Esin Attorney Partnership.

Esin Arbitration Quarterly

December 2021 - Second Issue

Autumn 2021 was another busy quarter in the world of international arbitration with a lot of significant updates. While significant court decisions were published in relation to arbitration matters, arbitral institutions also provided practitioners with new sets of tools to better meet their needs. We have compiled herein some of the most significant court decisions and developments around the world that have taken place during Autumn 2021.

1. Significant court decisions in the last three months relating to arbitration

1.1 Decision of the Constitutional Court of Republic of Turkey in respect of a dispute where an arbitral tribunal was authorized

- The Constitutional Court ruled that if there is a foreseeable lack of jurisdiction, a party may not claim that their ownership right was violated since the statute of limitations for the claim is expired as a result of dismissal of the lawsuit due to the preliminary objection of arbitration. The Constitutional Court highlighted that a party who executed an arbitration agreement and excluded the courts' jurisdiction and then initiated a lawsuit before the courts must bear the consequences of acting against such jurisdiction agreement.

  A Turkish insurance company applied to the Constitutional Court, claiming that its ownership right was violated because the applicable statute of limitation for their claim had expired under English law. The applicant claimed that the final decision on the lack of jurisdiction due to objection to arbitration was given after seven years under the lawsuit initiated before Turkish courts.

  The underlying dispute arose from a charter contract and bill of lading related to the transportation of iron from Turkey to England. The charterer that exports the iron is a Turkish company, and the consignee is an English company operating in iron trading. The consignee requested the applicant to pay the insurance compensation to the charterer depending upon the assignment of claims. Accordingly, the applicant paid for the damages to the charterer. Afterwards, the applicant claimed to be the successor of the charterer's rights and initiated execution proceedings via foreclosure of moveable pledge (*rehnin paraya çevrilmesi yoluyla takip*) in Turkey against the carrier.

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The carrier objected to the execution of proceedings and the proceedings were halted as a result of the objection. The applicant initiated a lawsuit for cancellation of the objection (*itirazın iptali davası*) before Turkish courts to be able to continue the execution proceedings. Despite the fact that there is an arbitration clause in the contract between the parties, the court of first instance rejected the objection of arbitration and decided on the merits of the case. The decision was appealed. Then the Court of Cassation reversed the decision of the court of first instance by ruling that the charter contract concluded between the parties included an arbitration clause, and the dispute had to be resolved through arbitration.

The court of first instance complied with the reversal decision of the Court of Cassation and, accordingly, ruled that it had no jurisdiction. The applicant appealed this decision, however, the Court of Cassation upheld the decision of the court of first instance.

Upon this final decision, the applicant brought the dispute before the Constitutional Court with two claims. These two claims of the applicant were the following:

- According to case law of the Court of Cassation, a claim of legal lien (*kanuni rehin*) should constitute a right *in rem* and therefore should not be arbitrable. For this reason, when a claim of legal lien is brought before the courts, the arbitration objection should be dismissed and the court should decide on the merits of the case.
- The court's decision of non-jurisdiction was given almost seven years after the dispute arose and, as per English law, the statute of limitations for the claim had expired within this time. As a result, it became impossible for the applicant to receive compensation for their damages by initiating arbitration, and their right to legal remedies, right to fair trial and ownership right were violated.

The Constitutional Court dismissed the claims of the applicant and ruled that (i) there was no obvious abuse of discretion or arbitrariness and (ii) the applicant was aware of the existence of the contracts and their annexes, as well as their content. Therefore, the applicant was in a position to foresee that they would face a preliminary arbitration objection if they chose to bring the dispute before the local courts. We believe this was the most important finding in the decision of the Constitutional Court. In addition to this, the Constitutional Court also found the applicant's claims regarding the statute of limitations inadmissible on the grounds that the applicant brought the dispute before the Constitutional Court and made an individual application without initiating arbitration. The Constitutional Court reiterated that it only conducted a secondary examination over the disputes and it was not in a position to determine, interpret and apply the rules of law to the disputes. The Constitutional Court further stated that it would not be possible to determine whether the statute of limitations for the claim had expired under English law. The Constitutional Court accordingly ruled that it was not possible to determine whether it had really become impossible for the applicant to be compensated for the damages. The Constitutional Court dismissed the application of the applicant. (The Constitutional Court of the Republic of Turkey, Application No. 2018/5832, 8 June 2021, published in the Official Gazette No. 31591 on 7 September 2021)[1]

