

Daniel Levy

Les abus de l'arbitrage commercial international



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Les Abus De L'arbitrage Commercial International:

Les Abus de L'arbitrage Commercial International Levy, 2015 *L'Émergence de l'arbitrage commercial international en Amérique latine* Claudia Frutos-Peterson, 2003-04-01 Ces dernières années les pays latino américains ont entrepris de grands changements en ce qui concerne la réglementation de l'arbitrage commercial international Ils ont ratifié les principales conventions internationales en la matière modifiant les mécanismes juridiques internes et internationaux de ces pays Cet ouvrage aborde les tapes de la formation d'un droit de l'arbitrage commercial international en Amérique latine et présente les évolutions juridiques qui en ont permis une pratique accrue et en valeur l'efficacité The Notion of Award in International Commercial Arbitration Giacomo Marchisio, 2016-04-24 International commercial arbitration relies extensively on the possibility of enforcing arbitral decisions against recalcitrant parties Because courts and arbitration laws across the world take contrasting approaches to the definition of awards such enforcement can be problematic especially in the context of awards by consent and the recent development known as emergency arbitration In this timely and ground breaking book a young arbitration scholar takes us through the difficulties of defining the notion of arbitral award with a rare combination of theoretical awareness and attention to the procedural requirements of arbitral practice In a framework using a comparative analysis of common law and civil law jurisdictions specifically England and France and how each has regulated in different ways the equilibria between state justice and arbitral justice and comparing each with the UNCITRAL Model Law the book addresses such issues as the following the judicialization of arbitration different models of arbitral adjudication and their impact on the notion of award what an award needs to contain to be enforceable awards on competence awards by consent and awards ante causam The author employs a methodology that views arbitration as providing an institution for administering justice rather than as a purely contractual creature To this end rules of arbitral institutions particularly the International Chamber of Commerce are examined closely for their implications on what an award means As a fresh look at the arbitral award by placing it in a broader context than is usually found this book allows for a greater understanding of the functioning of international commercial arbitration It is sure to become an international reference and as such will be welcomed by arbitrators practitioners at global law firms companies doing transnational business interested academics and international arbitration centres in emerging markets *Les abus de l'arbitrage commercial international* Daniel Levy, 2015-05-01 L'émergence d'un système autonome d'arbitrage commercial international autorise les juridictions étatiques interpréter la procédure internationale soit selon des normes nationales soit en se détachant de toute influence étatique Mais le manque de dialogue entre ces juridictions permet aux parties de tirer avantage de ce décalage jurisprudentiel par le biais de procédures parallèles injonctions annulations reconnaissances litispendance res judicata etc L'auteur propose l'abus de droit comme le critère le plus adapté pour identifier et sanctionner ces manœuvres seul permettant d'organiser et de légitimer un ordre juridique arbitral autonome mais pas isolé *The ICSID Convention, Regulations and Rules* Julien Fouret, Rémy

Gerbay, Gloria M. Alvarez, 2019-12-27 This major new commentary on the ICSID Convention Regulations and Rules offers a new forward looking and highly practical interpretation of the convention and its associated documents It is the first commentary to provide systematic article by article coverage not only of the Convention itself but also of the institution rules the ICSID arbitration rules and the ICSID administrative and financial regulations Written by a team of leading experts from private practice government and academia this uniquely comprehensive work will be an essential resource for those in the investment arbitration community and a turn to reference work for international investment law and international arbitration scholars

Collection of ICC Arbitral Awards 2016-2020 Jean-Jacques Arnaldez, Yves Derains, Dominique T.

Hascher, 2022-02-28 The Collection of ICC Arbitral Awards 2016 2020 contains extracts of cases handled by the ICC Court of Arbitration one of the world s most respected arbitral institutions This most recent collection supplements seven previous and successful volumes containing awards from the period 1974 to 2015 This collection is a practical reference tool containing three types of useful indexes incorporating information from all three volumes a consolidated analytical table in both English and French contains extensive cross references based on the terminology used in awards and case notes a chronological index lists the awards a keyword index also provided in both languages allows the reader to locate the material of interest quickly and easily In addition to providing a wealth of information in a highly accessible manner this book includes case notes end expert commentaries on the awards This publication is an indispensable reference work for anyone interested in international arbitration and in the reasoning of international arbitrators on the interpretation and application of contractual clauses international conventions and the law of international trade It is invaluable to both scholars and practitioners involved in the drafting and negotiation of international commercial contracts and the resolution of international commercial disputes

