

## BOOK REVIEW NOTES

### THE YEARBOOK ON INTERNATIONAL ARBITRATION (Vols. I–III)<sup>1</sup>

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International arbitration provides efficient means of resolving international disputes. Among other forms of alternative dispute resolution arbitration is regarded as a preferred method since it provides speedy and professional dispute resolution process. Arbitration in contrast to adjudication gives parties more flexibility with regard to choice of arbitrators, location, procedural rules and the substantive law that will govern the relationship and rights of the parties.<sup>2</sup>

The popularity of the arbitration can be proved by the increasing case-loads at leading arbitral institutions, with the number of reported cases increasing between three and five-fold in the past 25 years.<sup>3</sup>

International arbitration is a fast developing institute. The rules and practice of arbitral proceedings are volatile and voluminous. The market is flooded with of academic textbooks and reference works on international arbitration, but only few of these academic texts are up-to-date.

The idea of the *Yearbook of International Arbitration* is to take up recent trends in international arbitration and leading them in scholarly debate. The *Yearbook* covers not only international commercial arbitration but also investor-state conflicts and sports controversies.

The editor of the *Yearbook* Prof. Marriane Roth claims the *Yearbook* to be an ongoing work presenting reviews analyses of current and edge-cutting topics in

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<sup>1</sup> Reviewed book: 1–3 Yearbook on International Arbitration (Marianne Roth & Michael Geistlinger, eds.) (Intersentia 2010, 2012, 2013).

<sup>2</sup> Mark A. Buchanan, *Public Policy and International Commercial Arbitration*, 26(3) Am. Bus. L.J. 511, 512 (1988). doi:10.1111/j.1744-1714.1988.tb01153.x

<sup>3</sup> Gary B. Born, *International Arbitration: Law and Practice* 17 (Wolters Kluwer 2012).

international arbitration and related topics. The *Yearbook* is truly international in respect of discussed topics and the authors of the essays.

The *Yearbook* volumes have different structure and cover various topics concerning international dispute resolution. Volume I (2010) of the *Yearbook* is divided into nine parts: Arbitration rules and regimes; Initiating arbitration proceedings; Other issues of arbitral procedure; Arbitral awards and their enforcement; Applicable substantive law; Sports arbitration; ADR; Notes; and Reviews. It covers various topics including recent changes in the UNCITRAL Arbitration Rules (Marianne Roth, *The Revision of the UNCITRAL Arbitration Rules* 19–28); incorporation of the UNCITRAL Model Law on international commercial arbitration in Russia (Antonida Netzer, *Incorporation of the UNCITRAL Model Law on International Commercial Arbitration in the Russian Federation* 29–56). Russian perspective is also employed in the Eugen Salpius essay on ‘The interpretation of arbitration clauses – a change of approach in the Russian Federation’ (207–13). Serbian scholar Aleksandar Ćirić analyzes the procedure for settling international trade disputes between the members of the World Trade Organization (WTO) (57–74). Alex Brenninkmeijer and Tijn van Kamp make a particular review of the Dutch arbitration law (75–88). Austrian scholar Peter Egger gives a brief review of the concepts of arbitrator independence, impartiality and disclosure. He analyses the ICC Court Statement of Acceptance, Availability and Independence (2009) (103–13). The subject of Alexander Bělohávek essay is the impact of the insolvency proceedings and declaration of bankruptcy on pending arbitration in light of recent decisions of the Czech, English and Swiss arbitral tribunal (145–66). The *West Tankers* case is criticized by John Verbeck (USA) in his essay ‘International arbitration practice in Europe: antisuit injunctions’ (185–95).