1.2 Decision of the Istanbul Regional Court regarding the arbitral tribunal's authority to reverse the interim injunction order granted by the courts

- The Regional Court emphasized that in disputes where International Arbitration Law No. 4686 ("**IAL**") is applied, accepting that the arbitral tribunal that hears a dispute with foreign element has the power to reverse the interim injunction order granted by the Turkish courts means giving the arbitral tribunal the opportunity to intervene in the jurisdiction of Turkish courts.

  The dispute between the parties arose from a design agreement ("**Design Agreement**") where the plaintiff is a design consultant and the defendant is a contractor. In accordance with the payment procedure under the Design Agreement, an advance payment was made to the plaintiff and the plaintiff issued two separate bank guarantees for the benefit of the defendant. The plaintiff claimed before the court of first instance that there was a serious risk that the defendant may unjustly enforce the bank guarantees and requested the court to grant an interim injunction order to refrain from the enforcing of bank guarantees. The court of first instance ruled that the conditions sought under Article 389 of Code of Civil Procedure No. 6100 ("**CCP**") to grant an interim injunction order were met in this case and accordingly granted an interim injunction order to prevent the enforcing of bank guarantees.

  The defendant objected to the interim injunction order, claiming that the governing law of the Agreement is not Turkish law and the parties agreed to settle their dispute by arbitration before the International Chamber of Commerce (ICC) under the Agreement. The defendant stated that the plaintiff had not fulfilled its obligations under the Agreement; the court had no jurisdiction to grant an interim injunction; the conditions to grant an interim injunction order have not been met; and the plaintiff had not initiated the required additional court proceeding (*tamamlayıcı merasim*); therefore, the interim injunction order should be reversed. The court of first instance, in its additional decision granted after the objection, ruled that the objection of the defendant had to be assessed by the arbitral tribunal that hears a dispute with foreign elements, which had jurisdiction over the dispute, and ordered that the file be sent to the ICC. The defendant appealed both the first decision and the additional decision of the court, requesting the reversal of (i) the first decision on the interim injunction and (ii) the additional decision on the authority of the arbitral tribunal to evaluate the objection to the interim injunction.

1 You may find the decision of the Constitutional Court **here** (in Turkish)

The Regional Court, in its ruling, decided that the court's first decision on the interim injunction is just. The Regional Court pointed out that the question to be answered here was whether the arbitral tribunal had the jurisdiction to evaluate the objection to the interim injunction order granted by the Turkish courts, or if the Turkish courts should evaluate this issue. The Regional Court stated that there is no provision under the IAL regarding the objection process in respect of the interim injunctions. Besides, pursuant to Article 414 of the CCP, the sole arbitrator or the arbitral tribunal has jurisdiction to reverse the interim injunction orders granted by the courts; however, in accordance with Article 407 of CCP, this rule is only applicable in disputes that do not have foreign elements. In this case, since the dispute had a foreign element, such provisions of the CCP were not applicable.

The Regional Court ruled that giving jurisdiction to the arbitral tribunal hearing a dispute with a foreign element would constitute an intervention in the authority of the Turkish courts. Therefore, the decision of the court of first instance regarding the transfer of the file of objection to the interim injunction order to the arbitral tribunal was not accurate. The Regional Court accepted the defendant's appeal and reversed the decision of the court of first instance, stating that the objection to the interim injunction order should be evaluated by Turkish courts. (45th Civil Chamber of the Istanbul Regional Court, File No. 2020/2281, Decision No. 2021/226)

1.3 Decision of the Istanbul Regional Court regarding the validity of an arbitration agreement under standard sale conditions and terms document which is referred through a website on an invoice

- The Regional Court emphasized that an arbitration clause in standard sale conditions and terms document which is referred through a website on an invoice is not valid. The Regional Court ruled that such arbitration clause in standard sale conditions and terms document which is accessible via a website does not meet the validity condition of being written, under the Convention on the Recognition and Enforcement of Foreign Arbitral Awards dated 10 June 1958 ("**New York Convention**").

