



El Control Judicial Del Arbitraje (Spanish Edition)

José Luis González-Montes Sánchez

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En su definición clásica, el arbitraje es un medio de resolución de conflictos por el que dos partes, en virtud del principio de la autonomía de la voluntad, sobre materias de libre disposición conforme a derecho, deciden someter una controversia jurídica surgida o que pueda surgir en el futuro, a la decisión de uno o más árbitros, excluyendo del conocimiento del asunto a los tribunales de Justicia.

Pese a este concepto, es lo cierto que la resolución que pone fin al arbitraje ¿el laudo? está dotada de una serie de efectos que pueden denominarse jurisdiccionales ¿ejecutividad y cosa juzgada?, lo que permite entender que el arbitraje tienen también naturaleza jurisdiccional por los efectos que provoca el laudo.

Precisamente, si el ordenamiento jurídico dota al laudo arbitral de tales efectos, no cabe duda de que algún tipo de control judicial ha de establecerse.

En este aspecto, la obra ciñe su objeto al análisis de los supuestos de control judicial del arbitraje: acción de anulación y revisión del laudo.

Dado que estos medios de control sólo permiten rescindir la fuerza de cosa juzgada de resoluciones firmes, un componente esencial del libro es ofrecer una noción clara de lo que significa «firmeza», haciendo una distinción entre laudo firme y definitivo, observando si el concepto de firmeza de la resolución en el proceso jurisdiccional es o no equivalente al concepto de firmeza en el arbitraje y, por último, cuáles son las relaciones entre la firmeza de la resolución ¿laudo? y los citados medios de rescisión de resoluciones firmes ¿anulación y revisión?.

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