
Kluwer Arbitration Blog

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The ITA Board of Reporters have reported on the following court decisions.

Soluciones Integrales SRL v. Ternium Argentina SA s/ ordinario, Court of Appeals in Commercial Matters of the Federal District, Chamber D, 1648/2021, 30 September 2021

Federico Godoy, Beretta Godoy, ITA Reporter for Argentina

The arbitration clause incorporated into an adhesion contract is enforceable as long as it is concluded between companies to resolve business disputes.

China Iwncomm Co., Ltd. v. Apple Inc. and Morrison & Foerster LLP (MOFO), Higher People's Court of Beijing, (2019) j?ng mín xiá zh?ng 100 hào, 29 June 2022

Arthur X. Dong, JunHe LLP, ITA Reporter for the PRC of China

Under the law of the People's Republic of China ('PRC'), a non-signatory to an arbitration agreement is usually not bound by the arbitration agreement, and, tortious claim may possibly fall out of the arbitration agreement too. However, in this case Beijing High People's Court ('Court') reversed the lower-level court's ruling by holding that a trade secret infringement claim against a non-signatory to the arbitration agreement shall be referred to HKIAC arbitration.

Ruili Airlines Co., Ltd v. CDB Aircraft Leasing (Tianjin) Co., Ltd., Intermediate People's Court of Wuxi, (2022) s? 02 zhí yì 13 hào, 30 May 2022

Arthur X. Dong, JunHe LLP, ITA Reporter for the PRC of China

Unlike some jurisdictions which prohibit third party funding ('TPF') for anti-champerty reason, the laws of the People's Republic of China ('PRC') do not prohibit TPF in litigation and arbitration. Nonetheless, in this case, the respondent alleged the claimant's disclosure of details of the arbitration to the claimant's third-party funder violated the confidentiality requirement under the arbitration rules. The PRC court rejected this argument and gave detailed reasoning on TPF's impact on confidentiality of arbitration seated in the PRC.

M v. B, Court of Appeal of Helsinki, Case No. 454, Decision No. S 22/337 (re FAI 60/2016), 29 March 2022

Ina Rautiainen & Anna-Maria Tamminen, Hannes Snellman Attorneys, ITA Reporters for Finland

The District Court of Helsinki evaluated the validity of an arbitral award as a whole and with regard to the value added tax ('VAT') on the legal costs that the arbitral tribunal had ordered one of the parties to pay. The arbitration proceedings related to a disagreement on the interpretation of a sales agreement.

The District Court found that it neither has jurisdiction over a dispute that has been the subject of arbitration, nor to examine the substantive legal correctness of an arbitral award. An annulment action at a district court cannot be used as a means of appeal in a situation where the party concerned is dissatisfied with the outcome of the arbitration. An arbitral award can only be null and void or set aside in situations provided for by law, which was not the case in this matter.

In conclusion, the District Court of Helsinki dismissed the annulment action, except with regard to the question pertaining to VAT. The Court of Appeal of Helsinki did not grant permission to appeal and, thus, the District Court's decision stands.

Aircon Beibars FZE v. Heligo Charters Private Limited, High Court of Bombay (Mumbai), Commercial Arbitration Petition No. 1130 of 2019, 17 February 2022

Ina Rautiainen & Anna-Maria Tamminen, Hannes Snellman Attorneys, ITA Reporters for Finland

Any opposition to the enforcement of a foreign award must be made within the grounds provided under Section 48 of the Arbitration and Conciliation Act 1996. The public policy exception in Section 48 must be construed narrowly and only in exceptional cases, where a foreign award shocks the conscience of the court. Any opposition to the enforcement of a foreign award must be made within the grounds provided under Section 48 of the Arbitration and Conciliation Act 1996. The public policy exception in Section 48 must be construed narrowly and only in exceptional cases, where a foreign award shocks the conscience of the court.

Babanrao Rajaram Pund v. M/s. Samarth Builders & Developers and Another, Supreme Court of India, Civil Appeal No. 6272 of 2022 (arising out of SLP(C) No.15989 of 2021), 07 September 2022

Aditya Singh, White & Case LLP, ITA Reporter for India

An arbitration agreement is valid if it manifests the unambiguous intention of the parties to refer their disputes to arbitration. The absence of express, written agreement that parties would be bound by the decision of an arbitral tribunal does not by itself render such arbitration agreement invalid.

Dr. Reddys Laboratories Limited, through Authorized Signatory Gopala Krishna Gangavelli v. Alpha Sciences PTE Limited, High Court of Delhi, O.M.P. (I) (Comm.) No. 190 of 2022, 07 October 2022

Aditya Singh, White & Case LLP, ITA Reporter for India

A court has the power to grant any interim measure of protection as would be just and convenient under the circumstances and the court is not constrained by the technicalities of the Code of Civil Procedure 1908 while granting such interim relief.

Indian Oil Corporation Ltd. (IOCL), through its Senior Manager v. M/s. Shree Ganesh Petroleum Rajgurunagar, through its Proprietor Mr. Laxman Dagdu Thite, Supreme Court of India, Civil Appeal Nos. 837-838 of 2022 (arising out of SLP(C) Nos. 35970-71 of 2016), 01 February 2022

Aditya Singh, White & Case LLP, ITA Reporter for India

An arbitral award can be set aside under Section 34(2)(a)(iv) of the Arbitration and Conciliation Act 1996 if the arbitral tribunal constituted under one contract has adjudicated disputes relating to a distinct, independent contract between the same parties.

Intercontinental Hotels v. Waterline, Supreme Court of India, Arbitration Petition (C) No. 12 of 2019, 25 January 2022

Aditya Singh, White & Case LLP, ITA Reporter for India

An arbitration agreement in an insufficiently stamped contract is enforceable unless it is clearly indicative that the arbitration agreement is unworkable.

I-Pay Clearing Services Private Limited v. ICICI Bank Limited, Supreme Court of India, Civil Appeal No. 7 of 2022 (arising out of SLP(C) No. 24278 of 2019), 03 January 2022

Aditya Singh, White & Case LLP, ITA Reporter for India

Under Section 34(4) of the Arbitration and Conciliation Act 1996, courts cannot remit an award to the arbitrator to provide additional reasons or fill gaps in the reasoning on a contentious issue when the arbitrator has not given any finding on that issue in the first instance.

Company A v. Company B, District Court of Zemgale, Riga, C73295922, 26 October 2022

Inga Kacevska, Law Office of Inga Ka?evska, ITA Reporter for Latvia

Arbitration clause providing for presumption of admission of possible claim is valid and has no discriminatory nature.

Prosecutor General in Person A. v. Company ‘AM ABSOLUT’, Senate of the Supreme Court of Latvia, SPC-14/2022, 03 November 2022

Inga Kacevska, Law Office of Inga Ka?evska, ITA Reporter for Latvia

The court shall refuse to issue a writ of execution for compulsory execution of an award if there are no reasons given in the award.

Person B v. AS ‘Reverta’, Senate of the Supreme Court of Latvia, C04282210, 07 December 2022

Inga Kacevska, Law Office of Inga Ka?evska, ITA Reporter for Latvia

Validity of the main contract and arbitration clause due to incapacity of a party.

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