The decision of the court of first instance that was brought before the Regional Court was about the enforcement of a foreign arbitral award. The defendant objected to the enforcement of the arbitral award before the court of first instance by claiming that there was no arbitration agreement duly executed between the parties and their right to fair trial was violated. The court of first instance found the enforcement request of the plaintiff admissible and ruled that:

- There was a reference to a website on the invoice that included standard sale conditions and terms containing an arbitration clause, and the defendant did not raise an objection regarding the existence of this arbitration clause during a long-lasting commercial relationship where the same invoices were issued frequently.
- The defendant had been present at all stages of the arbitral proceedings and had not raised an objection regarding the invalidity of the arbitration clause.
- There was no evidence that the defendant had not been duly notified of the selection of the arbitrator or of the violation of the right to a fair trial.
- The defendant had not initiated set aside proceedings against the arbitral award at the seat of arbitration.
- The reasons for dismissal of the enforcement of an arbitral award are enumerated under Article 5 of the New York Convention, and in this particular case there was no obstacle against the enforcement of the award.

The defendant appealed the decision claiming that even though "The Standard Terms and Conditions of Sale can be found on our website" was written on the invoices, it was not possible to say that there was a valid, negotiated agreement and thus a valid arbitration clause between the parties because invoices are documents that relate only to the performance of obligations.

The Regional Court ruled that the problem of recognition and enforcement had to be evaluated as per the provisions of the New York Convention. The Regional Court emphasized that, pursuant to Article II/2 of the New York Convention, the term "agreement in writing" should include an arbitration clause in a contract or an arbitration agreement, signed by the parties or contained in an exchange of letters or telegrams.

The Regional Court ruled that there was no arbitration agreement between the parties on the grounds that there was no mutually signed agreement. The court based its decision on two points: (i) "The Standard Terms and Conditions of Sale" on the website was unilateral and not negotiated; (ii) there was no arbitration clause written on the invoice, instead, the invoice included only a reference to the conditions on a website. According to the Regional Court, the fact that there is a reference to a website on an invoice that includes an arbitration clause does not mean that the parties agree to resolve their disputes via arbitration. The Regional Court accordingly reversed the decision of the Civil Court of First Instance. (12th Civil Chamber of the Istanbul Regional Court, File No. 2021/1025, Decision No. 2021/1545)

1.4 Decision of the Court of Justice of the European Union regarding the applicability of arbitration for the investment disputes between the member states of the European Union

- The Court of Justice of the European Union (CJEU) rendered a decision regarding the application of Article 26 of the Energy Charter Treaty (ECT), which regulates the settlement of the investment disputes between an investor and a contracting party, on 2 September 2021.[2] According to the decision, Article 26 of the ECT is not applicable to intra-EU disputes.

2 You may find the decision of the CJEU **here**.

The dispute arose from a series of contracts concluded in 1999 when Ukrenergo, a Ukrainian producer, sold electricity to Energoalians, a Ukrainian distributor, which resold that electricity to Derimen, a company registered in the British Virgin Islands, which in turn resold that electricity to Moldtranselectro, a Moldovan public undertaking with a view to exporting it to Moldova. The volumes of electricity to be supplied were agreed each month directly between Moldtranselectro and Ukrenergo. Afterwards, Moldtranselectro defaulted on its obligations. Derimen paid Energoalians the full amounts due for the electricity purchased, whilst Moldtranselectro only partially settled the amounts due to Derimen for that electricity. Then, Derimen assigned to Energoalians the claim that it had against Moldtranselectro.

Energoalians initiated arbitration proceedings under UNCITRAL Rules and claimed that Republic of Moldova breached ECT along with the 1996 Ukraine-Moldova bilateral investment treaty (BIT) by taking actions that made it difficult for Energoalians to recover its claims. The arbitral tribunal found the claims of Energoalians admissible and rendered an award that ordered Republic of Moldova to pay USD 46.5 million to Energoalians. After the arbitral award was rendered, a Ukrainian company Komstroy bought Energoalians.

