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The International Effectiveness of the Annulment of an Arbitral Award

Hamid G. Gharavi

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Hamid Gharavi, Christoph Liebscher



The International Effectiveness Of The Annulment Of An Arbitral Award International Arbitration Law Library:

The International Effectiveness of the Annulment of an Arbitral Award Hamid Gharavi, Christoph Liebscher, 2002-03-14 In international arbitration as practiced today few issues are as controversial and hotly debated as the foreign enforcement of an arbitral award that has been annulled in its originating jurisdiction As more and more jurisdictions challenge such annulments the issue has inevitably attracted the intense scrutiny of practitioners and scholars Now in the first book written on the subject and a major work unlikely to be superseded for quite some time the international practitioner and scholar Dr Hamid G Gharavi provides a keen in depth analysis of the sources legal and practical grounds and possible solutions of the problem particularly as it affects international business transactions in the global economy Dr Gharavi analyzes the relevant provisions in all major international arbitration conventions as well as national laws on the annulment and enforcement of arbitral awards in force in more than fifty different countries Among the book's most notable features are the following invaluable information on and an in depth analysis of the travaux préparatoires of the New York Convention pertaining to the articulation of annulment enforcement controls the effects of the cultural judicial and legal diversity of states and clear elucidation of the interests that often separate North from South in the practice of arbitration With detailed attention to theoretical and practical perspectives especially as they reveal the dangers to which the enforcement of annulled awards can subject international business operators Dr Gharavi arrives after consideration of all interests at a global resolution aiming to establish an effective and harmonious international legal framework for the control of awards in accordance with the nature and mission of arbitration

The International Effectiveness of the Annulment of an Arbitral Award Hamid G. Gharavi, 2002 **The Review of International Arbitral Awards** Emmanuel Gaillard, 2010-12-01 In international arbitration as in any other system of adjudication finality of the decision must be balanced against the need to ensure that justice has been administered fairly Because finality is one of its essential features international arbitration has reached an equilibrium which guarantees to the parties a decision that cannot be appealed while allowing a review of arbitral awards on limited grounds The review of international arbitral awards was the topic of the inaugural IAI forum on the occasion of which 50 prominent academics judges arbitrators and practitioners active in the field of international arbitration convened in the legendary Clos de Vougeot in the heart of Burgundy for a two day retreat The presentations were followed by extensive discussion the transcript of which is included in the present volume The International Arbitration Institute IAI was established in Paris with the purpose of promoting communication and exchanges on current international arbitration issues It now includes over 600 members residing in 44 countries For further detail see www.iaiparis.com **Annulment of ICSID Awards** Emmanuel Gaillard, Yas Banifatemi, 2004 *Recognition and Enforcement of Annulled Foreign Arbitral Awards* Claudia Alfons, 2010 Originally presented as the author's thesis doctoral Univ Wien 2009 *Explaining Why You Lost* Antonio Crivellaro, Mélida N. Hodgson, 2020-11-20 Generally speaking the losing party is more interested than the

winning party in understanding the reasons for the outcome of the proceeding And yet the requirement that unless otherwise agreed by the parties the award shall state the reasons upon which it is based is a widely recognized principle in international arbitration The rules of most arbitral institutions also require that an award include reasons This Institute Dossier addresses reasoning in International Commercial and Investment Arbitration Awards Should an arbitrator state his reasons Why How extensive and or complete must the reasoning be for the process to be fully comprehensible and thus legitimate to the parties What may be the consequences of an unsatisfactory reasoning Readers will get useful insights into the legal reasoning process by accessing data from a recent large scale empirical study of legal reasoning in commercial disputes They will also be treated to some creative writing tips in the hope that reading an award becomes a more interesting part of the job The ICC Institute of World Business Law brings together the finest legal minds to strengthen links between international business practitioners and the legal profession The Institute Dossiers is a series that has gained international prestige These Dossiers are the outcome of the Institute s annual meetings where experts from around the globe come together to discuss salient issues of international commercial law and arbitration An ICC Services publication distributed by Kluwer Law International

