomy in Arbitral Procedure' (2007) 24 *Journal of International Arbitration*, 327-339.

## R

- Radin, Max, 'Maintenance by Champerty' (1935) 24 *California Law Review*, 48-78.
- Rajah, Indraneel SC, 'Singapore Parliamentary Debates, Second Reading of the Civil Law (Amendment) Bill (10 January 2017)' <<https://sprs.parl.gov.sg/search/sprs3topic?reportid=bill-279>> accessed 8 April 2019.
- Reith, Claudia, 'Enhancing Greater Transparency in the UNCITRAL Arbitration Rules - A Futile Attempt?' (2012) 2 *Yearbook on International Arbitration*, 297-306.
- Richmond, Douglas R., 'Other People's Money: The Ethics of Litigation Funding' (2005) 56 *Mercer Law Review*, 649-682.
- Rogers, Catherine A., 'Arbitrator Intelligence: From Intuition to Data in Arbitrator Appointments' (2018) 11 *NYSBA New York Dispute Resolution Lawyer*, 41-44.
- Rogers, Catherine A., 'The Market for Arbitrators and The Market for Lemons' (*Kluwer Arbitration Blog*, 10 June 2020) <<http://arbitrationblog.kluwerarbitration.com/2020/06/10/the-market-for-arbitrators-and-the-market-for-lemons/>> accessed 12 August 2021.
- Rogers, Catherine A., 'Is International Arbitration in a Race to the Top?' (*Kluwer Arbitration Blog*, 2018) <<http://arbitrationblog.kluwerarbitration.com/2018/03/15/is-international-arbitration-in-a-race-to-the-top/>> accessed 13 May 2020.
- Rogers, Catherine A., 'Guerrilla Tactics and Ethical Regulation' in Günther J Horvath and Stephan Wilske (eds), *Guerrilla Tactics in International Arbitration Bibliographic*, vol 28 (Kluwer Law International 2013), 313-340.
- Rogers, Catherine A., 'The Ethics of Advocacy in International Arbitration' (*State Legal Studies Research Paper No. 18-2010, Bocconi Legal Studies Research Paper No. 1559012*, 25 February 2010) 6 <<https://ssrn.com/abstract=1559012>> accessed 9 May 2021.
- Rogers, Catherine A., 'Cross-Border Bankruptcy as a Model for Regulation of International Attorneys' in Pieter HF Bekker, Rudolf Dolzer and Michael Waibel (eds), *Making Transnational Law Work in the Global Economy: Essays in Honour of Detlev Vagts* (2010), 530-654.
- Rogers, Catherine A., 'Transparency in International Commercial Arbitration' (2006) 54 *Kansas Law Review*, 1301-1337.
- Rogers, Catherine A., 'Regulating International Arbitrators: A Functional Approach to Developing Standards of Conduct' (2005) 41 *Stanford Journal of International Law*, 53-121.
- Rogers, Catherine A., *Ethics in International Arbitration* (Oxford University Press 2014).
- Rogers, Catherine A., 'Context and Institutional Structure in Attorney Regulation: Constructing an Enforcement Regime for International Arbitration' (2003) 39 *Stanford Journal of International Law*, 1-58.
- Rogers, Catherine A., 'Fit and Function in Legal Ethics: Developing a Code of Conduct for International Arbitration' (2002) 23 *Michigan Journal of International Law*, 341-423.
- Rowles-Davies, Nicholas, *Third Party Litigation Funding* (Jeremy Cousins ed, 1st edn, Oxford University Press 2014).
- Rubinstein, Javier; Britton Guerrina, 'The Attorney-Client Privilege and International Arbitration' (2001) 18 *Journal of International Arbitration*, 587-602.

