

Quick Start Card

Homepage

REFINE SEARCH SCOPE
Select filters prior to your search

SEARCH TIPS
Helpful search suggestions by using Boolean connectors (AND, OR, NOT, NEAR)

VIEW TITLES
Click the tab for a list of available publications under each category

PRACTICAL TOOLS
Search for specialists or quickly examine and compare specific content by particular jurisdiction or arbitral institution

SIGN UP
To the monthly newsletter of the Institute of Transnational Arbitration

USEFUL INFORMATION
When you are new to the site

VIEW
All posts from Arbitration and Mediation blogs

The screenshot shows the homepage layout with a search bar at the top, navigation tabs for Books, Journals, and New content, and sections for Practice tools, Jurisdictions, Organizations, and Special focus. It also features an ITA Arbitration Report section and a New to Kluwer Arbitration section.

Quick Start Card

Search Results

The screenshot shows the search results interface for the query "enforcement of international arbitral awards in russia". The interface includes a top navigation bar with the Wolters Kluwer logo, a search bar with the query, and a "Filters" button. Below the search bar, there are 6 results for the query. A "Refine results" sidebar on the left allows filtering by Publication type, Content type, and Author. The results list includes titles, authors, and publication dates. Callout boxes provide instructions on how to use various features like record keeping, searching within results, sorting, and displaying results.

RECORD KEEPING OPTIONS
Select documents to Print, Email and Download

SEARCH WITHIN RESULTS
Add keywords to narrow your results further

FILTERS
Refine search by Publication type, Content type, Author, Jurisdiction, Time Period, Source and Topic

SORT BY
Arrange search results by relevance or date

DISPLAY
Summary, Full Text or Title

COLOR CODED RESULTS
Show all instances of searched term(s)

Document View

Filters third party funding NEAR costs ? KluwerArbitration

Results > Document

Search term ▲

costs (697)
 Highlight [Go to first instance](#)

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 Highlight [Go to first instance](#)

third party funding (1)
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Document information ▲

Author
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Publication
[Third-Party Funding in International Arbitration and its Impact on Procedure](#)

Topics
Investment Arbitration

Bibliographic reference

RECORD KEEPING OPTIONS
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Chapter 10: Awarding of Costs and Third-Party Funding

Third-Party Funding in International Arbitration and its Impact on Procedure (von Goeler; Jan 2016)

When awarding costs, at the end of the proceedings, an arbitral tribunal has to address two broad issues. First, it must determine which party should pay costs (allocation of costs). Second, where costs are allocated based on the outcome of the case, the tribunal must determine which of the prevailing party's costs are recoverable from the losing party (type and amount of recoverable costs). What is the relevance of third-party funding for assessing these issues? The following example shall serve to illustrate the key questions:

With the help of a litigation funder, an impecunious claimant from the United States arbitrates against a German respondent in London. The claimant had previously paid USD 100,000 for the funder's case assessment. The funding agreement provides that the funder will pay for the claimant's counsel and in return will receive the costs so advanced plus 30% of the amount awarded to the claimant if the case is won. If the case is lost, the funder receives nothing. The funder does not assume liability for adverse costs. By the end of the proceedings, the funder has paid USD 300,000 in legal fees to claimant's counsel.

The claimant prevails and is awarded USD 1 million in damages. The tribunal allocates arbitration costs and party costs to the respondent. Can the claimant recover legal fees at all, even though they have been paid by the funder? If so, is recovery limited to the legal fees in the amount of USD 300,000 the funder has paid to counsel? Or can the claimant perhaps even recover USD 600,000 – the legal fees advanced plus the 30% share payable to the funder? Does it make a difference whether the law at the seat of the arbitration (here: English law) allows for recovery of the share payable to the funder? What if the funding agreement would be unlawful and void under English law? Finally, can the claimant recover the USD 100,000 it had to pay to the funder in order to have its case assessed and approved for funding?

▲ Assume that the respondent prevails and has incurred defence costs in the amount of USD 450,000. Can the third-party funder be subject to a costs award rendered by the arbitral tribunal? What are the prospects of holding the funder liable in state courts?

HIGHLIGHT
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