

The Use of Experts in International Arbitration

Specific Issues relating to Legal Experts

ASA Annual Conference

Expert Evidence: Conflicting Assumptions and How to Handle them in Arbitration

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OVERVIEW

- I. Different ways of presenting the law before courts
 1. (Foreign) law as a factual issue
 2. Law as a question of law

- II. Legal expert testimony in international arbitration

- III. Recommendations

RECOMMENDATIONS

1. Tribunal: Address ways of presenting the law at an early stage of the proceedings.
2. Tribunal: Determine how legal opinions will be treated at an early stage.
3. Legal expert: Keep legal opinions concise and short.
4. Legal expert: Try to avoid opining on how the tribunal should decide the case.
5. Parties: Sometimes “less is more”: evaluate carefully whether cross-examination is necessary.

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