Follow us on:

In this edition, you will find:

- Seize the Opportunity to Work with the AIA
- Become an AIA Member
- Upcoming Events
  - The Future of Investment Arbitration in Europe
  - The European Mediation Training for Practitioners of Justice (EMTPJ) 2018
- Overview of AIA Publications
- Articles:
  - Will Artificial Intelligence Ever Be Able to Render Arbitral Awards – Legally Speaking?
  - Is Mediation a Good Choice for Art-Related Disputes?
- Interview:
  - Interview with the Arbitration Centre of the Chamber of Caracas, Venezuela
- Book review:
  - 'The Notion of Award in International Commercial Arbitration - A Comparative Analysis of the French Law, English Law and the UNCITRAL Model Law' by Giacomo Marchision
  - 'Dispute Resolution in Transnational Securities Transactions' by Tiago Andreotti

Seize the Opportunity to Work with the AIA

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Upcoming Events

The Future of Investment Arbitration in Europe

On **1 June 2018**, the Association for International Arbitration (AIA) with the support of Billiet & Co Lawyers will organise a one-day conference on **The Future of Investment Arbitration in Europe.** The panelists will provide a comprehensive overview of issues pertinent to investment arbitration, reflections on challenges posed by cultural crossroads and insight into future developments. The event will take place at the Conference Hall of Press Club Brussels Europe, 95 rue Froissart, 1040 Brussels, Belgium.

Preliminary Program

09:00 Registration

09:30-11:00 First Panel. Investment Court Model: A Practical Review (Chaired by Dr. Todd Weiler)

- Will it be found consistent with EU law?
- Can it really answer most strident objections to ISDS?
- Where might mandatory disclosure of 3rd party funding lead?
- Is the hoped-for multilateral tribunal an impractical pipe-dream?

11:00-11:30 Coffee break

11:30-13:00 Second Panel. The Invasion of the Common Lawyers: Has International Arbitration Lost Its Trans-Systemic Character? (Chaired by Mr. Diego Brian Gosis)

- Are investment law lawyers culturally diverse?
- Are the arbitrators?
- Do practitioners from different cultures see the same trends?

13:00-14:00 Lunch

14:00-15:30 Third Panel. Intra-EU BITs: A Way Forward After Achmea (Co-chaired by Mr. Johan Billiet and Prof. Nikos Lavranos)

- Are there alternatives for intra-EU ISDS proceedings?
- What are the wider consequences of Achmea for ECT, extra-EU BITs, CETA?
- How to ensure a high level of investor and investment protection within the EU?

15:30-16:00 Coffee break

16:00-17:30 Fourth Panel. Brexit and the Energy Charter Treaty (Chaired by Mr. Graham Coop)

- What is the present status of the ECT as an intra-EU MIT?
- How will Brexit alter that status, and how relevant will the ECT be to the UK post Brexit?
- What happens to claims arising before Brexit?
- Could investors sue the UK – or the EU – on the basis of Brexit per se?

17:30-18:30 Reception

Further information about this event and the registration form are provided here.

EMTPJ 2018

The European Mediation Training for Practitioners of Justice (EMTPJ) is an 11-day intensive training course on cross border mediation in civil and commercial matters. The training is unique because it is tailored to cover both theoretical and practical elements of mediation from a European perspective. The successful completion of EMTPJ allows participants to apply for accreditation as a mediator by the Belgian Federal Mediation Commission, as well as by different dispute resolution centers in Europe and beyond.

Date: 20 - 31 August 2018

Participation fee: Non-Members 2500 EUR excl. VAT / AIA Members 2000 EUR excl. VAT

Early bird discount: before 15 May 2018 (25% discount)

Venue: Louizalaan 146, Brussels, Belgium

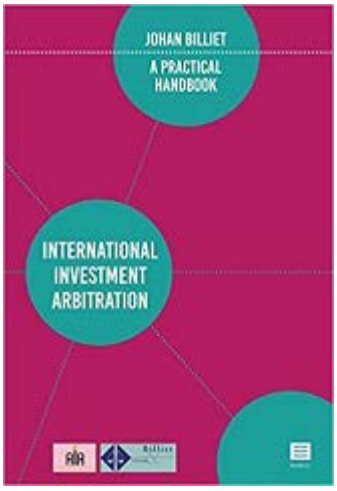
Further information about EMTPJ 2018 and the registration form are provided here.