Third-Party Effects of Arbitral Awards Maximilian Pika, 2019-07-11 The specialization and financial demand of global business render international transactions inherently multilateral and thus best effected through arbitration agreements However it often happens that for various reasons such as a debtor s failure to pay damages ordered by an arbitral tribunal third parties who did not consent to the original arbitration enter the scene This is the first book to examine the binding effects of international commercial arbitral awards in follow up disputes against third parties It comprehensively analyses arbitral awards third party effects under national arbitration laws the New York Convention and private international law Moreover it proposes solutions under transnational law before both courts and arbitral tribunals Applying a continuously comparative methodology that refers to specific statutory jurisprudential and scholarly sources this book explores the nature and implications of such aspects of third party involvement as the following the foundations of the doctrine of res judicata and its intrinsic connection to other tools of forum coordination the distinction between res judicata before courts on the one hand and arbitral tribunals on the other the application of non mutual preclusion in favour of third parties the potential for arbitral awards to constitute a fact in follow up disputes a comparison of rules and uncertainties on awards third party effects under various national arbitration acts preclusion agreements the arbitration agreement s scope and judgments third party effects as a shift of the participatory burden For civil law the author focuses on France and Switzerland as predominant arbitral seats and on Germany as a Model Law example Among common law countries he concentrates on England and Wales and on the United States Statutory sources with specific wording leading cases and summaries of the most important scholarly discussions are all invoked With its clear guidelines for matters currently not addressed in previous publications and likely to be raised in specific cases this book will prove to be of immeasurable value

for arbitration practitioners and academics in any jurisdiction Business parties that seek to prevent contradicting decisions in multilateral transactions will appreciate the practically feasible alternatives it presents in the event of follow up disputes involving third parties

Recognition and Enforcement of Foreign Arbitral Awards in Theory and in Practice Ihab Abdel Salam Amro, 2014-03-26 This book initiates a discussion of the law and practice of recognition and enforcement of foreign arbitral awards in both common law and civil law countries In terms of law this book principally focuses on the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958 and the harmony or clash between the New York Convention and national arbitration laws of both common law and civil law countries including the UK and the USA as common law countries and France Germany and Greece as civil law countries In terms of practice this book deeply and extensively examines the judicial application of the New York Convention in national courts of common law and civil law countries and sheds light on the best practices related to the judicial application of the New York Convention while also highlighting how future disputes can be resolved in national courts As such this book provides solutions for salient and recurring problems arising out of the erroneous judicial application or interpretation of the New York Convention by national courts and encourages the adoption of a more liberal regime in favour of the recognition and enforcement of foreign arbitral awards generally and the adoption of a more liberal interpretation of the New York Convention in national courts of both common law and civil law countries particularly This book which is based on more than 100 courts decisions from common law and civil law countries is a valuable resource for academics arbitrators practicing lawyers corporate counsels law students and researchers interested in international commercial arbitration as well as for business professionals involved in international trade and those who are willing to solve their commercial disputes through arbitration

International Arbitration and the Rule of Law, 2017-09-22 Volume 19 of the Congress Series contains the proceedings of ICCA s 2016 Mauritius Congress the first ICCA Congress held in Africa In this volume renowned practitioners scholars and jurists from the region and around the world explore the contribution of arbitration to the rule of law and economic development the conformity of arbitration with international standards of due process and the rule of law and the benefits and challenges of arbitration in Africa Topical issues of interest for practitioners academics and students of arbitration in the region and internationally include Due process issues in constituting the arbitral tribunal and challenging its members Interim measures issued by arbitral tribunals and domestic courts Burden standard and types of proof in the corruption defence What to do and what to avoid doing to prepare a persuasive case Do post award remedies ensure conformity of the arbitral process with the rule of law Do rules and guidelines properly regulate the conduct of arbitration The interface between domestic courts and arbitral tribunals What are appropriate remedies for findings of illegality in investment arbitration The effect of foreign national court judgments relating to the arbitral award What does the future hold for investment arbitration in Africa and beyond

