Abstract

This PhD thesis presents a creative synthesis of two seemingly disparate fields of law – arbitration and human rights. The former – delimited solely to setting-aside proceedings: a procedural mechanism at the seat of arbitration by means of which arbitral awards may be challenged and set-aside on the basis of violations of fundamental procedural rights, such as due process and the right to an independent and impartial tribunal. The latter – delimited solely to the European Convention on Human Rights (ECHR), with a particular focus on Article 6(1) ECHR and the right to a fair trial, and its applicability and impact on the compatibility of different legislative approaches vis-à-vis the regulation of setting-aside proceedings in national arbitration law.

The more specific point of focus in the PhD thesis is on two synergetic phenomena – exclusion agreements and total lack of setting-aside proceedings in national arbitration law. In certain states, arbitrating parties are permitted to exclude in advance the application of setting aside proceedings at the post award stage. In Latvia, the author's home country, the national arbitration law uniquely omits the possibility to apply for the setting-aside of arbitral awards altogether. Both legislative approaches raise questions as to their compatibility with the ECHR, in particular the right to a fair trial under Article 6(1) ECHR.

The aim of the PhD thesis is therefore to determine the extent of applicability and impact of the ECHR, in particular the right to a fair trial under Article 6(1) ECHR, on arbitration and establish to what extent lack of setting-aside proceedings in national arbitration law may lead to a violation of the ECHR, in particular the right to a fair trial under Article 6(1) ECHR. The PhD thesis also seeks to provide certain de lege ferenda recommendations on how to best approach the regulation of setting-aside proceedings in national arbitration law from the standpoint of compatibility with the ECHR.