Kluwer Arbitration Blog

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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 22 decisions from 15 countries and includes, among others, an update of Belarusian jurisprudence on the 1958 New York Convention. Here are some of the highlights.

The Supreme Court of India in PASL Wind Solutions held that nothing in Indian law precluded Indian parties from arbitrating in a foreign seat. The Court also provided an in-depth analysis of the distinction between two definitions of international arbitration: "party-centric", based on the nationality of the parties, and "place-centric", taking into account where the arbitration takes place. The Court here sided with the latter approach.

Second, in Luminati, the Supreme Court of Israel provided an intriguing discussion of the different theories on when an award becomes binding and is hence enforceable under the New York Convention. It concluded that an award becomes binding when it can no longer be appealed in arbitration proceedings (even if it can still be annulled before a domestic court). The Court further addressed to which extent an award set aside by domestic courts at its seat can be enforced elsewhere under the New York Convention. It considered this possibility to be limited to exceptional cases – for example, when the set-aside decision was made by a court that was not independent and impartial.

Finally, a Mexican Collegiate Circuit Court made an interesting contribution on the nature of the authority exercised by arbitral tribunals. In a case involving a constitutional appeal of *amparo* against the acts of arbitrators, the Court found that arbitrators were private parties who could not be deemed to exercise public authority within the meaning of the Amparo Law. An *amparo* action was therefore not available against decisions rendered by arbitrators.

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