AIA Publications

The AIA strives to unite the global community in the field of ADR. It seeks to provide reliable educational information on arbitration and mediation matters in order to further the responsible and informed use of ADR in the international business sector. In addition to organizing conferences, the AIA regularly publishes books on a range of ADR related issues.

AIA members can purchase AIA publications at a 25% reduced rate!

Below is the most recent publication:



Johan Billiet, A Practical Handbook on International Investment Arbitration, 2016

After an explanatory introduction into the area of investment arbitration, differentiating it from commercial arbitration and state to state arbitration, this handbook examines the legal framework and the general course of international investment arbitration proceedings. Relevant and recent case law in this area is relied upon, and contemporaneous controversial topics, such as the future of Intra-EU BITs and FTAs as well as the link between vulture funds and investment arbitration are also discussed.

Price: € 85 (VAT and shipping costs inside EU included)

For more information regarding other AIA Books and payment options, click here

Articles

Will Artificial Intelligence Ever Be Able to Render Arbitral Awards – Legally Speaking?

Karoline Hovland Lyngstadaas

Introduction

At the conference ‘The Present and Near Future of New Technology in Arbitration’ hosted by the Belgian Chapter of the Club Español de Arbitraje (CEA) in Brussels on 23rd February 2018, speakers addressed an array of issues related to the topic; amongst them the potential impact of Artificial Intelligence (AI) on arbitration. One of the pertinent questions raised by the keynote speaker, Sophie Nappert, was, taking into consideration the leaps made in predictive analytics and deep learning, will machines be capable of rendering arbitral awards, and will they be able

to do it better than humans? Nappert explored the importance of intangible human attributes such as empathy, trust, common sense, equity, fairness and honesty to the process of justice, and whether algorithms can achieve justice.

A portrait of a future arbitrator?
Photo by Lorenzo Cafaro, www.pexels.com

The idea of machines taking over, and potentially excelling at, tasks currently reserved for highly skilled and trained humans sounds like science fiction to many. However, as highlighted by Nappert, a study conducted by the Organisation for Economic Co-operation and Development (OECD) shows that machines outperform a significant amount of adults in the fields of literacy, numeracy and digital problem-solving.[1] And significant tools to speed up the arbitral process already exist.[2] Current algorithms are, however, limited when it comes to analysis on a case to case basis and at communicating their reasoning to humans,[3] obvious roadblocks to rendering awards.[4] Contemporary systems excel only at one task, they do not possess the complexity of an adult human; so called weak AI.[5] However, Ray Kurzweil, an AI expert at Google, has predicted that AI will have achieved human level intelligence by 2029.[6] While not all experts agree on such a rapid timeline, there is a consensus that machines will eventually overtake humans in the field of intelligence.[7]

When AI is at a level of, or has surpassed human intelligence, so-called strong AI,[8] will parties be able to choose an AI as arbitrators to have legally correct awards rendered almost instantaneously?

Legal framework

The first question to be posed is whether parties who wished to submit their case to an AI would benefit from the protection of the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (NYC). Article I(2) NYC defines arbitral awards as those rendered by "*arbitrators or permanent arbitral bodies to which the parties have submitted*". This raises two questions: whether this is an exhaustive list; and if so, can an AI qualify as either? Other objections could be raised under the NYC, but this brief article will be limited to exploring

the impact of Article I(2) NYC.

Is Article I(2)NYC Exhaustive?

At the CEA conference Erica Stein presented on the issue of the "*in writing*" requirement in Article II(2) NYC with its reference to "*exchange of letters or telegrams*" in the digital age. The United Nations Commission on International Trade Law (UNCITRAL) has recommended that the list not be viewed as exhaustive.[9] Further, it is widely accepted in case law and academia that electronic communication can satisfy the "*in writing*" requirement. [10]

Similarly to Article II(2) NYC the article under examination, Article I(2), seems on the face of it to be an exhaustive list. However, it is the aim of the NYC to "*increase the effectiveness of arbitration*",[11] and the willingness to interpret Article II(2) NYC in a way that facilitates this goal signals that other articles also can be interpreted in light of technological advances. Perhaps when the time comes UNCITRAL will prepare "Recommendations Regarding the Interpretation of Article I(2)", and remove any doubt that AI can act as arbitrator.