Collection of ICC Arbitral Awards 2012 - 2015 Jean-Jacques Arnaldez, Yves

Derains, Dominique Hascher, 2018-12-21 The Collection of ICC Arbitral Awards 2012 2015 contains extracts of cases handled by the ICC Court of Arbitration one of the world s most respected arbitral institutions This most recent collection supplements six previous and successful volumes containing awards from the periods 1974 1985 1986 1990 1991 1995 1996 2000 2001 2007 and 2008 2011 This collection is a practical reference tool containing three types of useful indexes incorporating information from all three volumes a consolidated analytical table in both English and French contains extensive cross references based on the terminology used in awards and case notes a chronological index lists the awards a key word index also provided in both languages allows the reader to locate the material of interest quickly and easily In addition to providing a wealth of information in a highly accessible manner this book includes case notes end expert commentaries on the awards This publication is an indispensable reference work for anyone interested in international arbitration and in the reasoning of international arbitrators on the interpretation and application of contractual clauses international conventions and the law of international trade It is invaluable to both scholars and practitioners involved in the

drafting and negotiation of international commercial contracts and the resolution of international commercial disputes

L'arbitrage commercial international et l'ordre public Jean-Baptiste Racine, 1999 Les Etats ont accordé l'arbitrage international une large autonomie. Toutefois cette autonomie n'est pas totale elle trouve sa limite dans l'ordre public. L'évolution contemporaine aboutit à un recul de l'ordre public dans la convention d'arbitrage. La compétence de l'arbitre dans les domaines touchant l'ordre public est reconnue. La jurisprudence a non seulement autorisé les arbitres à appliquer des règles et des principes d'ordre public mais elle leur a également confié le pouvoir d'en sanctionner la violation. La jurisprudence française a même adopté une règle matérielle de portée générale. L'ordre public joue un rôle particulier il est devenu la seule cause de nullité de la convention d'arbitrage internationale. L'aptitude compromettre de l'Etat et des personnes morales de droit public relève également de la matière des règles matérielles de droit international privé. C'est aujourd'hui l'aptitude compromettre qui en vertu du principe de bonne foi est considéré comme d'ordre public international. L'ordre public s'est progressivement retiré du champ de la convention d'arbitrage. Comme par un effet de vases communicants l'ordre public s'est déplacé de la convention d'arbitrage vers la sentence arbitrale. L'arbitre doit normalement respecter l'ordre public des Etats. Il doit en premier lieu respecter l'ordre public appartenant à la *lex causae*. En second lieu au nom de l'efficacité de sa sentence et de la pérennité de l'arbitrage l'arbitre doit respecter l'ordre public étranger à la *lex causae*. Outre l'ordre public étatique l'arbitre assure le respect d'un ordre public transnational. La notion existe en dépit des critiques formulées son encontre. L'expansion de l'ordre public transnational est incontestable. Celui-ci est au cœur des évolutions contemporaines de la société internationale c'est-à-dire la mondialisation de l'économie et l'uniformisation du droit. Enfin un contrôle étatique s'exerce sur une sentence lorsque celle-ci est présentée à l'exequatur ou lorsqu'elle fait l'objet d'un recours en annulation. A cette occasion les juges d'un Etat vont vérifier la conformité de la décision arbitrale à l'ordre public. S'il est hors de question de remettre en cause l'autonomie de l'arbitrage en introduisant la révision au fond il est nécessaire que le juge contrôle en droit et en fait la conformité de la sentence à l'ordre public international.

Les principes directeurs du procès dans la jurisprudence du Conseil constitutionnel Eric Lestrade, 2015-05-01 Le Conseil constitutionnel en réalisant un travail d'actualisation partant de la Déclaration des Droits de l'Homme a permis l'émergence d'un droit constitutionnel processuel construit autour de principes directeurs de trois sortes selon que l'acteur du procès prioritairement concerne soit le juge ou les parties et une troisième celle des garanties procédurales permettant de favoriser les qualités essentielles du juge et de contrôler le respect des droits des parties.

Les services sociaux dans le droit de l'Union européenne Tiphaine Thauvin, 2016-03-01 L'appréhension des services sociaux par le droit de l'Union européenne soulève des enjeux politiques et juridiques. Plus que la simple question de la soumission des services sociaux aux libertés économiques de circulation et au principe d'une concurrence libre c'est bien la question de l'application de ces règles aux activités sociales qui est posée. Par une approche à la fois empirique et prospective l'ouvrage a pour objet d'explorer et d'analyser le droit applicable de tels services et l'interprétation qui en est faite par les différentes

institutions de l'Union *L'administration de la preuve devant la Cour pénale internationale* Fofe djofia malewa
jean-pierre, 2015-06-01 Après douze ans de fonctionnement de la Cour pénale internationale il s'est avéré utile d'analyser et de
systématiser les règles procédurales et méthodologiques gouvernant la présentation des éléments de preuve devant cette haute
instance pénale Cet ouvrage se veut un outil efficace de travail pour les conseils appelés à prêter devant cette Cour et une
source d'enseignements pour des juristes achetés ou en formation autant que pour toute personne ou organisme s'intéressant
au développement et l'évolution de la justice pénale internationale