## Bibliography

### S

- Sahani, Victoria Shannon, 'Revealing Not-for-Profit Third-Party Funders in Investment Arbitration' (*Investment Claims*, 2017) <<http://oxia.ouplaw.com/page/third-party-funders>> accessed 23 April 2018.
- Sahani, Victoria Shannon, 'Blurred Lines between Third-Party Funders and Law Firms' (*Kluwer Arbitration Blog*, 2016) <<http://arbitrationblog.kluwerarbitration.com.eur.idm.oclc.org/2016/11/03/blurred-lines-between-third-party-funders-and-law-firms>> accessed 2 February 2021.
- Sahani, Victoria Shannon, 'The Impact of Third-Party Funders on the Parties They Decline to Finance' (*Kluwer Arbitration Blog*, 2015) <<http://arbitrationblog.kluwerarbitration.com/2015/07/06/the-impact-of-third-party-funders-on-the-parties-they-decline-to-finance/>> accessed 9 January 2020.
- Sahani, Victoria Shannon, 'Judging Third-Party Funding' (2016) 63 *UCLA Law Review*, 388-448.
- Sahani, Victoria Shannon, 'Global Laboratories of Third-Party Funding Regulation' (2021) 115 *AJIL Unbound*, 34-39.
- Sandrock, Otto, 'To Continue Nationalizing or to De-Nationalize? That Is Now the Question in International Arbitration' (2001) 12 *American Review of International Arbitration*, 301-335.
- Scherer, Maxi, 'Third-Party Funding in International Arbitration Towards Mandatory Disclosure of Funding Agreements?' in Bernardo Cremades Sanz Pastor and Antonias Dimolitsa (eds), *Third-Party Funding in International Arbitration (ICC Dossier)* (Kluwer Law International 2013), 95-100.
- Scherer, Maxi, 'Out in the Open? Third-Party Funding in Arbitration' (*CDR News*, 2012) <<https://www.cdr-news.com/categories/third-party-funding/out-in-the-open-third-party-funding-in-arbitration>> accessed 26 February 2019.
- Scherer, Maxi; Aren Goldsmith, 'Third Party Funding in International Arbitration in Europe: Part 1 - Funders' Perspectives' (2012) 2 *International Business Law Journal*, 207-220.
- Scherer, Maxi; Aren Goldsmith, 'Third Party Funding of International Arbitration Proceedings - A View from Europe Part II : The Legal Debate' (2012) 6 *International Business Law Journal*, 649-666.
- Schimmel, Daniel; et al., 'Transparency in Arbitration' (*Practical Law*, 2018) 1 <<https://uk.practicallaw.thomsonreuters.com/w-013-1478>> accessed 1 March 2021. Sebok, Anthony J., 'Sources of Attorney's Duties to Third Parties in the Litigation Funding Context' in Nikolaus Pitkowitz (ed), *Handbook on Third-Party Funding in International Arbitration* (JurisNet, LLC 2018), 81-88.
- Schneider, Michael, 'Yet Another Opportunity to Waste Time and Money on Procedural Skirmishes: The IBA Guidelines on Party Representation' (2013) 31 *ASA Bulletin*, 497-501.
- Schwartz, Eric A., 'Challenging Awards for Arbitrator Bias: Two Recent U.S. Cases' (2013) 3 *Les Cahiers de l'Arbitrage (The Paris Journal of International Arbitration)*, 609-632.
- Sebok, Anthony J.; W. Bradley Wendel, 'Duty in the Litigation-Investment Agreement: The Choice Between Tort and Contract Norms When the Deal Breaks Down' (2013) 66 *Vanderbilt Law Review*, 1831-1887.
- Secomb, Matthew; Adam Wallin, 'Singapore' in Leslie Perrin (ed), *Third Party Litigation Funding Law Review* (3rd edn, Law Business Research 2019), 171-181.