Can an AI Qualify as an Arbitrator or Permanent Arbitral Body?

Should it be found that the list in Article I(2) NYC is exhaustive, it must be asked whether an AI could fit into one of the existing categories. The NYC does not offer any detailed definition of either term. However it states in Article V(d) that the arbitral authority must be in accordance with the agreement of the parties. Article 2 of the Inter-American Convention on International Commercial Arbitration (IAC) is more to the point, stating:

"Arbitrators shall be appointed in the manner agreed upon by the parties. Their appointment may be delegated to a third party, whether a natural or juridical person."

The IAC addresses only the legal personality of the appointing authority, not that of the arbitrator or body. However, it could be argued that the fact that the parties deem an AI to be their arbitrator is sufficient, because it is their right to choose their arbitrator.[12]

Some national laws pose hurdles for AI arbitrators in demanding that an arbitrator be natural person, i.e. a real human being.[13] This is the case in France, the Netherlands and Spain.[14] Certain laws stipulate that an arbitrator must not be a minor, have legal capacity, be legally qualified or be capable of exercising his or her civil rights.[15] Other national laws implicitly refer to arbitrators as natural persons by using gender pronouns or setting out procedures for the death of an arbitrator.[16] However, an argument can be made that going against the uniform interpretation of the NYC, which poses no restriction upon the identity of an arbitrator, violates the obligation to recognise awards under Article II NYC.[17] Under the IAC, national laws cannot prevent parties from choosing an arbitrator under Articles 2 and 5(1)(d).[18]
It is common practice that the arbitrator is a natural person due to the adjudicatory character of arbitration.[19] However, this is a result of current technological restraints.

Some jurisdictions, such as Greece, permit juridical persons to be arbitrators.[20] Both legal theorists and philosophers have raised the question of whether strong AI could be afforded legal personhood.[21] Animal right activists such as Peter Singer have long decried the constriction of personhood to humans as speciesist.[22] The same arguments could in the future be made in respect of AI. If granted legal personhood it should follow that AI's could act as arbitrators and that their awards would benefit from the protection of NYC.

Conclusion

This debate is currently theoretical, but it may not remain so for long. If AIs are developed that are proven to be effective, fair and capable of giving reasoning that humans can understand this could greatly increase the effectiveness of arbitration, and parties should be free to use them without encountering speciesist legal hiccups.

It is the aim of the NYC to promote effectiveness in arbitration, and the text does not bar AIs from acting as arbitrators, these hindrances are found only in certain national laws, which may be in violation of the States' obligation to recognise awards under Article II NYC.

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[1] Organisation for Economic Co-operation and Development (OECD), Draft Report on Computers and the Future Skill Demand (EDU/CERI/CD/RD(2017)2)

[2] Lucas Bento, 'International Arbitration and Artificial Intelligence: Time to Tango?' (Kluwer Arbitration Blog 23 February 2018) <http://arbitrationblog.kluwerarbitration.com/2018/02/23/international-arbitration-artificial-intelligence-time-tango/> accessed 2 March 2018

[3] 'For Artificial Intelligence to Thrive, It Must Explain Itself' The Economist (London, 15 February 2018) <https://www.economist.com/news/science-and-technology/21737018-if-it-cannot-who-will-trust-it-artificial-intelligence-thrive-it-must > accessed 1 March 2018

[4] See e.g. Art. 1713 para. 4 of the Belgian Judicial Code Provisions (In force as from 1 September 2013 (as amended on 25 December 2016)): "The award shall state the reasons upon which it is based."; see also SI Strong , 'Reasoned Awards in International Commercial Arbitration' (Kluwer Arbitration Blog, 19 February 2016) <http://arbitrationblog.kluwerarbitration.com/2016/02/19/reasoned-awards-in-international-commercial-arbitration/> accessed 26 March 2018; Pierre Lalive, 'On the Reasoning of International Arbitral Awards' [2010] 1(1) Journal of International Dispute Settlement <http://www.lalive.ch/data/publications/On_the_Reasoning_of_International_Arbitral_Awards.pdf> accessed 26 March 2018

[5] Selmer Bringsjord and Bettina Schimanski, 'What is Artificial Intelligence? Psychometric AI as an Answer' (Department of Computer Science, Department of Cognitive Science, Rensselaer AI & Reasoning (RAIR) Lab) <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.6.1598&rep=rep1&type=pdf> accessed 26 March 2018