Republic of Moldova initiated set aside proceedings before the Paris Court of Appeal. The Paris Court of Appeal ruled that the arbitral tribunal did not have jurisdiction on the grounds that the assignment of receivables depending upon a commercial agreement cannot be deemed as an investment and accordingly set aside the arbitral award.

The decision of Paris Court of Appeal had been brought before Paris Court of Cassation. The Paris Court of Cassation reversed the decision of the Court of Appeal on the grounds that the Court of Appeal's decision on arbitral tribunal's jurisdiction lacked legal basis and introduced an additional requirement regarding the scope of the investment that is not contained in the ECT.

The Paris Court of Cassation reversed the case to the Paris Court of Appeal. The Paris Court of Appeal suspended the proceedings on 24 September 2019 to consult the CJEU about the interpretation of the "investment" definition under the ECT.

The CJEU did not only evaluate the "investment" definition but also evaluated whether the disputes in the framework of the ECT between European countries can be resolved by arbitration or not. The CJEU ruled that the assignment of receivables arising from a contract for the supply of electricity, which is not connected with an investment, cannot be construed as an investment within the framework of Article 1/6 of the ECT, which defined investment as "every kind of asset, owned or controlled directly or indirectly by an investor." This interpretation of the CJEU is very strict in comparison to the situated practice. Moreover, with this decision the CJEU pointed out that the Energy Charter Treaty is not applicable to intra-EU disputes.

2. Developments in arbitration practice

2.1 Newly published rules and guidelines of the arbitration institutions

(a) The UNCITRAL Expedited Arbitration Rules entered into force

On 19 September 2021, as a milestone in the 55-year history of UNCITRAL, the Expedited Arbitration Rules ("**Expedited Rules**") entered into force. The Expedited Rules offer a simplified, cost-effective and time-efficient procedure for resolution of the disputes. The Expedited Rules were structured as an appendix to the UNCITRAL Arbitration Rules instead of as a separate set of rules, and therefore these must be read and considered together.

The importance of expedited arbitration is explained in United Nations Information Service press release as follows:

Expedited arbitration has been increasingly used in international commercial practice for parties to reach a final resolution of the dispute in a cost and time-effective manner. The Expedited Arbitration Rules provide rules for parties to agree to a streamlined and simplified procedure with the award expected to be made within a short time frame. At the same time, the Expedited Arbitration Rules balance the efficiency of the arbitral proceedings and the rights of the parties to due process and fair treatment

The key provisions of the Expedited Rules are as follows:[3]

- The Expedited Rules apply only upon express consent of the parties and there is no automatic application.
- It is possible to hold hearings remotely as per Article 3. Moreover, the arbitral tribunal may decide that no hearings should be held after having consulted the parties and in the absence of a request from a party as per Article 11.
- The process and deadlines for the submissions and designating authorities are foreseen in accordance with the time and cost-effective approach under Articles 4, 5 and 6.
- Unless otherwise agreed by the parties, the proceedings will be conducted by one arbitrator as per Article 7.
- The arbitral tribunal is granted a broad discretionary power in Article 15 regarding the taking of evidence.
- The awards should be made within six months from the date of constitution of the arbitral tribunal unless otherwise agreed by the parties as per Article 16. The arbitral tribunal has the discretion to extend this time period in exceptional circumstances, however, the time period should not exceed nine months from the date of constitution of the arbitral tribunal. If the arbitral tribunal considers that it is under risk of not rendering an award within nine months, it should propose a final extended time limit. The extension should be adopted only if all parties express their consent.

3 You may find the legal alert concerning this issue for the detailed explanations **here**.

The Expedited Rules attempt to extend UNCITRAL's various efforts to improve the efficiency of arbitration by bringing a streamlined and simplified procedure with a shortened time frame, which makes it possible for the parties to reach a final resolution of the dispute in a time and cost-effective manner.