- Seidel, Selvyn, 'Third-Party Investing in International Arbitration Claims: To Invest or Not to Invest? A Daunting Question' in Bernardo Cremades Sanz Pastor and Antonias Dimolitsa (eds), *Third-Party Funding in International Arbitration (ICC Dossier)* (Kluwer Law International 2013), 16-31.
- Seidel, Selvyn, "'Control" in Third-Party Funding: a Doctrine Out of Control', (CDR, 1 September 2011), <<http://fulbrookmanagement.com/control-in-third-party-funding-a-doctrine-out-of-control/>> accessed 9 January 2020.
- Shannon, Victoria A., 'Harmonizing Third-Party Litigation Funding Regulation' (2015) 36 *Cardozo Law Review*, 861-912.
- Shao, Xuan, 'Disrupt the Gambler's Nirvana: Security for Costs in Investment Arbitration Supported by Third-Party Funding' [2021] *Journal of International Dispute Settlement*, 1-21.
- Sharp, Geoff, 'A New Seat at the Mediation Table? The Impact of Third-Party Funding on the Mediation Process' (*Kluwer Mediation Blog*, 1 April 2017), <<http://mediationblog.kluwerarbitration.com/2017/04/01/7498/>> accessed 12 December 2021.
- Shaughnessy, Patricia, 'Dealing with Privileges in International Commercial Arbitration' [2007] *Scandinavian Studies in Law*, 452-469.
- Shehata, Ibrahim, 'Attorney-Client Privilege & International Arbitration' (2019) 20 *Cardozo Journal of Conflict Resolution*, 363-415.
- Silver, Charles, 'Litigation Funding versus Liability Insurance: What's the Difference?' (2014) 63 *DePaul Law Review*, 617-653.
- Sim, Christine, 'Using Costs Orders to Regulate Third Party Funding' (2018) 20 *Asian Dispute Review*, 12-19.
- Sim, Christine, 'Third Party Funding in Asia: Whose Duty to Disclose?' (*Kluwer Arbitration Blog*, 22 May 2018) <<http://arbitrationblog.kluwerarbitration.com/2018/05/22/>> accessed 9 March 2021.
- Sindler, Michelle; Tina Wüstemann, 'Privilege Across Borders in Arbitration : Multi-Jurisdictional Nightmare or a Storm in a Teacup?' (2005) 23 *ASA Bulletin*, 610-639.
- Singapore Institute of Arbitrators, 'List of Third Party Funders Who Support the SI Arb Third Party Funding Guidelines' <<https://www.siarb.org.sg/resources/third-party-funding>> accessed 2 December 2021.
- Singapore International Arbitration Centre, 'SIAC Signs Cooperation Agreement with Arbitrator Intelligence' (SIAC Notices, 1 June 2017) <<https://www.siac.org.sg/our-rules/69-siac-news/535-siac-signs-cooperation-agreement-with-arbitrator-intelligence>> accessed 12 August 2021.
- Singapore's Ministry of Law, 'Third-Party Funding to Be Permitted for More Categories of Legal Proceedings in Singapore' (21 June 2021) <<https://www.mlaw.gov.sg/news/press-releases/2021-06-21-third-party-funding-framework-permitted-for-more-categories-of-legal-proceedings-in-singapore>> accessed 1 July 2021.
- Slaoui, Fatima Zahra, 'The Rising Issue of "Repeat Arbitrators": A Call for Clarification' (2009) 25 *Arbitration International*, 103-120.
- Smith, Mick; Antonio Wesolowski, 'Mechanics of Third-Party Funding Agreements: A Funder's Perspective' (2018) 5 *BCDR International Arbitration Review* 225, 225-249.

## Bibliography

- Solas, Gian Marco, 'Third Party Litigation Funding: A Comparative Legal and Economic Analysis and the European Perspective' (Maastricht University 2017) <<https://doi.org/10.26481/dis.20171108gms>>.
- Spender, Peta, 'After Fostif: LingerinG Uncertainties and Controversies About Litigation Funding' (2008) 18 *Journal of Judicial Administration*, 101-115.
- Stackpool-Moore, Ruth, 'Hong Kong' in Nikolaus Pitkowitz (ed), *Handbook on Third-Party Funding in International Arbitration* (JurisNet, LLC 2018), 249-264.
- Steinitz, Maya, 'Incorporating Legal Claims' (2015) 90 *Notre Dame Law Review*, 1155-1210.
- Steinitz, Maya, 'Whose Claim Is This Anyway? Third-Party Litigation Funding' (2011) 95 *Minnesota Law Review*, 1268-1338.
- Steinitz, Maya, 'The Litigation Finance Contract' (2012) 54 *William & Mary Law Review*, 455-518.
- Stone, William, 'Third Party Funding in International Arbitration: A Case for Mandatory Disclosure?' (2015) 17 *Asian Dispute Review*, 62-70.
- Stoyanov, Marie; Olga Owczarek, 'Third-Party Funding in International Arbitration : Is It Time for Some Soft Rules?' (2015) 2 *BCDR International Arbitration Review*, 171-200.
- Strong, S.I., 'Research in International Commercial Arbitration Special Skills, Special Sources' (2009) 20 *American Review of International Arbitration*, 119-158.
- Sussman, Edna; Solomon Eber, 'All's Fair in Love and War – Or Is It? Reflections on Ethical Standards for Counsel in International Arbitration' (2011) 22 *The American Review of International Arbitration*, 611-623.
- Swiss Arbitration Association, 'ASA Working Group on Counsel Ethics Releases Latest Findings' (3 October 2016) <<https://www.arbitration-ch.org/en/asa/asa-news/details/993.asa-working-group-on-counsel-ethics-releases-latest-findings.html>> accessed 12 May 2021.
- Sweify, Mohamed, 'Third Party Funding in the United States: A Systematic Judicial Analysis', (2021) 32 *American Review of International Arbitration*, 173-244.

