

New York Convention

Commentary

von

Dr. Reinmar Wolff, Dr. Christian Borris, Dr. Bernd Ehle, Todd J. Fox, Rudolf Hennecke, Dr. Angela Kölbl, Christoph Liebscher, Dr. David Quinke, Dr. Maxi Scherer, Stephan Wilske

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Commentary

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Preface

The rise of international arbitration is closely intertwined with the New York Convention's success. The Convention, with its 147 current Member States one of the most effective international instruments (if not the most effective) in the field of commercial law, has pioneered the unification of international arbitration. It has done so both by directly facilitating recognition and enforcement of foreign awards and by indirectly establishing standards for arbitral proceedings. Conversely, the considerable growth of international arbitration during the last decades has given the Convention a meaning which could hardly have been foreseen back in 1958.

The Convention's unifying effect largely depends on the coherent interpretation and application of its provisions by the national courts. Only uniform interpretation allows one to predict the chances of success of an application for recognition and enforcement, which in turn furthers certainty in cross-border contracts and reduces transaction costs. The Convention's age – Article II(2)'s reference to the conclusion of contracts by exchange of telegrams is telling – and the dynamics during the 1958 conference, which resulted in remarkable last-minute amendments, reinforce the need for uniform interpretation.

International arbitration is characterized by converging procedural rules which utilize elements of various legal traditions. The same "best of all worlds" approach is beneficial for the tools increasing the Convention's accessibility. The present work adopts one of these concepts, *i.e.* the civil law commentary format. It is neither a case digest nor an anthology of essays. Instead, the Convention is annotated article by article, prerequisite by prerequisite. The reader will quickly find how each requirement under the respective provision has been understood and how it should be interpreted. The work provides a concise and reasoned opinion and supplies the reader with further references, both from international case law and scholarly writings. The commentary's systematic approach is complemented by a table of cases and awards and by an index. Other conventions, in particular the European Convention, are included where appropriate. All of the authors, who are experienced practitioners in international arbitration, are well-acquainted with the commentary concept.

Editing the present work was possible only with the tireless support of many individuals, three of whom shall expressly be honored. Jeremy Fenner has done a great service to the table of cases and awards and other registers. Hendrik Lauster has skillfully and thoroughly assembled the index. Last but not least, Dr. Wilhelm Warth of C. H. Beck, Munich, has encouraged and supported the project in an exemplary fashion.

The readers' comments on this commentary's concept and contents are of utmost value to the further development of this work. The authors and the editor expressly appreciate any remarks and suggestions (wolffr@staff.uni-marburg.de).

Marburg, in August 2012

Reinmar Wolff

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