

# Conflict of Laws in International Arbitration

edited by

Franco Ferrari  
Stefan Kröll

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## Preface

It is often suggested that in international commercial arbitration conflict of laws rules are not as relevant as in state court proceedings; at times, commentators have even suggested that resort to arbitration is due to the parties' intention to avoid a conflict of laws approach altogether, since arbitral tribunals do not apply conflict of laws rules. As recent case law from a number of jurisdictions shows, this is not the case. This book addresses some of the most important conflict of laws problems that may arise in connection to the various stages of arbitral proceedings.

This volume contains the papers presented at a conference on "Conflict of Laws in International Commercial Arbitration" held at Verona University School of Law in March 2010.

First and foremost, we wish to thank all the contributors for their willingness to take the trip to Verona, deliver their speeches and submit their papers. We also want to thank Dr. *Francesca Ragno*, a scholar in her own right, for assisting the editors in organizing the Verona conference. The conference was generously sponsored by NCTM Studio Legale Associato; we are very grateful for this support without which neither the conference nor this book would have been possible.



## List of Contributors

*Mohamed S. Abdel Wahab*

Assistant Professor, Faculty of Law – Cairo University; Vice-Chairman of the Chartered Institute of Arbitrators (Cairo Branch); Senior Partner, Zulficar & Partners Law Firm.

*George A. Berman*

Jean Monnet Professor of European Union Law and Walter Gellhorn Professor of Law, Columbia Law School.

*Christopher Boog*

Attorney-at-law, Schellenberg Wittmer, Zurich.

*Dr. Stavros Brekoulakis*

LLB (Athens), LLM (KCL), PhD (QMUL), Advocate; Lecturer in International Dispute Resolution, Centre of Commercial Law Studies, Queen Mary, University London.

*Prof. Dr. Filip De Ly*

Erasmus School of Law, Rotterdam.

*Domenico Di Pietro*

Avvocato (Italy) and Solicitor (England and Wales). International Law and Arbitration Group, Chiomenti Studio Legale, Rome.

*Franco Ferrari*

Professor of Law, Verona University School of Law; Professor of Law and Executive Director, Center for Transnational Litigation and Commercial Law, New York University School of Law.

*Prof. Dr. Daniel Girsberger LL.M*

Attorney-at-law (Switzerland), Full Professor for Private and International Private Law, Business, Procedural and Comparative Law at the University of Lucerne.

*Leonardo Graffi*

Attorney-at-law (Admitted to the New York bar), Avvocato (Foro di Roma), (LL.M., Harvard).

*Walter Grenz*

LL.B., Bucerius Law School, Hamburg.

*Dr. Stefan Kröll*

Visiting Lecturer Bucerius Law School, Hamburg; Visiting Reader School of International Arbitration, Centre for Commercial Law Studies, Queen Mary University of London; Rechtsanwalt, Cologne.

*Ruggiero Cafari Panico*

Chair Professor of European Law, Università degli Studi di Milano.

*Anne-Sophie Papeil*

Legal adviser for the Federal Office of Justice (Switzerland);  
PhD candidate at the University of Rouen (France) and PhD candidate  
at the University of Neuchâtel (Switzerland).

*Linda Silberman*

Martin Lipton Professor of Law, New York University School of Law.

*Prof. Dr. Karsten Thorn*

Professor Bucerius Law School, LL.M. (Georgetown).

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## Abbreviations

ABA	American Bar Association
Arb. Int.	Arbitration International
American Rev Intl Arbitration	American Review of International Arbitration
Art(s).	Article(s)
ASA	Swiss Arbitration Association
BGB	<i>Bürgerliches Gesetzbuch</i> , German Civil Code
Brussels I Regulation	Council Regulation (EC) No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, 22 December 2000
Bull.	Bulletin
CAM	Chamber of Arbitration of Milan
CCP	Code of Civil Procedure
cf.	<i>confer</i> , compare
CISG	UN Convention on Contracts for the International Sale of Goods, Vienna, 1980
DIAC	Dubai International Arbitration Centre
DIFC	Dubai International Financial Centre
DIS	<i>Deutsche Institution für Schiedsgerichtsbarkeit</i> , German Arbitration Institute
DFT	Decisions of the Swiss Federal Tribunal
e.g.	<i>exempli gratia</i> , for instance, for example
ECJ	European Court of Justice
ed(s).	edition, editor(s)
et al.	<i>et alii</i> , <i>et aliae</i> , <i>et alia</i> , and others
et seq.	<i>et sequens</i> , <i>et sequentes</i> , <i>et sequentia</i> , and the following one(s)
etc.	<i>et cetera</i> , and so forth
ECHR	European Court of Human Rights
European Convention	European Convention on International Commercial Arbitration, Geneva, 21 April 1961, UN Treaty Series Vol. 484

HKIAC	Hong Kong International Arbitration Centre
i.e.	<i>id est, that is</i>
IBA	International Bar Association
Int. A. L. R.	International Arbitration Law Review
ibid.	<i>ibidem</i> , in the same place
ICC	International Chamber of Commerce
ICC ICArb. Bull.	ICC International Court of Arbitration Bulletin
ICCA	International Council for Commercial Arbitration
ICDR	International Centre for Dispute Resolution of the American Arbitration Association
ICJ	International Court of Justice
ICSID	Convention on the Settlement of Investment Disputes between States and Nationals of Other States, Washington, 1966
Id.	<i>Idem</i> , the same person
J. Int. Arb.	Journal of International Arbitration
LCIA	London Court of International Arbitration
MCCI	Moscow Chamber of Commerce and Industry
Mealey's I. A. R.	Mealey's International Arbitration Report
ML	UNCITRAL Model Law on International Commercial Arbitration (1985, amended in 2006)
n.	footnote
New York Convention	Convention on the Recognition and Enforcement of Foreign Arbitral Awards, New York, 1958
no(s).	number(s)
op. cit.	<i>opere citato</i> , from the cited work
p(p).	page(s)
para.	paragraph(s)
PILA	Private International Law Act
Rep.	Reports
Rev. Arb.	Revue de l'Arbitrage

Rome Convention	EC Convention on the Law Applicable to Contractual Obligations, 1980
Rome I Regulation	Regulation (EC) No. 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations
Rome II Regulation	Regulation (EC) No. 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations
SCC	Stockholm Chamber of Commerce
SchiedsVZ	Zeitschrift für Schiedsverfahren
Sec.	Section
Stockholm Int. Arb. Rev.	Stockholm International Arbitration Review
U.S.	United States
UN	United Nations
UNCITRAL	UN Commission on International Trade Law
UNIDROIT	International Institute For The Unification Of Private Law
VIAC	Vienna International Arbitral Centre
vol.	volume
WIPO	World Intellectual Property Organization
Yearbook Comm. Arb.	Yearbook of Commercial Arbitration