(b) The third version of Code of Conduct for Adjudicators in International Investment Disputes was published

On 22 September 2021, **the third version** of Code of Conduct for Adjudicators in International Investment Disputes ("**Code**") collaborated on by the secretariats of ICSID and UNCITRAL was published.

The aim to draft this Code is to provide applicable principles and provisions addressing matters such as independence and impartiality, and the duty to conduct proceedings with integrity, fairness, efficiency and civility in proceedings.

This version includes amendments on the issues such as application to the Code, limit on multiple roles, several duties, *ex parte* communication, confidentiality, fees and expenses and disclosure obligations. It is stated under the revised version that this version seeks to create a "balanced, realistic and workable" document. It seeks to address practical issues that may arise, to avoid unknown or ambiguous concepts, and to use concise drafting.

(c) International Center for Settlement of Investment Disputes (ICSID) published its sixth working paper

On 12 November 2021, the ICSID secretariat published its **sixth working paper** on proposed amendments to its procedural rules.

The new working paper introduces relatively less changes compared to the fifth working paper[4], focusing only on the provisions that received comments[5]. The significant changes are as follows:

- Transparency: New rules intend to bring greater transparency to the proceedings through increased publication of awards, decisions and orders with Rule 64. According to the new rules, upon consent of the parties, ICSID may publish the written submissions and supporting documents in cases. The sixth working paper points out that for these documents to be published, they must be filed "by a party."
- Disclosure of third-party funding: New rules provide an obligation for the parties to disclose the name and address of any third-party funder. The sixth working paper specifies with a newly added sentence to Rule 14 that if the non-party providing funding is a juridical person, the names of the persons and entities that own and control a funder that is a juridical person must be disclosed.
- Non-disputing treaty parties: The new working paper clarifies with Rule 68 that a non-disputing treaty party may make its submission orally or in writing, or both, depending on the tribunal's determination, and that the non-disputing treaty party may have access to relevant documents, unless either party objects.
- Expedited proceedings: Fast-track proceedings is one of the notable features of the amended rules. The sixth working paper clarifies with a newly added sentence to Rule 75(3) that if an arbitrator is unavailable to proceed with an expedited arbitration, the arbitrator may offer to resign.
- Security for costs: The sixth working paper highlights with the amendment on Rule 53(2)(a) that the request for security for costs should include a statement of the relevant circumstances and the supporting documents.

With these amendments, the ICSID hopes to offer states and investors a range of effective dispute settlement mechanisms, including not only arbitration, but also conciliation, mediation and fact-finding. The sixth working paper also serves to achieve these goals.

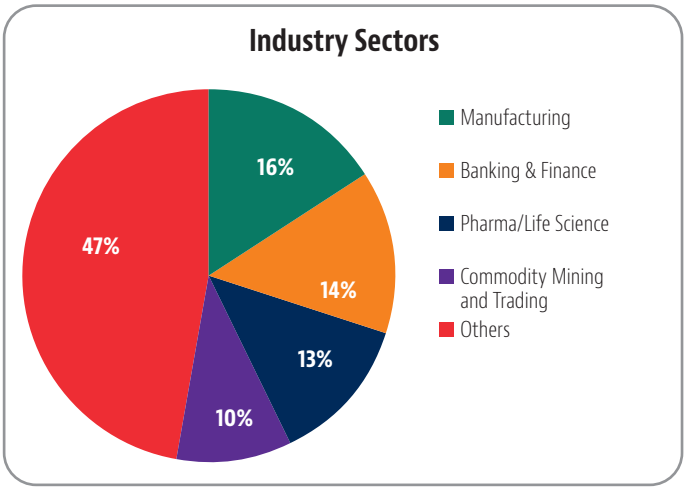
ICSID states it is planning to publish the updated version for approval in January so that, if adopted, the new rules may be in place by early summer 2022.

2.2 The Swiss Arbitration Association (ASA) statistics of 2020

The ASA has released its dispute resolution statistics for 2020 ("**Statistics**"), which demonstrate a busy year for it with a high number of registered cases.