## T

- Tang, Helen; Weina Ye, 'China' in Nikolaus Pitkowitz (ed), *Handbook on Third-Party Funding in International Arbitration* (JurisNet, LLC 2018).
- The ABA Commission on Ethics 20/20, 'White Paper on Alternative Litigation Finance' (2012). <[https://www.americanbar.org/content/dam/aba/administrative/ethics\\_2020/20111212\\_ethics\\_20\\_20\\_alf\\_white\\_paper\\_final\\_hod\\_informational\\_report.pdf](https://www.americanbar.org/content/dam/aba/administrative/ethics_2020/20111212_ethics_20_20_alf_white_paper_final_hod_informational_report.pdf)> accessed 26 March 2019.
- The ICC Commission on Arbitration and ADR, 'ICC Commission Report on Decisions on Costs in International Arbitration' (2015).
- The ICC Commission on Arbitration and ADR, 'ICC Commission Report on Managing E-Document Production' (2012).
- The GAR Arbitrator Research Tool, <<https://globalarbitrationreview.com/tools/arbitrator-research-tool/subscribe>> accessed 19 February 2021.
- The Law Reform Commission of Hong Kong, 'Consultation Paper on Third Party Funding For Arbitration' (2015).



- The Law Reform Commission of Hong Kong, 'Report on Third Party Funding for Arbitration' (2016).
- The Law Society of Hong Kong, 'Submission on Draft Code of Practice for Third Party Funding of Arbitration and Mediation (30 October 2018)' <[http://www.hklawsoc.org.hk/pub\\_e/news/submissions/20181101.pdf](http://www.hklawsoc.org.hk/pub_e/news/submissions/20181101.pdf)> accessed 10 February 2021.
- The Maryland Bar Association, 'Ethical Implications of Loans by Private Entity to Personal Injury Plaintiffs' (Ethics Docket No. 2000-45) <<https://www.msba.org/ethics-opinions/ethical-implications-of-loans-by-private-entity-to-personal-injury-plaintiffs/>> accessed 15 November 2020.
- Theoduloz, Santiago, 'Not-for-Profit Third Party Funding' (*Jus Mundi*, 23 February 2021) <<https://jusmundi.com/en/document/wiki/en-not-for-profit-third-party-funding#>> accessed 21 March 2021.
- Therium Litigation Funding, 'Sample Litigation Funding Agreement' (*Law Insider*) <<https://www.lawinsider.com/contracts/2Bz778lIDmLXUk9rRNi8NU/dominion-minerals-corp/litigation-funding-agreement/2017-02-14>> accessed 17 July 2021.
- The South Carolina Bar Ethics Advisory Committee, 'Ethics Advisory Opinion 94-04' (1994) <<https://www.scbar.org/lawyers/legal-resources-info/ethics-advisory-opinions/eao/ethics-advisory-opinion-94-04/>> accessed 15 November 2020.
- The United Nations General Assembly Resolution 40/72 on 11 December 1985 (Model Law on International Commercial Arbitration of the United Nations Commission on International Trade Law).
- Thomas, David; Jane Lemon, 'Challenging Arbitrators for Bias and Conflict of Interest' (2018) 20 *Asian Dispute Review*, 56-62.
- Thomas, Douglas, 'From No Man's Land to a Teenager's Bedroom' (*Global Arbitration Review*, 17 September 2014) <<https://globalarbitrationreview.com/no-mans-land-teenagers-bedroom>> accessed 9 May 2021.
- Thrasher, Rachel Denae, 'The Regulation of Third Party Funding: Gathering Data for Future Analysis and Reform' (2018) 59 *Boston College Law Review*, 1-15.
- Trakman, Leon, "'Legal Traditions" and International Commercial Arbitration' (2007) 29 *UNSW Law Research Paper* <<http://www.austlii.edu.au/au/journals/UNSWLRS/2007/29.html>> accessed 25 March 2020.
- Trusz, Jennifer A., 'Full Disclosure? Conflicts of Interest Arising from Third-Party Funding in International Commercial Arbitration' (2013) 101 *The Georgetown Law Journal*, 1649-1682.

## U

- United Nations Commission on International Trade Law Thirty-seventh session, 'A/CN.9/WG.III/WP.157 - Possible Reform of Investor-State Dispute Settlement (ISDS) Third-Party Funding'.
- United Nations Commission on International Trade Law Fifty-first session, 'A/CN.9/935 - Report of Working Group III (Investor-State Dispute Settlement Reform) on the Work of Its Thirty-Fifth Session'.