[6]Adam Withnall, 'Robots Will Be Smarter Than Us All By 2029, Warns AI Expert Ray Kurweil' (Independent, 23 February 2014) <https://www.independent.co.uk/life-style/gadgets-and-tech/news/robots-will-be-smarter-than-us-all-by-2029-warns-ai-expert-ray-kurzweil-9147506.html> accessed 14 March 2018

[7] Executive Office of the President of the United States of America, National Science and Technology Council, Committee on Technology, Preparing for the Future of Artificial Intelligence (Report October 2016) Letter 12 October 2016

[8] Bringsjord and Schimanski (n 5)

[9] UNCITRAL ´Recommendation Regarding the Interpretation of Article II, Paragraph 2, and Article VII, Paragraph 1, of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done in New York, 10 June 1958´ 39th session (2006) A/6/17

[10] Efetio [Court of Appeal], Piraeus, Descision no. 475 of 2005, Aerios Pagos [Supreme Court], decision no. 1932 of 2006 in Albert Jan Van Der Berg, Yearbook Commercial Arbitration Vol XXXIII (Kluwer Law International 2008) 555 et seq; Gary Born, International Commercial Arbitration (2nd edn, Kluwer Law International 2014) 679-680; S.I. Strong, 'What Constitutes an "Agreement in Writing" in International Commercial Arbitration? Conflicts Between the New York Convention and the Federal Arbitration Act' [2012] Stanford Journal of International Law 47 (2012) 63 <https://ssrn.com/abstract=1946286> 26 March 2018

[11] 'Part One, Excerpts from the Final Act of the United Nations Conference on International Commercial Arbitration' UN Conference on International Commercial Arbitration (New York 20 May - 10 June 1958) para. 1

[12] Bento (n 2)

[13] The Law Dictionary <https://thelawdictionary.org/natural-person/> accessed 1 March 2018; Legal Dictionary <https://legal-

dictionary.thefreedictionary.com/natural+person> accessed 1 March 2018

[14] Born (n 10) 225–228, 292; French Code of Civil Procedure (Decree n°81-500 of 12 May 1981, Official Journal of 14 May 1981, amendment JORF of 21 May 1981) Article 1451 (“La mission d'arbitre ne peut être confiée qu'à une personne physique ; celle-ci doit avoir le plein exercice de ses droits civils. Si la convention d'arbitrage désigne une personne morale, celle-ci ne dispose que du pouvoir d'organiser l'arbitrage.” / “The assignment of the arbitrator may only be entrusted upon a natural person; the latter must enjoy the full exercise of his civil rights. If the arbitration agreement appoints a corporate entity, the latter may exercise the powers only of organizing the arbitration.”); Netherlands Code of Civil Procedure Art. 1023 (“Iedere handelingsbekwame, natuurlijke persoon kan tot arbiter worden benoemd”/“Any natural person of legal capacity may be appointed as arbitrator.”); Spanish Arbitration Act (Act 60/2003 of 23 December on Arbitration as amended in 2011)(“Pueden ser árbitros las personas naturales que se hallen en el pleno ejercicio de sus derechos civiles[…]”/ “Persons in full possession of their civil rights may be arbitrators”)

[15] Born (n 10) 1659, 1745; Philippe Billiet and Filip Nordlund, 'A New Beginning - Artificial Intelligence and Arbitration' [2018] The Korean Commercial Arbitration Board, 26, 27, 28 <http://www.kcab.or.kr/jsp/comm_jsp/BasicDownload.jsp?FilePath=arbitration%2Ff_0.14014003481139126152153647155 6&orgName=0 4.+A+new+beginning+%26%238211%3B+artificial+intelligence+and+arbitration+%28Philippe+Billiet%2C+Filip+Nordlund%29.pdf> accessed 27 March 2018

[16] Billiet and Nordlund (n 15) 27, 28

[17] Born (n 10) 230-234, 293, see fn. 359

[18] Ibid. 1653

[19] Ibid. 225–228, 292

[20] Greek Code of Civil Procedure, Book VII, Art. 871 (as amended by Law 2331/1995) (“One or several persons as well as a court in its entirety may be appointed as arbitrators.”); Gary Born (n 10) 293, see also fn. 358

