



The Contribution of the Doctrines of Kompetenz-Kompetenz and Separability on the Development of International Commercial Arbitration

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Seminar paper from the year 2010 in the subject Law - Miscellaneous, grade: B, New York University School of Law, language: English, abstract: A large number of conflicts relating to international trade are not dealt with by the courts, but instead by arbitration. In a private and informal process, both parties to a contract agree to delegate their issue to a single or a group of unbiased individuals to reach some sort of resolution regarding that issue. International commercial arbitration is one form of arbitration and its use is ever-increasing worldwide for various key reasons. For example, it has the tractability, speed and discretion that standard jurisdictional processes lack . Additionally, it results in an award that is both final and binding and has the ability to be enforced overseas . While the use of ICA is becoming more widespread, particularly in Western European nations where ICA has long been a fixture, Eastern European nations have less faith in ICA, instead opting for alternative jurisdictional processes. This lack of faith has been attributed to a lack of knowledge on the part of such Eastern European nations, thus implying that improved instruction on ICA would be beneficial. The area of ICA has realised some fascinating developments over the years. The interlinked doctrines of kompetenz-kompetenz and separability are brilliant examples of such development. This essay will critically discuss both doctrines and their respective contribution to the development of ICA. This will be done using a range of academic journal articles and textbook chapters and by considering relevant case law and statute.

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