

Insights

BCLP INTERNATIONAL ARBITRATION SURVEY 2024

ARBITRATION AND THE CHALLENGES OF CORRUPTION

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DOES ARBITRATION HAVE THE TOOLS TO TACKLE THE ELEPHANT IN THE ROOM?

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This year, our Annual Arbitration Survey focuses on the issue of corruption and the challenges it poses for international arbitration.

Corruption is a complex social, political and economic phenomenon that affects all countries. The United Nations and World Economic Forum have estimated the global cost of corruption at 5% of the world's Gross Domestic Product. In spite of international efforts to combat corruption, it

remains one of the biggest challenges facing international commerce. As a result, the treatment of corruption allegations in commercial and investment arbitration is of particular significance.

Recent cases, including the widely reported decision in *The Federal Republic of Nigeria v Process & Industrial Developments*, have highlighted the challenges faced by arbitrators when dealing with corruption allegations and the impact that this can have on the reputation of arbitration as a method of dispute resolution.

This year's survey canvases views on some of those risks and asks whether change is needed to avoid arbitration becoming a safe harbour for corruption.

Key findings include:

- **64%** of respondents indicated a high or moderately high level of concern about the risk of abuse of the arbitral process in cases involving allegations of corruption.
- **82%** of respondents indicated high or moderately high level of confidence in the robustness of the arbitration process.
- **58%** of respondents were concerned that the confidential nature of arbitration increases the risk of abuse of the arbitration process.
- **67%** of respondents were in favour of increased transparency in commercial arbitrations involving States or state-owned entities.
- **61%** of respondents thought that arbitrators should be more interventionist when faced with an under-represented or poorly represented party.
- **72%** of respondents thought the arbitration process would benefit from additional best practice guidelines for the conduct of arbitrations involving allegations of corruption.

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MEET THE TEAM



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