Volume II (2012) of the *Yearbook* contains essays of the 29 renowned experts coming from 14 countries around the world and the main topic of it is the intersection between arbitration and litigation and the specific features of the investor-state arbitration as well as trust and anti-trust arbitration. The Volume is divided into nine parts including Arbitration agreement; Arbitral procedure; Intersection with court proceedings; Arbitral awards and their enforcement; Investment disputes. Volume II contains review of some arbitral awards and judicial decisions as in the essay of Austin Pullé ‘From Paris to Ulaanbaatar – non signatory liability’ where the scholar analyzes the decision of the UK Supreme Court in *Dallah Real Estate and Tourism Holding Company v. Ministry of Religious Affairs, Government of Pakistan* (51–62). Hans-Patrick Schroeder and Tanja Pfitzner analyze some recent trends regarding dissenting opinions in international commercial arbitration based on some recent case law in different European jurisdictions (133–49). Courts practice concerning arbitral awards is examined by Thomas Kendra in his essay ‘The international reach of arbitral awards set aside in their country of origin – a turning point?’ The essay reviews the international approach to the enforcement of arbitral awards annulled in their country of origin (151–65). Some essays from Volume II examine recent

developments of the arbitral rules. The article of Marianne Roth and Claudia Reith 'Emergency rules' provides an overview of the different approaches concerning emergency rules in the various arbitral institutions. The contribution of Marianne Stegner gives an overview of the different approaches to calculate cost of arbitration (under an ICC, AAA, LCIA and UNCITRAL procedure) (85–93). Cristina Lenz in her article explains the EU Directive on Mediation and its implementation in Austria (375–93). Louis Buchman makes a review of the French arbitration law reform which has rejuvenated the law of arbitration by incorporating some practical solution devised over the last years by case law into the provisions of the Civil Procedure Code dealing with domestic and international arbitration (95–100). Jaunius Gumbis and Miglė Dereškevičiūtė raise a theoretical question concerning the concept of justice in arbitration proceedings (101–06). An extensive examination of differences between disputes governed only by the domestic investment law of the host State and those governed by a BIT, and ICSID arbitration is conducted by Mauro Rubino-Sammartano (225–37). Russian scholars Boris Karabelnikov and Alexei Zhiltsov in their contribution analyze the Law of Russian Federation No. 57-FZ 'On the Procedure of Contribution of Foreign Investment to Companies of Strategic Importance for National Defense and State Security' (277–97).

The Volume III of the *Yearbook* offers a comprehensive range of articles comprising topical issues of arbitration in general, investment arbitration, sports arbitration and ADR. First of all Volume III is devoted to the creation of arbitral institutions in the Common Market of the South, the delimitation of confidentiality, the handling of set-off and counter-claims, trends regarding interim relief and the enforcement of arbitral award. Attention is also given to the need for reasoned decisions in arbitrator challenges, and to mass procedures in investment arbitration. Martin Hunter and Gerson Damiani study the increasing importance of International Dispute Resolution within emerging markets, in particular the Common Market of South America – Mercosul (59–72). Rodrigo Garcia da Fonseca and André de Luiz Correia analyze the general framework and the limits or exceptions to confidentiality in arbitration under a Brazilian perspective (119–37). Particular section of the Volume III is devoted to interim measures in arbitral proceedings. Marianne Roth analyzes to what extent an arbitral tribunal is empowered to order interim measures in an international commercial arbitration (141–50). Sumeet Kachwaha presents an analysis of the UNCITRAL amendments to the Model Law concerning interim relief and points out some problematic areas (155–61). Volume III also includes area studies. Clarisse von Wunschheim reports on recent trends in the enforcement of arbitral awards in China (225–38). Katarína Chovancová introduces enforcement procedures of arbitral award in Sweden, the Netherlands and Slovakia (209–24). Marianne Roth and Marianne Stegner give an overview of the current legal situation of mediation in Austria.

The idea to unite different relevant up-to-date essays and articles concerning international dispute resolution in one book bears fruits. The *Yearbook of International*

*Arbitration* will help both international arbitration practitioners and academics to identify and better understand trends, developments and procedural issues relating international arbitration.

Each volume features thought-provoking articles by leading practitioners and academics, insightful case law from the different arbitration institutions and domestic courts, extensive analysis of important legislative and procedural documents.

Cautiously selected essays of the *Yearbook* undoubtedly will influence the research in the field of international arbitration and will be a great help for the practitioners and scholars all over the world.

### **Information about the author**

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