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## Chapter 26: Transparency and Stakeholders' Role in the Selection of the Arbitral Tribunal

Ali Yesilirmak

### §26.01 INTRODUCTION

International arbitration has been ever evolving since the introduction of modernized arbitration rules in the last century. (1) The evolution is very much related to the satisfaction of users and other stakeholders of arbitration. One of the evolving areas is transparency. The issue of transparency mainly derived from investment arbitration (2) for the protection of public interests, but has been adopted to cover wider interests, needs and dynamics in international commercial arbitration.

Transparency touches upon many aspects of international commercial arbitration; selection/appointment of arbitrators, the arbitration process, orders and awards etc. Perhaps one of the most important of all is the selection/appointment of arbitrators. This is because 'arbitration is only as good as its arbitrators.' (3) The selection/appointment of arbitrators generally has a direct effect on the quality of arbitration. The users of arbitration desires to have predictable and just decision-making. Thus, transparency is directly related to independence and impartiality of arbitrators, due process and accountability.

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Many steps have been taken for greater transparency over the last decade or so, mainly because of the above reasons. Competitive pressures among the arbitral institutions should be added to those reasons. (4)

This note reviews and analyses the following stakeholders' role in respect of transparency in the selection/appointment of arbitrators in international commercial arbitration: (5) (a) the International Bar Association and its soft law on conflicts of Interest, (b) role of arbitration institutions, (6) and (c) private initiatives.

### §26.02 IBA GUIDELINES ON CONFLICTS OF INTEREST

One aspect of transparency is the disclosure of any circumstance that may give rise to independence and impartiality of arbitrators. IBA Guidelines on Conflicts of Interest in International Arbitration (7) ...