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The Contents of the Yearbook Commercial Arbitration, Volume XLVI (2021), Upload 3

Stephan Schill (General Editor, ICCA Publications; Amsterdam Center for International Law, University of Amsterdam) · Monday, October 11th, 2021

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A new upload of materials for the 2021 volume of ICCA's Yearbook Commercial Arbitration is now available on the KluwerArbitration website. The upload consists of 27 decisions. Here are some highlights.

The [Federal Supreme Court of Germany](#) held that the need to avoid contradictory results required that the applicable-law rules of Art. V(1)(a) of the New York Convention, which concern the enforcement of awards, have to be applied by analogy in proceedings concerning the enforcement of arbitration agreements.

In its decision in the *PAO Tatneft v. Ukraine* case, which saw judgments in three jurisdictions, the [UK High Court](#) rejected Ukraine's application to deny enforcement of a French investment treaty award under the 1998 Russia-Ukraine BIT, finding that Ukraine could not object to enforcement arguing that the tribunal had lacked jurisdiction, because it had not raised that issue in the arbitration.

Consequences of the COVID-19 pandemic were discussed in two decisions of the Southern District of Florida. In *Fnu Isanto*, the Court granted a motion to compel arbitration under an employment contract for a dispute concerning the death of a seaman due to a COVID-19 infection he allegedly contracted on a cruise ship because of the failure of his employer to timely implement social distancing measures. In *Maglana*, the issue was whether the arbitration agreement in the employment contracts of several seamen had become null and void because the cruise ship operator had failed to pay wages when all cruises were cancelled and the seamen were forbidden to disembark due to the pandemic.

Finally, two decisions in the *Hulley v. Russian Federation* dispute granted or confirmed a stay of the proceedings to enforce three PCA awards, pending a set-aside action in the Netherlands. In November 2020, the [United States District Court for the District of Columbia](#) held that a stay was appropriate in terms of judicial economy, balance of hardships, and considerations of international comity – since denying the stay would risk the possibility of inconsistent results in the primary (Dutch) and secondary (US) jurisdictions. Similarly, in April 2021, the [English High Court of](#)

Justice denied the application to lift the stay previously granted, finding that the grounds for annulment invoked by the Russian Federation in the Dutch annulment action had at least a realistic prospect of success.


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