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¿Cláusula arbitral o no? Un contrato redactado en espanol y alemán. Análisis de la decisión del Tribunal Superior Regional de Baviera de 16 de junio de 2026, n° 101 Sch 171/25 e (Iurgium n°57/2026, S. 85)

Schiedsverfahren



Dr. Christiane Lenz

Abstract:

The applicant, an affiliate of a Spanish corporation, and the respondent, the applicant's subcontractor, entered into a construction contract in both German and Spanish. Clause 21 of the contract provided for a conciliation procedure in the German version and for "arbitraje" proceedings in the Spanish version. The Bavarian Higher Regional Court held that this provision did not constitute an arbitration agreement because it did not unequivocally exclude recourse to the state courts. The Court also held that, by filing its application with the Higher Regional Court of Munich, even though that court lacked jurisdiction, the applicant had complied with the applicable time limit.

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