According to the Statistics, in 2020:

- A total of 83 cases were referred to arbitration under the ASA Rules and key industry sectors were:



- 47% of the cases, which were defined as "other" under the above chart, include 25% sale of goods, 18% corporate/M&A/joint venture, 13% banking and finance, 11% construction and engineering and 11% and other services.
- 80% of the cases under the ASA Rules were international cases and involved at least one foreign party. Most of the cases involved at least one party from Switzerland or from another Western European country.

4 You may find more information on the fifth working paper in the First Issue of Esin Arbitration Quarterly **here**.

5 You may find the comments on the fifth working paper **here**.

- No surprise that the most chosen language of arbitration in the proceedings conducted under ASA Rules was English, followed by German and French.
- In most of the cases, parties decided on Swiss law as the applicable law, followed by English, French and German.
- While 53% of the cases were referred to a sole arbitrator, 47% of the cases were referred to an arbitral tribunal.
- The Expedited Procedure, since it came into effect in 2004, has proven to be very useful. In 2020, about 40% of the cases were decided under the Expedited Procedure.

The statistics show that ASA continues to be a much-in-demand arbitration institution both in Switzerland and Western Europe. ASA stated that:

> *We are extremely happy with the increasing caseload of the Centre. This shows the trust of our users in opting for a reliable arbitration framework, reinforced by the recent revision of the Swiss Rules.*

2.3 Arbitral institutions' 2020 caseload wrapped up

To wrap up the caseload of the arbitration centers that are mostly preferred over the world and to give a clear picture of the general situation of arbitration over the world for the year of 2020, the following chart will be useful and beneficial.

Institution	Number of cases in 2020
China International Economic and Trade Arbitration Commission	3615
Hong Kong International Arbitration Center	318
International Chamber of Commerce	946
Singapore International Arbitration Center	1080
Stockholm Chamber of Commerce	213
The London Court of International Arbitration	440
The Swiss Arbitration Association	83
Vienna International Arbitration Center	40

2.4 Other updates in arbitration practice

(a) Dubai government abolishes DIFC-LCIA Arbitration Center and Emirates Maritime Arbitration Center (EMAC)

On 14 September 2021, with Decree No. 34 of 2021 ("**Decree**"), the two arbitral institutions DIFC-LCIA and EMAC were abolished in Dubai, making Dubai International Arbitration Center (DIAC) the only arbitral institution in the emirate. The Decree has been effective since 20 September 2021 and is expected to have notable effects since it fundamentally changed the existing arbitration framework in Dubai. According to the Decree, all assets of the abolished arbitral institutions should be transferred to DIAC in a six-month transition period.

The Decree's aim is to provide arbitration practitioners with a one-stop-shop to resolve their disputes through one integrated arbitration center regardless the nature of the disputes, i.e. whether those disputes are domestic, international or maritime-related.

Unless parties agree otherwise, the arbitration agreements concluded before 20 September 2021 that refer to these abolished institutions are still considered valid and enforceable arbitration agreements with DIAC substituting the institutions in the agreements. Any arbitration agreements concluded after 20 September 2021 that refer to DIFC-LCIA or EMAC are likely to be considered invalid and unenforceable since they refer to abolished arbitral institutions.

It is unclear what exactly will happen to the ongoing arbitration proceedings under the rules of the abolished institutions, that is, the effects of the Decree are yet to be seen. According to Article 6(b) of the Decree, "DIAC and its administrative body should, however, undertake the supervision of such cases." This provision aims to maintain the integrity of existing arbitration proceedings. However, DIFC made a statement on 7 October 2021 emphasizing that the existing cases would continue to be administered by the DIFC-LCIA casework team and the LCIA. For this reason, while it is expected that the proceedings will continue even with delay, it is still not clear under which authority the pending cases will be supervised.

(b) Istanbul Chamber of Commerce (ITO) circulated sample arbitration clause to be added to the companies' articles of association

On 24 November 2021, ITO sent its members an email that included a sample arbitration clause for the Istanbul Chamber of Commerce Arbitration and Mediation Center (ITOTAM) arbitration that can be added to the article of association of the companies.