[21] The Economist (n 3); Lawrence B. Solum, 'Legal Personhood for Artificial Intelligences' [1992] 70(0) North Carolina Law Review <http://papers.ssrn.com/abstract=1108671> accessed 1 March 2018

[22] Peter Singer, Animal Liberation (Random House 1975)

Is Mediation a Good Choice for Art-Related Disputes?*

Maria Boicova-Wynants**

Art is probably as versatile as the human nature. There is rarely an art object that is plain and straightforward. Most of the times there are numerous layers, influences, interpretations and perceptions. Conflicts where art objects are involved are, likewise, multifaceted. It is not only purely legal issues which are at stake. Frequently, there are also moral, cultural, historical, diplomatic and spiritual considerations involved. Even art-related legal issues alone are generally fairly complex because of the lack of uniform legal norms. Often art-related disputes are cross-border. Besides, sometimes art-related disputes are a direct consequence of certain historical events (which might also still lack legal appraisal). To drop in a metaphor, trying to solve art-related disputes in a national court of a particular country is like trying to squeeze a three-dimensional object into a two-dimensional frame hoping that it would somehow fit. The bottom line: it does not; and if it does, it becomes a weird installation.

Jan Griffier the Elder, *View of Hamilton Court Palace*

In this sense, mediation might be an optimal choice, because it not only provides for the possibility to take different factors into account when coming up with the solution, but also allows certain creativity as to the solution itself. For example, in the claim concerning the picture by Jan Griffier the Elder, *View of Hamilton Court Palace* before the Spoliation Advisory panel (which strictly speaking was not mediation, yet akin process in essence), the solution served interests of all the parties involved in a fairly creative way.[1] A commemorative plaque was put next to the painting in the Tate Gallery, which was honoring the need for recognition of the suffering of Holocaust victims. Additionally, there was an *ex-gratia* payment made to the family of the plaintiff. This solution achieved much more that any court decision would have been able to achieve, not only because the real interests of the parties at dispute were taken into consideration and even not only because the ultimate solution was beneficial and accepted by both parties, but also because it allowed parties to save future relationships instead of focusing only on redressing the past wrongs.

Mediation might equally be the fastest procedure, like in the case related to *Tasmanian Human remains*[2] the three-day session solved what was a twenty-year old painful dispute. The complexity of this case was enhanced by the fact that not only pure property rights were at stake, but there was also a clash between property rights and aboriginal cultural and spiritual beliefs. Ignoring the latter would have had a detrimental impact exceeding far beyond the conflict in question, potentially even into the diplomatic sphere. The case was solved in mediation, whereas the complexity of the matter was embraced and the solution reached was future-oriented and fostering relationships (inter alia — joint custody of the remains).

Likewise, in *Cincinnati Art Museum v. Jordan* case over the Panel of Tyche, the solution embraced creativity available in the mediation

process. Parties in dispute agreed to jointly exchange moulds of the respective parts of the Panel of Tyche. That allowed both sides to be able to present the work in its entirety,[3] in the end benefiting many more people than just those involved in the dispute.

Thus, mediation appears to offer flexibility, creativity and numerous options otherwise unavailable to the parties. It may solve long-standing disputes relatively rapidly, compared to traditional litigation, save money, protect or even enhance relationships.[4] What can possibly go wrong?

To begin with, art does not belong solely to a private domain and public interests on many counts should also be considered. The nature of mediation in this sense contributes to a collision between private interests and interests of a general public. Notable example of this is the dispute between *Norton Simon and the Government of India*.[5] In this case, parties agreed that with settling this particular dispute the government of India would abstain from taking any action against Mr Simon in connection with any other Indian antiquity acquired by him outside India for the upcoming year. While from the private interests perspective this is a viable solution, one might question whether it would benefit general public.

Moreover, if mediation fails, information disclosed during the process cannot be further used in court. That might become a huge stumbling block for certain cases. Even though mediation has an outstanding success rate (see e.g. the results of The CEDR Mediation audit),[6] the resolution is still not guaranteed (like in *Canon Tables of the Zeyt'un Gospels*[7] mediation in 2012 failed at first, and settlement required another three years).

