Title:
XIII.2.7 - Immunity of arbitrator

Content:
No. XIII.2.7 - Immunity of arbitrator

An arbitrator enjoys immunity from liability for all acts or omissions performed in the exercise of his judicial decision-making unless he has acted intentionally, or arbitrarily, or has committed a fraudulent act.

Commentary:
This Principles follows from the fact that arbitrators are private judges and enjoy the same liability privilege than state court judges. This liability privilege, however, is limited in two ways. First, it covers only the decision-making of the arbitrator. If the arbitrator causes damages to one of the parties to the arbitration and the act which has caused the damage is outside his decision-making task, he has incurred liability vis-a-vis that party under the arbitrator's contract which is concluded between the arbitrator and the parties as soon as the arbitrator is appointed. Secondly, the liability privilege does not apply if the arbitrator has acted intentionally, or arbitrarily, or has committed a fraudulent act. In these cases, he does not deserve protection from liability, even though he has acted within the limits of his decision-making duty.