## Bibliography

United Nations Commission on International Trade Law Fifty-second session, 'A/CN.9/964 - Report of Working Group III (Investor-State Dispute Settlement Reform) on the Work of Its Thirty-Sixth Session'.

## V

Vagts, Detlev F., 'The International Legal Profession: A Need for More Governance?' (1996) 90 *The American Journal of International Law*, 250-261.

Van Boom, Willem H., 'Third-Party Financing in International Investment Arbitration' (2011) 25 <<http://ssrn.com/abstract=2027114>> accessed 16 April 2018.

Van Hoecke, Mark, 'Methodology of Comparative Legal Research' [2015] *Law and Method*, 1-35.

Van Hooijdonk, Marieke; Yves Herinckx, 'The Impact of the IBA Guidelines and Rules on the Search for the Truth in Arbitration' in Luc Demeyere (ed), *Do Arbitral Awards Reveal the Truth?* (Wolters Kluwer 2019), 93-120.

Van Gerven, Dirk, 'Professional Secrecy in Europe' in the Bar of Brussels (ed), *Professional Secrecy of Lawyers in Europe* (Cambridge University Press 2013), 1-23.

Veeder, V. V., 'The 2001 Goff Lecture: The Lawyer's Duty to Arbitrate in Good Faith' (2002) 18 *Arbitration International*, 431-451.

Veljanovski, Cento, 'Third-Party Litigation Funding in Europe' (2012) 8 *Journal of Law, Economics & Policy*, 405-449.

Von Goeler, Jonas, *Third-Party Funding in International Arbitration and Its Impact on Procedure* (Kluwer Law International 2016).

## W

Wachter, Robert W., 'Ethical Standards in International Arbitration: Considering Solutions to Level the Playing Field' (2011) 24 *Georgetown Journal of Legal Ethics*, 1143-1163.

Waincymer, Jeffrey, 'Regulatory Developments in the Control of Counsel in International Arbitration: The IBA Guidelines on Party Representation in International Arbitration and the New LCIA Rules and Annex' (2014) 30 *Arbitration International*, 513

Waincymer, Jeffrey, 'IBA Guidelines On Party Representation In International Arbitration' (Kluwer Arbitration Blog, 10 July 2013) <<http://arbitrationblog.kluwerarbitration.com/2013/07/10/iba-guidelines-on-party-representation-in-international-arbitration/>> accessed 10 May 2021.

Warvelle, George W., *Essays in Legal Ethics* (Callaghan & Company 1902).

Waye, Vicki, 'Conflicts of Interests between Claimholders, Lawyers and Litigation Entrepreneurs' (2007) 19 *Bond Law Review*, 225-302.

Weis, Joseph F. Jr., 'The Federal Rules and the Hague Conventions: Concerns of Conformity and Comity' (1989) 50 *University of Pittsburgh Law Review*, 903-934.

Wessel, Jane; Gordon Mcallister, 'Towards a Workable Approach to Ethical Regulation in International Arbitration' (2015) 10 *Canadian International Lawyer*, 5-15.

- White & Case and Queen Mary University of London, '2018 International Arbitration Survey: The Evolution of International Arbitration' (2018).
- White & Case and Queen Mary University of London, '2015 International Arbitration Survey: Improvements and Innovations in International Arbitration' (2015).
- White & Case and Queen Mary University of London, '2021 International Arbitration Survey: Adapting Arbitration to a Changing World' (2021).
- Wittinghofer, Mathias, 'No Risk, No Fun - A Counsel's Remarks on Integrity' (2017) 3 SchiedsVZ (German Arbitration Journal), 110-113
- Woodsford Litigation Funding, 'A Practical Guide to Litigation Funding' <<https://woodsfordlitigationfunding.com/white-paper-practical-guide-litigation-funding/>> accessed on 19 December 2020.

**Z**

- Zhang, Beibei, 'Third Party Funding for Dispute Resolution: A Comparative Study of England, Hong Kong, Singapore, the Netherlands and Mainland China' (University of Groningen 2019) <<https://doi.org/10.33612/diss.102275228>>.
- Zuberbühler, Tobias; et al., *IBA Rules of Evidence: Commentary on the IBA Rules on the Taking of Evidence in International Arbitration* (Schulthess 2012).



## List of cases and arbitral awards

### Australia

*Asahi Holdings (Australia) Pty Ltd v. Pacific Equity partners Pty Limited (no 2)* [2014] FCA 481.

*Clairs Keeley (A Firm) v. Treacy & Ors* [2004] WASCA 277.