Finally, success of mediation is a combination of numerous factors. Amongst these factors is the willingness of parties to actively participate in the process and assume maximum responsibility for their ultimate agreement. Also, in art-related disputes, perhaps even more than in some other cases, the right mediator is essential to success of the process. Formally it is up to the parties in mediation to bring in and solve all their issues. However, skills and the ability of a mediator to see the art-related dispute in all its versatility, is crucial in order to duly assist this process.

To conclude, mediation and art might become a match made in heaven provided the inherent creativity of the mediation process and the possibilities to consider numerous interests involved from all different scopes and perspectives. Nonetheless, the solution has to be found to balance the private and public interests. In addition, the choice of a mediator warrants special care and attention.

Canon Tables of the Zeyt'un Gospels

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* Disclaimer: The first version of this article was published at artlaw.online on 21 December 2016.

** The author is IP Lawyer, Mediator, Patent and Trademark Attorney.

[1] The Right Honourable Sir David Hirst. Report of the Spoliation Advisory Panel in respect of a painting now in the possession of the Tate Gallery (London, The Stationery Office, 18 January 2001) <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/427722/Report_of_the_Spoliation_Advisory_Panel_in_respect_of_a_painting_now_in_the_possession_of_the_Tate_Gallery.pdf> accessed 17 March 2018

[2] Anne Laure Bandle, Alessandro Chechi, Marc-André Renold, "Case 17 Tasmanian Human Remains – Tasmanian Aboriginal Centre and Natural History Museum London," Platform ArThemis <http://unige.ch/art-adr> accessed 17 March 2018

[3] UNESCO. Cases of return and restitution under the aegis of the Intergovernmental Committee. <http://www.unesco.org/new/en/culture/themes/restitution-of-cultural-property/committes-successful-restitutions/> accessed 17 March 2018

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[5] Alessandro Chechi, Anne Laure Bandle, Marc-André Renold, "Case Nataraja Idol – India and the Norton Simon Foundation," Platform ArThemis <http://unige.ch/art-adr> accessed 17 March 2018

[6] Warren King, "UK: Mediation: Success or Failure?" (30 October 2017) <http://www.mondaq.com/uk/x/641140/Arbitration+Dispute+Resolution/Mediation+success+or+failure> accessed 17 March 2018

[7] Nare G. Aleksanyan, Morgan Drake, Marc-André Renold, "Canon Tables – Western Prelacy of the Armenian Apostolic Church of America and J. Paul Getty Museum," Platform ArThemis <http://unige.ch/art-adr> accessed 17 March 2018

Interview

Interview with the Arbitration Centre of the Chamber of Caracas, Venezuela

The AIA has recently interviewed Adriana Vaamonde Marcano, the Executive Director of the Arbitration Centre of the Chamber of Caracas, Venezuela, about the organisation. Ms. Marcano is a Venezuelan Lawyer (UMA), specialist in corporate law (UNIMET) and holds an LL.M. in international trade from Universidad Carlos III de Madrid. She is Professor of ADR and Arbitration, editor of the digital magazine "Arbitraje Venezuela" and coordinator of the National Arbitration Competition in Venezuela. Further, she is a member of the Under 40 group of the Spanish Club of Arbitration, the Arbitration and ADR Commission of ICC and a board member of the Venezuela Arbitration Association.

To commence, could you please tell us about the Centro de Arbitraje de Caracas' history and how it was founded?

For 125 years, the Chamber of Commerce of Caracas - today Chamber of Caracas - has been committed to promoting commercial arbitration and the importance of ADR towards effective solution in commercial disputes.

In the mid-70s, thanks to an initiative of Dr. Mantellini, ex Secretary General of the National Section of the Inter-American Commercial Arbitration Commission in Venezuela, in agreement with the Board of Directors of the Chamber of Commerce of Caracas, the first Conciliation and Arbitration Center was established in Venezuela. In 1998, the Center received legal support when the Venezuelan Congress passed the Venezuelan Arbitration Act based on the UNCITRAL Model Law. Then the Conciliation and Arbitration Center transformed into the Arbitration Center of the Chamber of Commerce of Caracas (CACC) having Diana C. Droulers as its first Executive Director until 2015. Since then, Adriana Vaamonde M., who had been a Deputy Director for 5 years, succeeded Diana C. Droulers as Executive Director.

As of today, CACC has administered over 400 cases, has a list of over 150 arbitrators, and belongs to an important and influential group of arbitration institutions in Latin America and the world.

