
WHO BENEFITS FROM SECRECY IN ARBITRATION?

One of the features of arbitration, as a means of resolving disputes, is the confidentiality surrounding its procedures and decisions. This feature, when misinterpreted, can cause controversy and misunderstandings, ultimately endangering the transparency of procedures and the reliability of arbitrators.

In arbitration proceedings, both decision fairness and procedure transparency are ensured despite their confidential nature. Transparency levels can be adjusted by parties to allow evidence disclosure and/or public hearings, and arbitration rules and laws ensure fair and impartial decisions. Failure to do so may result in the decision being declared null and void.

Thus, the impression that arbitration proceedings are breeding grounds for promiscuity and corrupt practices due to their confidential nature, and that the matters at hand are not given the proper attention they require, does not align with the truth.

Primarily, it protects the reputation of parties involved in the dispute, as well as sensitive information pertaining to companies. Secrecy in arbitration has purposes beyond its immediate function. It is for this reason that arbitration confidentiality is primarily advantageous to the business community.

There is no question that disputes between companies, regardless of their merits and the

good faith of the litigants, are bad for business and, when made public, have the particular potential to damage the reputation and trust that companies enjoy with their customers, suppliers and investors as a result of negative exposure.

With confidentiality, businesses ensure that their market position is not compromised due to legal action, thus avoiding conjecture regarding the reputation, credibility, and business operations of the company as well as its products during and after legal proceedings.

Sensitive company information, such as business strategies, trade secrets, and intellectual property (including patents and copyrights), is also safeguarded by confidentiality to prevent unauthorized access or exploitation by third parties.

In addition to benefitting the parties involved, confidentiality in arbitration ensures the integrity of the dispute resolution process itself. It creates an optimal environment for the parties to openly share pertinent information, as they are confident that this information will not be divulged to third parties. This enables the arbitrators to make an informed decision based on the truth of the matter..