Injunctive Relief and International Arbitration Hakeem Seriki, 2014-07-25 This book explores from an

English law and Institutional perspective the various types of injunctive relief that are available to a party before and during arbitral proceedings In particular this book examines the basis of the power of English Courts to grant such injunctions and explains when such injunctions will be granted It considers any limitations attached to such injunctions and the relationship between section 44 of the Arbitration Act 1996 and section 37 of the Senior Courts Act 1981 It also provides an in depth analysis of case law and the emerging trends in this area of arbitration as well as the powers of arbitrators under the ICC and LCIA Rules to grant such relief and other remedies that might be available to a party seeking to uphold an arbitration agreement This book will be a vital reference tool for practitioners arbitrators and postgraduate students

Arbitration in the Next Decade International Court of Arbitration,1999 Post Award Issues: ASA Special Series No. 38 Pierre Tercier,2012-01-01 The arbitral tribunal s responsibilities and tasks often do not end when it has rendered it s award Tribunals may be called to interpret their awards or correct clerical errors the award may be sent back to them for amendments arbitrators may have to comment on their awards or may be called as witnesses they may be invited to continue even though all pending disputes have been decided their fees may be challenged or they may have to claim tax reimbursements These and other issues that arbitrators parties and institutions have to face once the award has been rendered are examined by leading authorities

Interpretation, Revision and Other Recourse from International Judgments and Awards Shabtai Rosenne,2007-08-30 Although there had been a few cases of the interpretation of judgments of the Permanent Court of International Justice and the International Court of Justice it was not until the mid 1980s that serious judicial discussion of the related problems of the interpretation and revision by the International Court of one of its own judgments came before the Court Similar cases have also arisen in international arbitration proceedings between States Interpretation revision and other forms of reference to the International Court from some other international body court or arbitral tribunal have produced a complex pattern of black letter texts supplemented by an even more complex set of judge made rules and practices The close tie between the final decision and the highly political context of the obligation to comply with it produces a continuing tension between the finality of the decision and any one of the possible references in recourse from it If any tendency can be discerned from the relevant materials it is in the strong preference for maintaining the integrity and the authority of the res judicata provided that no obvious miscarriage of justice is engendered Interpretation is preferable to revision This book is the first in the series International Litigation in Practice The series will consist of short concise practical booklets to be of use for practitioners pleading before international courts and tribunals and everyone else involved and or interested in the activities of these courts

Annulment of Arbitral Awards In International Commercial Arbitration Vladimir Pavic,2010 This paper gives an overview of the annulment setting aside mechanism in international commercial arbitration It explores the prevailing consensus on the annulment criteria in the UNCITRAL Model Law and some of the more common deviations from such consensus present in contemporary national

legislations Such departures are typically not controversial However this is not necessarily so when it comes to the issue on whether one may import remedies available against a final court judgment when the annulment proceedings have been exhausted against the award *Provisional and Emergency Measures in International Arbitration* Julien Fouret, 2023-07-01 The increase in the complexity and length of international arbitration procedures has resulted in a growing demand for both provisional and emergency measures to facilitate the preservation of the parties rights until a final award is rendered In *Provisional and Emergency Measures in International Arbitration* Julien Fouret has brought together many of the leading international arbitration practitioners to examine this highly topical subject *Enforcing Arbitration Awards Under the New York Convention* United Nations, 1999 papers presented at New York Convention Day That colloquium was held in the Trusteeship Council Chamber of the United Nations Headquarters New York on 10 June 1998 to celebrate the 40th anniversary of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards concluded on 10 June 1958 t p