Collection of ICC Arbitral Awards, 2001-2007

Jean-Jacques Arnaldez, Yves Derains, Dominique Hascher, International Chamber of Commerce, 2009 The Collection of ICC
Arbitral Awards 2001-2007 contains extracts of cases handled by the ICC Court of Arbitration one of the world's most
respected arbitral institutions This most recent collection supplements four previous and successful volumes containing
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of contractual clauses international conventions and the law of international trade It is invaluable to both scholars and
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international commercial disputes Collection of ICC Arbitral Awards CIAA Vol 5

La notion de sanction et la distinction fondamentale des sanctions Sotirios Lytras, 2015-10-01 Cette étude montre que la notion de sanction n'est bien
une notion du droit positif hellénique et que la distinction fondamentale en ce domaine n'est celle entre sanctions
juridictionnelles et administratives Manifeste dans l'ordre juridique communautaire et affichant sa présence dans la
jurisprudence de la Cour européenne des Droits de l'Homme la notion de sanction revendique avec succès son autonomie
conceptuelle dans tout ce que nous pouvons caractériser comme l'univers juridique répressif européen

General Reports of the XIXth Congress of the International Academy of Comparative Law Rapports Généraux du XIXème Congrès de l'Académie Internationale de Droit Comparé Martin Schauer, Bea Verschraegen, 2017-06-01 This book deals with
convergences of legal doctrine despite jurisdictional cultural and political barriers and of divergences due to such barriers
examining topics that are of vital importance to contemporary legal scholars Written by leading scholars from more than
twenty countries its thirty-two chapters present a comparative analysis of cutting edge legal topics of the 21st century While
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nonetheless show comparable strategies in dealing with complex legal issues The book is a critical addition to the library of any scholar hoping to keep abreast of the major trends in contemporary law It covers a vast area of topics that are dealt with from a comparative point of view and represents the current state of law in each area **Le droit constitutionnel de la Ve République** Gilles Toulemonde, Lascombe michel, 2015-12-01 Cet ouvrage s'adresse aux étudiants en droit aux élèves des instituts d'études politiques et aux candidats aux concours administratifs Il couvre l'essentiel du programme de droit constitutionnel c'est-à-dire aussi bien les constitutions françaises depuis 1789 que l'actuel texte constitutionnel Cette nouvelle édition tient compte des derniers développements induits par les changements politiques des dernières formes des règlements des assemblées et de la jurisprudence la plus récente *Le renouvellement de l'office du juge administratif français* Caroline Leclerc, 2015-10-15 Dans le cadre d'une politique de renforcement de sa légitimité le juge administratif français tient de plus en plus compte des attentes du justiciable notamment en termes de protection des droits fondamentaux Ce renouvellement a motivé une profonde rénovation de ses techniques et méthodes de jugement Le juge administratif français dont les interventions sont maintenant effectives est devenu ce que particuliers et Administration attendent aujourd'hui de lui un juge partiellement

Recherches sur la notion d'amortissement en matière de contrats administratifs Jean-Baptiste Vila, 2016-04-01 L'amortissement en droit des contrats administratifs a deux fonctions La première comptable permet de répartir les pertes de valeurs affectant le patrimoine L'autre est fiscale financière et a vocation permettre la compensation d'une perte prévisible pour le cocontractant L'ouvrage envisage les règles applicables ces deux mécanismes appliqués aux contrats administratifs en particulier aux délégations de services publics tout en formulant deux propositions fortes la construction de durées contractuelles variables et la rationalisation de l'équilibre économique de ces contrats La Procédure Arbitrale Et L'indépendance Des Arbitres International Court of Arbitration, 1991 Le marché des infrastructures de transport : les aéroports et les ports Sofia Mitsiopolou, 2015-07-01 Avec la libéralisation du transport ce sont désormais les opérateurs de transport qui décident de la place des ports et des aéroports L'évolution majeure une concurrence nouvelle entre ces infrastructures Le marché de ces infrastructures hétérodoxe résulte d'une libéralisation spontanée et la concurrence s'exerce la fois pour et dans ce marché Le droit a réglé ce phénomène économique par le démantèlement des monopoles tatoués qui s'est opéré au moyen de la privatisation ou de la décentralisation et par la restructuration des infrastructures La France devant la Cour européenne des droits de l'Homme Didier Girard, 2015-10-15 Quels rapports la France entretient-elle avec la Cour européenne des droits de l'Homme En tant qu'État la France est la fois acteur du système européen des droits fondamentaux mais également l'objet du contrôle institutionnel ainsi institué Les postures sont la fois multiples et les intérêts parfois contradictoires Cette étude permet de déterminer les lignes directrices suivies dans l'action extérieure de la France

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