*Fostif Pty Ltd v. Campbells Cash & Carry Pty Ltd* [2005] NSWCA 83.

### Canada

*Quintette Coal Ltd v. Nippon Steel Corporation* [1991] CanLII 5708 (BC CA).

### France

*PT Ventures v. Vidatel and others*, Paris Court of Appeal (International Chamber of the Court, Chamber 5-16), January 26, 2021, No 19/10666.

*J.&P. Avax v. Société Tecnimont S.p.A.*, Decision of 12 February 2009, Cour d'Appel de Paris (Case No. 07/22164).

### Germany

District Court Bonn (Landgericht Bonn), Decision dated 28 August 2006, Case 15 O 198/06.

Higher Regional Court Frankfurt (Oberlandesgericht Frankfurt), Decision dated 22 August 2017, Case 16 U 253/16.

Higher Regional Court Cologne (Oberlandesgericht Köln), Decision dated 29 November 2007, Case 18 U 179/06.

### Hong Kong

*Akai Holdings Ltd v. Ernst & Young*, FACV 28 of 2008.

*Siegfried Adalbert Unruh v. Hans-Joerg Seeberger and Another*, [2007] HKCFA 10.

## List of cases and arbitral awards

### Singapore

*Otech Pakistn Pvt. Ltd. v. Clough Engineering Ltd. & Another*, [2006] SGCA 46 (27 December 2006).

### Switzerland

*X v. Y (Association)*, [2008] Decision of the Swiss Federal Court of 22 March 2008 (4A\_506/2007).

### UK

*Arkin v. Borchard Lines Ltd and others* [2005] EWCA Civ 655, [2005] 1 WLR 3055.

*B & Ors v. Auckland District Law Society*, [2013] UKPC 38.

*Devon IT Inc, et al. v. IBM Corp, et al.*, No 10-2899, 2012 WL 4748160 (ED Pa Sept 27, 2012).

*Essar Oilfields Services Ltd v. Norscot Rig Management Pvt*, [2016] EWHC 2361.

*Excalibur Ventures LLC v. Texas Keystone and others*, [2012] EWHC 2176 (QB).

*Excalibur Ventures LLC v. Texas Keystone Inc & Ors*, [2016] EWCA Civ 1144.

*Giles v. Thompson* [1993] UKHL 2.

*Re Trepca Mines Ltd (No.2)* [1963] Ch. 199.

*S&T Oil Equipment v. Juridica Investments Ltd* [2012] WL 28242 (CA5 (Tex)).

*Stuart James Mansell v. Robert Owen Robinson* [2007] EWHC 101 (QB).

*The RBS Rights Issue Litigation* [2017] EWHC 463 (Ch) (9 March 2017).

*UK Trucks Claim Limited v. Stellantis N.V. (formerly Fiat Chrysler Automobiles N.V.) and Others*, [2019] CAT 26 (28 October 2019).

*Winterthur Swiss Insurance Company & Anor v. AG (Manchester) Ltd & Ors* [2006] EWHC 839 (Comm Ct).

### US

*Applied Indus. Materials Corp. v. Ovalar Makine Ticaret ve Sanayi, AS*, 492 F.3d 132, 138 (2d Cir. 2007).

*Carlyle Investment Management LLC v. Moonmouth Company, SA* 2015 WL 778846 (Del Ch Ct Feb 24, 2015).

*Commonwealth Coatings Corp v. Continental Casualty Co* (393 US 145).

*Leader Techs, Inc v. Facebook, Inc* 719 F Supp 2d 373 (D Del 2010).

*Leon v. Martinez*, 638 N.E.2d 511 (N.Y. 1994).

*Miller UK Ltd and Miller International Ltd v. Caterpillar Inc* [2014] No 10 C 3770, 2014 WL 67340 (ND Ill Jan 6, 2014).

*Merck & Co. v. PeriCor Therapeutics, Inc.*, 2016 U.S. Dist. LEXIS 112976.

*Mondis Technology, Ltd v. LG Electronics, Inc* No 207-cv-565, 2011 WL 1714304 (ED Tex May 4, 2011).

*New Regency v. Nippon Herald*, Decision of 4 September 2007, 501 F.3d 1101.

*Oliver v. Board of Governors*, 779 S.W.2d 212, 215 (Ky. 1989).

*Schmitz v. Zilveti*, 20 F.3d 1043, 1048 (9th Cir. 1994).

*Walker Digital, LLC v. Google, Inc.*, Memorandum Order, No. 11-cv-309-SLR (D. Del. Feb. 12, 2013).

