
Kluwer Arbitration Blog

The Contents of the ASA Bulletin, Volume 40, Issue 2 (June 2022) – and a glimpse at Volume 40, Issue 3 (September 2022)

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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; we also add a brief glimpse of the articles of the next issue:

ARTICLES

Felix DASSER, *Choosing a Seat? Ten Questions to Ask (on Setting-Aside Proceedings)*

In his message, ASA President Felix DASSER identifies the issues that really matter when assessing how arbitration-friendly seats are in relation to annulment proceedings.

Julia JUNG, *Investor-State Mediation – A Third Lane on the ISDS Highway?*

Julia JUNG examines the proposition of investor-State mediation, recent developments in the field as well as a number of related practical aspects.

Bernard HANOTIAU, Leonardo OHLROGGE, *40th Year Anniversary of the Dow Chemical Award*

Bernard HANOTIAU and Leonardo OHLROGGE look back at the Dow Chemical award, which is said to be at the origin of the so-called “group of companies doctrine”, and its implications.

Johannes LANDBRECHT, Andreas WEHOWSKY, *Arbitrating Blockchain and Smart Contract Disputes – Lessons to be Learnt from Commodities and Shipping Arbitration?*

Johannes LANDBRECHT and Andreas WEHOWSKY explain why arbitration is well suited for resolving disputes arising out of blockchain technology and smart contracts and recommend mechanisms to accommodate for the specific needs of blockchain and smart contract disputes.

Irma AMBAUEN, Awarding More or Different Than Claimed by the Parties: Arbitral Awards Ultra or Extra Petita

Irma AMBAUEN focuses on the three only successful challenges of arbitral awards brought before the Swiss Federal Supreme Court on the ground of ultra petita since 1989 and whether awarding a sum of money in a currency other than that requested by claimant violates the principle of ne ultra petita.

Charles T. KOTUBY Jr, Alberto POMARI, Do the 2021 Reforms of the Italian Code of Civil Procedure Make Italy a Favorable Seat for International Arbitration?

Charles T. KOTUBY Jr and Alberto POMARI highlight some of the key features of the 2021 reform of Italy's arbitration law and analyses whether they bring Italy in line with other, preferred arbitral seats.

Nicolas CURCHOD, Judicial Involvement in Arbitration: Towards a Collaborative Approach

Nicolas CURCHOD examines the relationship between arbitration and litigation and argues in favor of an alternative, collaborative approach under which domestic courts and arbitral tribunal work together as partners.

Alexander LAUTE, The Arbitration Rules of the Nordic Offshore and Maritime Arbitration Association – A Swiss Perspective

Alexandre LAUTE offers a “Swiss” perspective on the arbitration rules of the 2021 Nordic Offshore and Maritime Arbitration Association by comparing these rules with the arbitration rules of the Swiss Arbitration Centre.

Süheylâ BALKAR, Law No. 805's Effect on Arbitration Agreements

Süheylâ BALKAR analyses the applicability of Turkish Law No. 805, which requires mandatory use of Turkish in economic enterprises to agreements, particularly arbitration agreements.

DECISIONS OF THE SWISS FEDERAL SUPREME COURT

- [4A_464/2021](#) of 31.01.2022 [New fact – Allegedly forged document – Public policy]
- [4A_406/2021](#) of 14 02.2022 [Sun Yang doping ban – Allegedly missed deadline for appeal against CAS award goes to admissibility, not jurisdiction – Replacement arbitrators not required to allow new pleadings or evidence – Page limitations]

- [4A_476/2020 of 5.01.2021](#) [Denial of justice v. res judicata – ECHR not directly applicable]
- [4A_348/2020 of 4.01.2021](#) [Award upheld after two previous annulments – Discretionary contract termination found to be valid but triggering damages for abuse of right]
- [4A_292/2019 of 16.10.2019](#) [Permissible contacts between counsel and arbitrator – IBA Guidelines on Conflicts, and on Party Representation]
- [4A_167/2021 of 19.07.2021](#) [*Pacta sunt servanda* – Binding force of contracts – Good faith, expropriation without compensation]

A GLIMPSE AHEAD

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

- Marlena HARUTYUNYAN, *The Revised ICSID Rules: A Further Step Towards Transparency and Efficiency*
- Hansjörg STUTZER, *The Ongoing Duty to Disclose and the Taciturn Chairwoman. Case Note on Swiss Federal Supreme Court Decision 4A_462/2021*
- Emilie MCCONAUGHEY, Nicole CHALIKOPOULOU, *Space Law and Arbitration. A Not-So-Outlandish Space Odyssey*

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