

The Contents of the ASA Bulletin, Volume 37, Issue 2 (June 2019)

Kluwer Arbitration Blog

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We are happy to report that the latest issue of the ASA Bulletin is now available and includes the following articles and cases:

ARTICLES

Elliott GEISINGER, *Simplicity and Sophistication (Of Furniture, Nails, Screws and Glue)*

In his message, ASA President Elliott GEISINGER lauds the art of simplicity and questions the necessity of some of the proposed revisions of Chapter 12 of the Swiss Private International Law Act governing international arbitration in Switzerland.

Philip WIMALASENA, *The Publication of Arbitral Awards as a Contribution to Legal Development - A Plea for more Transparency in International Commercial Arbitration*

Philip WIMALASENA calls for more transparency in commercial arbitration through the systematic publication of arbitral awards. WIMALASENA analyses the structural prerequisites of a comprehensive publication practice and makes concrete recommendations for the anonymous publication of arbitral awards.

Thomas LEGLER, *Arbitration of Intellectual Property Disputes*

Thomas LEGLER outlines the benefits of arbitration for intellectual property (IP) disputes, discusses recent developments, such as the European Union's future Unitary Patent Court system, and provides an overview of the specific arbitration procedures available in that field before examining the possibilities offered by blockchain technologies, in particular smart contracts.

Johannes LANDBRECHT, *Strong by Association: Arbitration's Policy Debates, Mandatory Rules, and PIL Scholarship*

Building on a recent publication by Sagi PEARI, Johannes LANDBRECHT submits that arbitration could benefit more from private international law (PIL) thinking. LANDBRECHT highlights five developments in general PIL thinking and demonstrates how they might apply also in arbitration, in particular when dealing with mandatory substantive rules.

Michael WIETZOREK, *Luxembourg's Rejection of the French Approach to the Recognition and Enforcement of Annulled Arbitral Awards*

Michael WIETZOREK analyses the series of recent decisions rendered by the Luxembourg Court of Appeal in the internationally well-known Pemex and Gold Reserve cases, which reject the French courts' approach to the recognition and enforcement of annulled arbitral awards.

Falco KREIS, Markus KAULARTZ, *Smart Contracts and Dispute Resolution - A Chance to Raise Efficiency?*

In their article, Falco KREIS and Markus KAULARTZ present the basics of blockchain technology and smart contracts before shedding light on the dispute resolution mechanism suitable to that technology and exploring whether efficiency could be increased further through the automation of the dispute resolution process.

Eliane FISCHER, Flavio PETER, *The Consequences of a Tribunal Secretary's Breach of Duties - the Games of Thrones Edition*

Taking inspiration from the epic series Games of Thrones, Eliane FISCHER and Flavio PETER provide an overview of the remedies available in cases where a tribunal secretary exceeds his/her powers or lacks independence and impartiality.

DECISIONS OF THE SWISS FEDERAL SUPREME COURT

- [4A_508/2017 of 29 January 2018](#) [Ultra petita - Reduction of excessive penalties]
- [4A_642/2017 of 12 November 2018](#) [Set-off not ultra petita - Award partially annulled for being inconsistent with the arbitration record]
- [4A_583/2017 of 1 May 2018](#) [Jurisdiction over a retention right invoked by the defendant against the claimant's claim in the arbitration]
- [4A_490/2017 of 2 February 2018](#) [Jurisdiction *ratione temporis* - Prior disciplinary proceedings not a prerequisite for CAS jurisdiction]
- [4A_394/2017 of 19 December 2018](#) [No right to withdraw a claim without prejudice]
- [4A_424/2018 of 29 January 2019](#) [Request dismissed despite due process violation for lack of impact on the outcome]
- [4A_556/2018 of 5 March 2019](#) [Challenge admissible against termination order of vice president of CAS Appellate Chamber]
- [4A_324/2018 of 17 July 2018](#) [Court injunction - Parallel jurisdiction between court and arbitral tribunal]
- [4A_60/2018 of 27 June 2018](#) [Corporate dispute - Call option]
- [4A_308/2018 of 23 November 2018](#) [New document and allegations in closing submissions - Right to be heard]
- [4A_312/2017 of 27 November 2017](#) [Public policy - Player's agent fee of ten times player's salary not excessive]
- [4A_66/2019 of 15 March 2019](#) [Annulment proceedings - Security for costs]