

Kluwer Arbitration Blog

Editor's Picks: Six New ICC Awards Available in the ICCA Awards Series 2024

Stephan Schill (General Editor, ICCA Publications; Amsterdam Center for International Law, University of Amsterdam) · Saturday, December 14th, 2024

Six previously unpublished ICC awards are now available online on Kluwer Arbitration, as part of the ICCA Awards Series.

The awards published deal with a broad range of issues, including the application of the CISG and of the UNIDROIT Principles, principles of contractual interpretation in case of ambiguously worded clauses, the admissibility of penalty clauses, and the issues concerning the determination of interest.

In an award dealing with an [international sale governed by the CISG and German law](#), the arbitrator ruled in favor of the buyer. The seller's failure to deliver two vehicles constituted a fundamental breach of contract, leading to a successful claim for restitution of the advance payment plus contractual penalties. While penalty clauses are not regulated by the CISG, the arbitrator found them admissible under the CISG and enforceable under German law. He also rejected a potential reduction under the German Civil Code as inapplicable to business transactions. Interest was awarded on both the advance payment – as provided in the contracts between the parties – and penalties – in application of the CISG and German law.

In another award, the sole arbitrator ruled on a [dispute concerning unpaid goods](#), applying the UNIDROIT Principles as chosen by the parties in their settlement agreement. The case turned on the interpretation of an ambiguous provision regarding a contractual penalty fee to be paid 'as damages ... and interests'. Despite this unclear language, the arbitrator determined that according to a fair and proper interpretation of the clause the interest was to be considered excluded from the penalty fee, and awarded separately. To award interest, the arbitrator applied the UNIDROIT Principles as the law governing the settlement agreement, even though he noted that interest could also be deemed to be a matter of procedural law, to which, in this case, Thai law as the law of the place of arbitration would apply.

In a [London-seated arbitration](#), a sole arbitrator ordered reimbursement to a claimant in a dispute over supply contracts for industrial equipment. While the contracts specified 'international commercial rules' as governing law, the arbitrator rejected this as an express or implied choice of the CISG. Nevertheless, he applied the CISG as the most appropriate rules as provided by the English Arbitration Act, noting that both parties were from CISG member states (Romania and China) and that the contracts had a connection to Romania. The respondent was ordered to refund

the down payment for undelivered equipment and reimburse installation costs for delivered sets which the respondent failed to commission.

More awards from the ICC, as well as other institutions, are available accessing the ICCA Awards Series on [Kluwer Arbitration](#).

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The graphic features a dark background with a glowing blue and red digital circuit pattern. A gavel is positioned in the center, with its head resting on a circular base. The text '2024 Future Ready Lawyer Survey Report' is at the top left. Below it, the main title 'Legal innovation: Seizing the future or falling behind?' is written in large white font. A blue button with white text says 'Download your free copy →'. The Wolters Kluwer logo is at the bottom left. On the right, there is a white box with the 'FR Future Ready' logo and the word 'LAWYER' below it.

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