*Weaver, Bennett & Bland, P.A. v. Speedy Bucks, Inc.*, 162 F.Supp.2d 449, 450-451 (W.D.N.C. 2001).

## ICC

*PT Ventures SGPS S.A. v. Vidatel Ltd and others*, ICC Case No 21404/ASM/JPA (C-21757/ASM).

## ICSID

*Aguas del Tunari SA v. Repub. of Bolivia - Procedural Order No 1*, [2003] ICSID Case No ARB/02/3.

*Guaracachi America, Inc and Rurelec PLC v. The Plurinational State of Bolivia - Procedural Order No 13* [2013] PCA Case No 2011-17.

*Caratube International Oil Company LLP & Mr. Devincci Salah Hourani v. Republic of Kazakhstan - Decision on the Proposal for Disqualification of Mr. Bruno Boesch*, ICSID Case No ARB/13/13.

*Compañía de Aguas del Aconquija SA and Vivendi Universal SA v. Argentine Republic - Decision on the Argentine Republic's Request for Annulment of the Award rendered on 20 August 2007* [2010] ICSID Case No ARB/97/3.

*EuroGas Inc and Belmont Resources Inc v. Slovak Republic - Transcript of the First Session and Hearing on Provisional Measures*, [2015] ICSID Case No ARB/14/14.

*Frankfurt Airport Servs. Worldwide v. Philippines - Decision of Ad Hoc Committee on Application for Disqualification of Counsel*, [2018] ICSID Case No ARB/03/25.

*Hrvatska v. Elektroprivreda, d.d. v. Republic of Slovenia - Order Concerning the Participation of a Counsel*, [2008] ICSID Case No ARB/05/24.

*Ioannis Kardassopoulos & Ron Fuchs v. The Republic of Georgia - Award* [2010] ICSID Case No ARB/07/15.

*Lauder v. Czech Republic - Final Ad Hoc Award*, 3 September 2001 [19]; *Noble Ventures Inc. v. Romania - Final Award*, [2005] ICSID Case No ARB/01/11.

*Libananco Holdings Co. v. Turkey - Decision on Preliminary Issues*, [2008] ICSID Case No ARB/06/8.

*Muhammet Çap & Sehil İnşaat Endustri ve Ticaret Ltd. Sti v. Turkmenistan - Procedural Order No 2*, [2014] ICSID Case No ARB/12/6.

## List of cases and arbitral awards

*Philip Morris Brands Sàrl, Philip Morris Products S.A. and Abal Hermanos S.A. v. Oriental Republic of Uruguay*, ICSID Case No. ARB/10/7.

*RSM Production Corporation v. Saint Lucia - Decision on Saint Lucia's Request for Security for Costs*, [2014] ICSID Case No ARB/12/10.

*Suez, Sociedad General de Aguas de Barcelona SA, and InterAguas Servicios Integrales del Agua SA v. The Argentine Republic - Decision on a Second Proposal for the Disqualification of a Member of the Arbitral Tribunal*, [2007] ICSID Case No ARB/03/17.

*Teinver SA, Transportes de Cercanías SA and Autobuses Urbanos del Sur SA v. The Argentine Republic - Decision on Jurisdiction*, [2012] ICSID Case No ARB/09/1.

*Theodore David Einarsson, Harold Paul Einarsson and Russell John Einarsson v. Canada - Decision on Claimant's Motion to Disqualify Counsel*, [2022] ICSID Case No. UNCT/20/6.

## PCA

*Philip Morris Asia Ltd. v. Commonwealth of Australia - Procedural Order No. 12*, [2014] PCA Case No 2012-12.

*Manuel García Armas et al v. Bolivarian Republic of Venezuela - Procedural Order No 9 (On Security for Costs) (Spanish)* [2018] PCA Case No 2016-08.

*Noble Ventures, Inc. v. Romania - Procedural Order No 1*, [2003] ICSID Case No. ARB/01/11.

*South American Silver Limited v. Bolivia - Claimant Opposition to Respondent Request for Cautio Judicatum Solvi and Disclosure of Information* [2015] PCA Case No 2013-15.

## SCC

*Quasar de Valores SICAV S.A. et al. v. The Russian Federation - Award of 20 July 2012*, SCC Arbitration No 24/2007.