What volume of arbitration cases does the Centro de Arbitraje de Caracas handle annually? Does the majority of these cases fall into the same sector?

The CACC has an average of 15 to 40 cases per annum. The majority of the cases are mercantile related with 23% of cases originating from joint venture contract structures.

Does your institution specialize in the dispute resolution of sector-specific cases?

Our general rules have a broad spectrum of application that allows adaptability to specialized claims. We do not have rules for specialized sectors. However, we do have two sets of procedure: a general one and an expedite for small claims.

What are the nationalities and common specialisations of the Centro de Arbitraje de Caracas' arbitrators?

A vast majority (about 90%) of our arbitrators are Venezuelan nationals. The nationality of the remaining 10% varies and includes Spanish, Peruvian, and Costa Rican. Almost all arbitrators are lawyers and they are specialists in various areas of private law (e.g. civil, mercantile, commercial, and social law).

Can you describe any particularly novel or innovative practice the Centro de Arbitraje de Caracas has recently undertaken?

We are currently working on an online system for the administration of cases that will make it easier for the users to have remote access to their cases, allow to consult faster any updates and facilitate keeping track of the latest developments in a more expedite form through an App.

What goals does the Centro de Arbitraje de Caracas have for 2018 and beyond?

With the celebration of twenty years of our Center we are presented with many opportunities. Twenty years is only the beginning but these were years of intensive apprenticeship. Growth is always the goal of every institution: growth in the amount of cases, in the extent of the involvement in the international arena but most importantly, the growth of the institution itself. For us at the CACC it is important to build great teams that work cohesively and in an ethically correct manner, teams that give continuity to good work, that identify themselves with the principles and values on which the institution was founded and that contribute to better and innovative practices. Thus, the goal is to continue to improve every day in order to create better arbitral culture, expand that culture to other regions of our country, and enlarge the group of those who are actively involved in ADR in Venezuela.

What is the percentage of the international cases at the Centro de Arbitraje de Caracas?

About 15% of the CACC's cases are international.

What is the background of the employees at the Centro de Arbitraje de Caracas?

Our team comprises lawyers with background in private law (e.g. civil, mercantile, commercial, social and/or maritime law).

What volume of mediation cases does the Centro de Arbitraje de Caracas handle annually?

Our rules do not anticipate mandatory conciliation or mediation prior to the initiation of an arbitration procedure. Mediation is an autonomous procedure according to our rules and is not so often incorporated into dispute resolution clauses that we manage. Thus, the average of our mediation cases is not comparable to the average of our arbitration cases.

Among the challenges that your center had to face, are there any that you would regard as country-specific?

I believe that the challenges we have faced are similar to those that any beginner has to face: the challenge of the new!
The CACC's first twenty years have been years of apprenticeship for the institution, judicial community, lawyers to develop new practices, academia and, of course, for the trade guild, as it was necessary to revise the mechanisms of dispute resolution.

Creating arbitral culture has been a slow and bumpy process. However, jurisprudence from the Supreme Court has solidified the foundation laid down in the 1999 Venezuelan Constitution, which expanded the justice system by including the ADR into it. Nevertheless, building trust is not an easy task and I am confident that the CACC has managed to succeed in completing this task. The CACC's cooperation with universities has also contributed to the development of *pensa* - the incorporation of the ADR training into the curriculum from the first years of university studies.

Many challenges lie ahead. We still have a way to go towards understanding the ADR and arbitration as a unique opportunity to resolve commercial disputes. We need to strengthen the arbitral culture so that arbitration is seen as a specialized field of its own and not as a parallel system to the state courts. We need to strengthen the commercial culture so that arbitration is perceived as a natural path towards resolving commercial disputes that empowers the parties through the arbitral procedures and leads them into better more specialized and effective methods that provide for optimum solutions and solidify their commercial relations.

Book Review

The Notion of Award in International Commercial Arbitration: A Comparative Analysis of the French Law, English Law and the UNCITRAL Model Law by Giacomo Marchision

Flávia Miari Cançado

The study of the notion of an arbitral award is not commonly undertaken in the arbitration field. More often, the focus is on a classification of awards and an arbitral award tends to be defined as a final decision by arbitrators on all or part of the dispute submitted to them, which leads to the end of proceedings.

