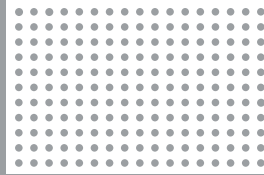


Series on International Arbitration

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Volume 6

Selected Papers on International Arbitration

Editors:

Daniel Girsberger
Christoph Müller



Stämpfli Publishers

The SAA Series on International Arbitration contains the best graduation papers of all participants who successfully completed the post-graduate studies in international arbitration of the SAA Swiss Arbitration Academy. The papers cover different important aspects of international arbitration.

The Swiss Arbitration Academy is a private institution co-founded and managed by the editors of this volume. Each year, the SAA offers and conducts an intensive and practical course in international arbitration. The training has been designed for lawyers, in-house counsels, and other professionals interested in cutting-edge international dispute resolution education. All participants who successfully complete the course, which includes the submission of the final paper, are awarded with the Certificate of Advanced Studies in Arbitration (CAS in Arbitration) and the Arbitration Practitioner title (ArbP).

Volume 6

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Note from the editors

The SAA-Series on International Arbitration contains the best graduation papers of all participants who have successfully completed the postgraduate studies in international arbitration of the Swiss Arbitration Academy (SAA) in co-operation with the Universities of Lucerne and Neuchâtel. Besides stern academic standards, the papers of those participants who achieved a high grade with their Certificate of Advanced Studies (CAS) must meet a high benchmark of significant relevance for the law and practice of international arbitration. In this Series, only the most exceptional final papers are published. They have been supervised by members of the SAA's Academic Council and edited by the undersigned.

In this 6th volume of the series, you will find 3 papers on different aspects of international arbitration. Christian Fischer proposes answers to the question of whether arbitration can be the solution for patent disputes involving standards. Christophe Levet analyses rights, duties and relationships of witnesses with counsel in international arbitration proceedings. Finally, Maria Škof looks closely at the complicated relationship between arbitration and EU Law.

The Swiss Arbitration Academy (SAA) offers and conducts intensive courses in international arbitration. The courses are designed for lawyers, in-house counsel, graduate students and other professionals interested in cutting edge international dispute resolution education. The Certificate of Advanced Studies (CAS) is a joint degree of the University of Lucerne and the University of Neuchâtel in collaboration with the SAA and is awarded to participants who successfully attend four modules of five days each. The program comprehensively examines all fundamental aspects of international commercial arbitration, including the practice and proceedings of the major arbitration institutions, such as the Swiss Chambers' Arbitration Institution (SCAI), ICC, LCIA, SCC, DIS, VIAC, and ICDR (AAA). In addition, the program reviews the features of ad hoc arbitration. For further details, please visit: <http://cas-arbitration.ch/>

The editors would like to thank the authors for their excellent contributions contained and are delighted to present their papers to the arbitration community. The editors further thank the Director of Studies, Teona Kvirikashvili for her important support in the editorial process. Last but not least, this publication was only made possible due to the continuous support of Stämpfli Verlag AG.

April 2021

Daniel Girsberger and Christoph Müller, Professors at the Universities of Lucerne and Neuchâtel

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List of Abbreviations

3G.	Third generation mobile telephony standard
4K	a video resolution, same UHD.
aCivProcA	Austrian Civil Procedure Act [Zivilprozessordnung]
ADR	Alternative Dispute Resolution
Art	Article
ASA	Swiss Arbitration Association
ASA Board	Board of the Swiss Arbitration Association
B.V.	Besloten vennootschap
B2C	Business to Customer
BHG	Federal Court of Justice
BIT	Bilateral Investment Treaty
CCBE Code	Code of Conduct for European Lawyers issued by the Council of Bars and Law Societies of Europe in 2013
CETA	Comprehensive Economic and Trade Agreement
CIArb	Protocol for the Use of Party-Appointed Expert Witnesses in
Protocol	International Arbitration of the Chartered Institute of Arbitrators of 2007
CJEU	Court of Justice of the European Union
CJEU	Court of Justice of the European Union
ECHR	European Convention on Human Rights
ECJ	European Court of Justice
ECLI	European Case Law Identifier
ECT	Energy Charta Treaty
ed.	Editors
ETSI	European Telecommunications Standard Institute
EU	European Union
EU	European Union
EURATOM	European Atomic Energy Community

EuZW	Europäische Zeitschrift für Wirtschaftsrecht
ff	Folios following
FRAND	Fair, Reasonable and Non-Discriminatory
FTC	Federal Trade Commission
GATS	General Agreement on Trade in Services
GesRZ	Fachzeitschrift für Gesellschaftsrecht
HEVC	High-Efficiently Video Coding
IBA	International Bar Association
IBA Evidence Rules	2010 IBA Rules on the Taking of Evidence
IBA Party Representation Guidelines	IBA Guidelines on Party Representation in International Arbitration of 25 May 2013
ibid.	Ibidem/in the same place
ICC	International Chamber of Commerce
ICDR Rules	International Dispute Resolution Procedures of the International Centre for Dispute Resolution of 1 June 2014
ICSID	International Centre for Settlement of Investment Disputes
idF	In der Fassung/in the version of
IEEE	Institute of Electrical and Electronic Engineers
ILA	International Law Association
IP	Intellectual Property
ISDS	Investor-State Dispute Settlement
ITU	International Telecommunications Union
LCIA	London Court of International Arbitration
LTE	Long-Term Evolution
MPEG-2	Moving Picture Expert Group
No	Number
OJ	Official Journal
p.	Page
para.	Paragraph