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# Kluwer Arbitration Blog

## The Contents of the ASA Bulletin, Volume 39, Issue 4 (December 2021) – and a glimpse at Volume 40, Issue 1 (March 2022)

Matthias Scherer (Editor in Chief, ASA Bulletin; LALIVE) and Catherine Anne Kunz (LALIVE) · Friday, February 11th, 2022

We are happy to report that the latest issue of the ASA Bulletin is now available and includes the following articles and case; we also add a brief glimpse of the articles of the first issue of 2022.

### ARTICLES

Felix DASSER, *Calling a Spade a Spade*

In his message ASA President Felix DASSER invites arbitrators to call out counsel for overzealous lawyering and foster good faith in arbitration.

Boris CATZEFLIS, Dorothee SCHRAMM, *Statutory Arbitration Clauses of Swiss Companies*

Boris CATZEFLIS and Dorothee SCHRAMM examine arbitration clauses included in the articles of association of Swiss joint stock and limited liability companies in light of the new Article 697n of the Swiss Code of Obligations as well as statutory arbitration clauses of foreign companies.

Johannes LANDBRECHT, *Zur Koordination von Schiedsverfahren und staatlichen Gerichtsverfahren. Anpassungsbedarf in Brüssel Ia-VO und LugÜ?*

Johannes LANDBRECHT looks at the mechanisms available to coordinate consecutive or concurrent parallel arbitral and state court proceedings and whether adjustments to the Brussels Ia Regulation and the Lugano Convention are required in that regard.

David BOCHATAY, *Du projet d'abroger l'article 372 al. 2 CPC*

David BOCHATAY makes a critical assessment of the legislator's proposed repeal of article 372(2) of the Swiss Code of Civil Procedure governing *lis pendens* in case of parallel arbitration and court proceedings and suggests adopting a one-way *lis pendens* rule *in favorem arbitri*.

Candan YASAN-TEPETA?, *Iura Novit Curia in Turkish Arbitration Law*

Candan YASAN-TEPETA? provides an overview of the *iura novit curia* principle in Turkish arbitration law, its application, and its limits.

Adama ZOROMÉ, *L'exécution forcée en France de la sentence arbitrale impliquant les États et leurs émanations*

Adama ZOROMÉ looks back at the jurisprudential developments prior to the Sapin II law of 9 December 2016, examines the changes introduced by this legislative reform and its impact on the seizability of assets located in France belonging to foreign States, and discusses its anticipated application.

Laya JONEYDI, Shahab JAFARI, *Competence-Competence Principle in Iranian Arbitration Law*

Laya JONEYDI and Shahab JAFARI analyse the competence-competence principle in Iranian arbitration law and, specifically, under the 1997 Iranian Law of Commercial Arbitration (LICA), which is based on the UNCITRAL Model Law on International Commercial Arbitration.

The first issue of 2022 will contain, among others, the following contributions:

- Carine DUPEYRON, Michela LAVIANI MANCINELLI, *The Emerging Practice of Assigning Arbitration Awards: Rationale, Structure and Potential Hurdles*
- Céline Deborah KELLMANN, *Choice-of-Law Rules Governing Preclusive Effects On Transcending Res Judicata's State of Ambiguity in International Commercial Arbitration*
- Robert BRADSHAW, *Witness Credibility and the (Un)Reliability of Demeanour Evidence*
- Harshal MORWALE, *Appealing the SIAC Court's Decisions on Arbitrator Challenges: A Case for Reassessing Rule 16.4*
- Alexander HILLER, *Arbitrating Government Contracts in Egypt. Observations on DIPCO v. Damietta Port Authority*
- Caroline DOS SANTOS, *Rewriting Investors' Claim Labelled in USD in Near Worthless Syrian Pounds not Extra Petita or Violation of Public Policy. Swiss Supreme Court Decision 4A\_516/2020 of April 2021*

## DECISIONS OF THE SWISS FEDERAL SUPREME COURT

- [4A\\_324/2021](#) of 03.08.2021 [*COVID-19 no excuse for out of time appeal*]
- [4A\\_209/2020](#) of 19.08.2020 [*Post-termination dispute – No jurisdiction to lift opposition to debt collection proceedings (Rechtsvorschlag)*]

- [4A\\_248/2019](#) of 29.07.2019 [*Application for stay of enforceability of award*]
- [4A\\_618/2020](#) of 02.06.2021 [*No challenge based on violation of ECHR principles*]
- [4A\\_36/2020](#) of 27.08.2020 [*No revision of SCC award – Evidence obtained in US discovery could and should have been adduced in arbitration itself*]
- [4A\\_563/2020](#) of 25.11.2020 [*Termination of arbitration absent cost advances*]
- [4A\\_156/2020](#) of 01.10.2020 [*Investment treaty award – Right (obligation) to respond to unsolicited submission – Allegedly exorbitant cost award*]
- [4A\\_322/2020](#) of 08.12.2020 [*Failure to pay cost advance requested by Supreme Court – Annulment request struck from docket*]
- [4A\\_174/2021](#) of 19.07.2021 [*Arbitration agreement in an (allegedly) unsigned contract – Form requirements met – Illegality defense raised late*]
- [4A\\_478/2020](#) of 29.12.2020 [*Legitimate interest in annulment of award*]
- [4A\\_600/2020](#) of 27.01.2021 [*Compulsory arbitration clause in statutes*]
- [4A\\_528/2019](#) of 07.12.2020 [*Non-signatory claimant (third party beneficiary) entitled to extend arbitration clause to non-signatory defendant*]
- [4A\\_95/2021](#) of 17.06.2021 [*Enforcement – Choice between New York Convention and Swiss-Belgian bilateral treaty on recognition and enforcement*]

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