However, this definition does not address important controversial subjects relating to the issue of awards, such as their enforceability. Giacomo Marchisio fills the gaps in *The Notion of Award in International Commercial Arbitration*. He tackles the difficulties in identifying a uniform definition of an arbitral award and the problems that arise therefrom.

The author reconsiders the typical conception of arbitration in light of social changes and contributions by States to the delineation of the boundaries of what an arbitral award is. As a standard, the notions found in two important jurisdictions are used. Firstly, French Law that endorses a narrow definition of an award, essentially confined to the notion of a final decision on the merits. Secondly, English Law that adopts a broader notion of an award, including all decisions rendered throughout the proceedings. In addition, the UNCITRAL Model Law on International Commercial Arbitration contributes to an easier understanding of the categories of arbitral decisions.

While French Arbitration Law adopts a monodimensional model for the notion of an arbitral award, the English Arbitration Law adopts a multidimensional one. That difference in approaches affects the behaviour that courts demonstrate particularly in the enforcement of awards. French courts tend to enforce mainly final awards, whereas English courts will also accept other types of awards.

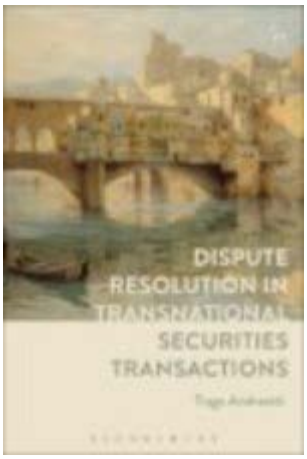
The author shows how the multidimensional model is a natural development of international commercial arbitration, deriving from its institutional roots and international sources. He describes arbitral awards in light of the different types of adjudicative powers that arbitrators wield. Awards are not all the same and they pursue different goals.
A highlight of the book is a presentation of the socio-historical evolution of international commercial arbitration and an analysis of how Roman Law still influences the notion of ‘award’.

The book stands out by combining an in-depth approach to the topic with a comprehensive language, thus promoting the understanding by all those who are interested in arbitration. Hence, this book could be recommended to academics, who are eager to explore the topic, but also to those who are passionate about arbitration and want to gain a better insight into the notion of award, which is relevant to any arbitration case.

Dispute Resolution in Transnational Securities Transactions

by Tiago Andreotti

Aviel Sokolovsky



The world is a growing web of multi-cultural societies and interconnected people. Given this connectivity, the amount of transnational transactions is high, and securities transactions are no exception. Tiago Andreotti's book "Dispute Resolution in Transnational Securities Transactions" tackles the issues arising from this type of transactions head-on.

The author compares different forms of dispute resolution in transnational transactions and compares each form within different jurisdictions from all over the world: from the USA and Brazil in the Americas to the Netherlands and Spain in Europe. Through this review, the author identifies certain benchmarks from which he develops potential improvements.

He starts by laying out the theory behind securities regulations and continues by comparing the different mechanisms of enforcement, notably public versus private. This comparison bases itself on the difference that whilst public actors are the state acting to maintain balance, private actors enforce to obtain compensation. The basis of why and how both parties act the way they do is also based on their manner of remuneration: public actors receive a salary, whilst private actors work on a reward for their efforts. The author then proceeds to back the claim that due to the dual purpose of securities laws, compensation and deterrence, private parties would be the most logical party to be the centre point of an enforcement regime.

The author then proceeds to discuss the major problems with transnational dispute resolution mechanisms for securities transactions and uses that to elaborate on possible solutions for each identified issue. He also explores a major facet of transnational ADR: the recognition and enforcement of judgments abroad. In the final part of the book, the author takes a deep look at how foreign judgments would be enforced and which laws would apply.

The clarity and attention to detail is what makes "Dispute Resolution in Transnational Securities Transactions" a book of considerable importance. It starts with covering the basics and moves on to discussing the specificities of resolving disputes arising from transnational securities transactions. The language used as well as the coherence of the arguments make this book a comfortable read for both native and non-native speakers, although a certain level of legal English is required to fully understand the reasoning and ideas presented.

The author, in 228 pages, has managed to deconstruct the issues regarding disputes arising from transnational securities transactions and solve those problems with logic and sound legal reasoning. The book is a well-structured and a fluid read; the major points offer an interesting dive into the currently flawed mechanisms of ADR for securities transactions. For these reasons, this book could be recommended to those keen on gaining a substantial insight into the subject matter.