Provisional Measures in International Commercial Arbitration Ali Yeşilirmak, 2005 Due to the nature of the arbitration process provisional measures especially interim protection of rights tend to play a disproportionate role in international commercial arbitrations Indeed the need to clearly define such measures often constitutes the major stumbling block on the path to an effective resolution of a commercial dispute This concise but enormously useful volume offers practitioners the information and advice they need to overcome this obstacle in the best possible way every time The Author covers all the relevant avenues of research and practice from an overview of the concept of provisional measures to an in depth analysis of the weight and enforceability of such measures Along the way the treatment covers such crucial topics and issues as the following scholarly analysis of the problems and uncertainties surrounding provisional measures and their solutions in light of arbitral and judicial practice the complex interaction of historical prejudices political will and business needs that impact the usefulness of provisional measures choice of forum to seek provisional measures and the problems associated with such choice complementary mechanisms to arbitration for interim protection of rights standards of principles and procedures for the grant of provisional measures and a comprehensive review of the arbitrators power to grant provisional measures and court assistance to arbitration The presentation examines compares and analyses seventy sets of arbitration rules on provisional measures including the arbitration rules of the ICC AAA and LCIA all of the major state laws on commercial arbitration and detailed analyses of numerous ICC and AAA awards most of which have not been published before This new and fully researched book fulfils and important need for user friendly and complete practical coverage of provisional measures in international commercial arbitration It will be of great value to corporate counsel international lawyers and business people as well as to students of dispute resolution *Draft Protocol on the Execution of Foreign Arbitral Awards* League of Nations. Committee of Legal Experts on Execution of Arbitral Awards Pronounced Aboard, 1927

Arbitration and Human Rights Toms Krūmiņš, 2020-09-22 This book presents a creative synthesis of two ostensibly

disparate fields of law arbitration and human rights More specifically it focuses on various legislative approaches to excluding the annulment of arbitral awards setting aside proceedings at the seat of arbitration and evaluates the compatibility of such approaches with the European Convention on Human Rights ECHR in particular the right to a fair trial under Article 6 1 The book first assesses the applicability and impact of the ECHR in particular Article 6 1 on international commercial arbitration It then analyses a number of legislative approaches to excluding setting aside proceedings focusing on two synergetic phenomena exclusion agreements and the total lack of setting aside proceedings in national arbitration law Lastly the book investigates to what extent the lack of setting aside proceedings in national arbitration law may lead to a violation of arbitrating parties right to a fair trial under Article 6 1 and puts forward certain de lege ferenda recommendations on how to best approach the regulation of setting aside proceedings in national arbitration law from the standpoint of compliance with the ECHR

Enforcement of Arbitral Awards Against Sovereigns R. Doak Bishop, 2009-09-01

The past decade has seen a veritable explosion of investment treaty and other arbitration claims brought against sovereigns Many of those cases have been filed before the International Centre for Settlement of Investment Claims ICSID which has its own self contained rules for enforcement Given this significant increase in sovereign cases and the issues attendant to sovereign immunity this treatise is timely in addressing the various issues that arise in enforcing arbitral awards against sovereigns One of the first questions posed to their counsel by clients considering the initiation of an arbitration proceeding against a sovereign state is whether and how the resulting award can be enforced The origin of the client s question is usually based in some knowledge that a state possesses sovereign immunity along with an uncertain concern about the exceptions to such immunity and the difficulties of enforcement against a sovereign s assets This uncertainty is understandable especially in light of the sometimes confusing and even contradictory court decisions in certain jurisdictions It is these inquiries in their broadest application that form the subject of this treatise With contributions by eminent and experienced practitioners of the multiple issues that have arisen in various jurisdictions and the key cases that have created the law of enforcement of obligations against sovereigns this book will provide access to valuable information add to the transparency of this subject and further spur the consistent development of this area of law This book is divided into three parts The first part is general in nature and includes chapters encompassing the subjects of sovereign immunity in general including both immunity from jurisdiction and immunity from enforcement treaty obligations to honor awards diplomatic protection by a claimant s government to obtain payment of awards and conciliation and settlement The second part of the book deals with the means of enforcing awards Part three of this treatise addresses the enforcement issues that arise in specific jurisdictions in which enforcement against sovereign assets is often sought in particular the United States the United Kingdom Switzerland France The Netherlands and South America

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