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Available Now: First Upload of ICCA Awards Series 2024 Materials and Second Upload of Yearbook 2024 Materials

Stephan Schill (General Editor, ICCA Publications; Amsterdam Center for International Law, University of Amsterdam) · Tuesday, June 18th, 2024

Recently, the first upload of awards from the ICCA Awards Series 2024 and the second upload of court decisions from the Yearbook 2024 went online on Kluwer Arbitration.

The first upload of materials for the 2024 volume of the ICCA Awards Series features the preliminary and the final *ad hoc* awards in the *Sulu* case, a dispute between the heirs of the Sultan of Sulu and Malaysia, to which the rights under an 1878 agreement for the exploitation of natural resources in North Borneo had eventually passed.

In the [preliminary award](#), the arbitrator held that the clause in the 1878 agreement, which provided that any disputes would be brought “for consideration or judgment” to the British Consul-General in Borneo, was a valid arbitration clause. The arbitrator considered that the alternative private dispute resolution mechanism referred to in the clause was very similar to arbitration and that the fact that the clause referred to an institution – the British Consul General in Borneo – that no longer existed was irrelevant, in the application of the principle of the presumed validity of the arbitration agreement in the 1958 New York Convention.

In the [final award](#), the arbitrator awarded US\$ 14.92 billion to the heirs of the Sultan of Sulu, finding that the 1878 agreement constituted a commercial lease agreement and that Malaysia had committed breach of contract by failing to pay the agreed annual sum under the agreement from 2013 onwards without a legally valid justification.

The second upload of materials for the 2024 volume of ICCA’s Yearbook Commercial Arbitration contains 21 court decisions from 11 countries, including eight decisions prepared in cooperation with the Singapore International Commercial Court (SICC) rendered by the SICC and the Singapore Court of Appeal between May and December 2023. Here are some of the highlights.

Three decisions were rendered by Singaporean courts in the *India v. Deutsche Telekom* case, in the context of Deutsche Telekom’s attempts to enforce the award it had obtained against India. On 30 January 2023, the [SICC dismissed India’s application to set aside the award’s enforcement order](#) obtained ex parte by Deutsche Telekom. Seized with India’s appeal against the SICC’s decision, the [Court of Appeal denied India’s application for its appeal to be subject to sealing and redaction orders](#) and to be heard in private by a decision rendered on 9 June 2023, and [affirmed the SICC’s enforcement decision](#) by a decision dated 15 December 2023.

In a 2022 decision, the [Supreme Court of Georgia](#) addressed the formal requirements for the application for enforcement of a foreign arbitral award in Georgia, and whether the failure to comply with those requirements may be adduced as a ground to refuse enforcement of the award. The Court answered the question in the negative, holding that failure to comply with those requirements was not among the exhaustive grounds to refuse enforcement listed in Article V of the 1958 New York Convention and the corresponding Article 45(1) of the Georgian Law on Arbitration.

In two related decisions on, respectively, an application for non-enforcement and an application for set-aside of a CIETAC award, the [Intermediate People's Court of Wuxi](#) and the [Fourth Intermediate People's Court of Beijing](#) found that the involvement of a third-party funder in the arbitration did not constitute a violation of any existing statutory provisions of the Arbitration Law of China PR or any of the CIETAC Arbitration Rules, and accordingly dismissed the applications.

In [Thibelo bv v. Stölzle-Oberglas GmbH](#), in a dispute concerning the enforcement of an arbitration agreement under the 1961 European Convention, the Supreme Court of Belgium upheld for the first time the arbitrability of a dispute concerning the termination of an exclusive distributorship contract with effect in Belgium and entered into for an indefinite period of time. The Supreme Court overruled the previous approach by Belgian courts that disputes concerning the termination of distributorship contracts could not be resolved through arbitration if the arbitration clause was agreed in advance of the end of the contract and led to the application of a foreign law, finding that this approach could not be maintained against the background of EU law, namely Articles 3.1, 9.1 and 9.2. of the Rome I Regulation.

The full decisions, including English translations and indexing, and additional decisions from Argentina, Australia, Austria, Canada, Chile, Germany, Hong Kong, India, Monaco, the Netherlands, Qatar, Ukraine, the United Kingdom, the United States, and the Court of Justice of the European Union are available accessing the [Yearbook 2024 on Kluwer Arbitration](#).

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