## Curriculum Vitae

Yihua Chen started his PhD project in 2017 at Erasmus School of Law, Erasmus University Rotterdam. His research focuses on dispute financing, 'soft law' in international arbitration as well as international and comparative arbitration law. He has published and presented on the topic of his research at various workshops/conferences and in various journals. During his PhD studies he taught the Research and Writing Skills to the students of the LLM Commercial Law programmes and has given a number of guest lectures on third-party funding of international arbitration. He received his master's degree in Chinese Economic law from Shanghai University of Finance and Economics and an LLM degree in Arbitration and Business Law from Erasmus University Rotterdam. Before joining Erasmus University, he had various working experience in Chinese and foreign law firms and judicial organs. He was admitted to Shanghai Bar Association in 2018.



# PhD Portfolio

## Erasmus University Rotterdam – PhD Portfolio

Description	Organizer	EC
<b>Required</b>		
EGSL - Academic Writing in English (2018)		5.00
EGSL - Research Lab (2018)		10.00
EGSL - Collaborating with your Supervisor (2018)		3.00
EGSL - Writing Clinic (2018)		5.00
EGSL - Review Day (2018)		0.00
EGSL - Poster Presentation (2019)		0.00
EGSL - Academic Integrity (2019)		1.00
<b>Optional</b>		
The Fundamentals of International Arbitration (2018)		5.00
		----- +
<b>Total EC</b>		<b>29.00</b>

## Publications (English)

Y. Chen, 'Revision of China's Arbitration Law: A New Chapter', (2021) 23 Asian Dispute Review, pp. 156-163.

Y. Chen, 'The Role of Attorneys in Third-Party Funding of International Arbitration' in Yifei Lin (ed), China International Arbitration Review (Law Press-China 2021), pp. 200-222.

Y. Chen, 'Arbitrator Conflicts of Interest in Third-Party Funding of International Arbitration: Conflicts Check and Disclosure Modality in the Context of the 2014 IBA Guidelines' (2019) 110 Journal of Beijing Arbitration (Quarterly), pp. 5-37.

Y. Chen, 'New 2019 BAC Rules for International Investment Arbitration: A Chinese Approach to the Concerns over Investment Arbitration' (20 March 2019), Kluwer Arbitration Blog.

## Publications (Chinese)

Y. Chen, ‘第三方资助之于仲裁费用担保申请的相关性: 基于《ICSID 仲裁规则 (草案) 第 52 条的分析》 [Relevance of Third-Party Funding to Security for Costs Application: in the Context of the Proposed ICSID Arbitration Rule 52]’ (2020) 111 北京仲裁 *Journal of Beijing Arbitration (Quarterly)*, pp. 143-155.

Y. Chen, ‘荷兰仲裁法评述: 仲裁协议的形式和实质有效性 [A Commentary on Dutch Arbitration Act: Formal Validity and Substantive Legality of Arbitration Agreement]’ (2018) 104 北京仲裁 *Journal of Beijing Arbitration (Quarterly)*, pp. 118-136.

H.J. Snijders; Y. Chen (trans.), ‘仲裁与人工智能: 从仲裁到“机器人仲裁”和从人类仲裁员到机器人仲裁员? [Arbitration and AI, from Arbitration to ‘Robotration’ and from Human Arbitrator to Robot Arbitrator?]’ 上海法学研究(集刊) *Shanghai Legal Studies* 2022, volume 2, pp. 15-24.

## Conference Papers and Presentations

Y. Chen, ‘Ethical Implications of Third Party Funding in International Arbitration’ Presentation at VICI Seminar on ‘Litigation Funding in Europe: A Market Perspective’ (22 March 2022 VICI Seminar Series, Rotterdam, the Netherlands).

Y. Chen, ‘Third-Party Funding in International Arbitration: A Transnational Study of Ethical Implications and Responses’ Presentation at the Rijeka Doctoral Conference of 2021 (8 December 2021 Faculty of Law of the University of Rijeka, Croatia).

Y. Chen, ‘Procedural Implications of Third-Party Funding in International Arbitration’ Guest Lecture for International Investment Arbitration Course (4 April 2021 Erasmus University Rotterdam, Rotterdam, the Netherlands).

Y. Chen, ‘Ethical Regulation of Third-Party Funding in International Arbitration’ Presentation at the seminar of Rotterdam Institute for Shipping and Transport Law (3 June 2020 Erasmus University Rotterdam, Rotterdam, the Netherlands).

Y. Chen, ‘The Regulation of Third-Party Funding in International Arbitration: A Comparative Analysis of the UK, Singapore and Hong Kong’ Presentation at the 8th YCC Annual Global Conference (15 May 2019 McGill University, Montreal, Canada).