The sample arbitration clause envisages that all disputes arising between the shareholders, the company and its shareholders, and members of the board and company and/or shareholders, including the disputes that result from the article of association and company resolutions, shall be settled by arbitration under ITOTAM Arbitration Rules. The sample arbitration clause sets Istanbul as the place of arbitration and Turkish as the language of arbitration and includes a sentence according to which, as well as ITOTAM Arbitration Rules, the provisions of Turkish Commercial Code No. 6102 and CCP shall apply.

While it is still a hot topic whether certain corporate disputes can be resolved through arbitration or not, it seems that there are some positive developments in this issue. With the sample clause, ITO expects to promote ITOTAM arbitration, which will provide the companies with more flexibility for the resolution of their disputes along with the litigation before local courts. By noting the existence of the controversial interpretations around this issue, we believe this to be a very important development and we will keep monitoring all of the developments surrounding this issue.

(c) Global Arbitration Review (GAR) publishes The Guide to Evidence in International Arbitration

September 2021 gave birth to a new reference tool released by GAR: The Guide to Evidence in International Arbitration. The guide deals with the issue of evidence from different perspectives and offers a very useful tool for practitioners of international arbitration. As per the publisher's note, the guide offers a holistic view of the issues surrounding evidence

in international arbitration, from the strategic, cultural and ethical questions it can throw up to the specifics of certain situations. Since the International Bar Association (IBA) published the amendments to its rules on evidence in February 2021, not as much work has been done on the new amended rules and this guide is expected to light the way for the practitioners.

(d) Global Arbitration Review (GAR) publishes the fifth edition of The Guide to Advocacy

In September 2021, GAR published the fifth edition of its distinguished guide: The Guide to Advocacy. The guide covers various topics and it is offered for practitioners of all backgrounds and at all levels of experience while intending to offer lawyers a way to keep up with the international sphere as efficiently as possible. As per the publisher's note, the guide aims to provide those newer to international arbitration with the tools to succeed as an advocate, whatever their national origin, and to provide the more experienced with insight into cultural and regional variations.

(e) Chartered Institute of Arbitrators (CIArb) announces the Guideline on the Use of Technology in International Arbitration

As technology becomes more and more involved in our daily life, the use of technology in law-related matters is becoming an important issue as well. In this respect, on 30 November 2021, CIArb announced its Guideline on the Use of Technology in International Arbitration which contains a series of general principles about using technology in international arbitration and also provides a detailed advice on how parties should take care to ensure that they use technology safely. The guideline was launched at the DAS Convention on 1 December 2021.

(f) Space arbitration association blasts off

On 23 November 2021, a new arbitration association, namely the Space Arbitration Association (SAA), has launched. The association hopes to focus on disputes arising out of increasing commercialization of space, such as space tourism and constellations of satellites for the internet services. Laura Yvonne Zielinski, the co-founder of the SAA, explains the aim to launch:

> *"Given the international, highly technical, and often confidential nature of space activities, international arbitration is a uniquely well suited dispute resolution mechanism for the space community."*

> *"When I became interested in space activities, through an arbitration I was working on, I noticed that there are as many conferences and discussions on space law but that, although there are and will be space disputes, there has so far been little overlap between the space and arbitration communities - at least in terms of public discussions. This is why I founded the SAA to change this, and offer the possibility of an exchange that can educate space professionals about international arbitration and arbitration lawyers about space."*

Conclusion

The past few months have been busy for the arbitration society while some of the arbitral institutions were updating their institutional rules and some of them were conducting studies on the improvement of the arbitration by publishing model clauses, guidelines, and codes.

As a result of that, arbitration is growing more and more every day with the incorporation of new sets of rules and procedures, while arbitral institutions are providing practitioners with new tools to enhance the efficiency of the proceedings. Autumn 2021 was another time of the year when parties adopted arbitration as their dispute resolution method while the arbitral institutions strived to provide parties with new tools to make things easier for them. Spring 2022 is coming and it is hoped to be another busy time with so many updates in the world of international arbitration.

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Arbitration Courses and Events Calendar

DECEMBER 2021

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1	2 Tahkimde Güncel Sorunlar II (*Current Issues in Arbitration II*) ONLINE	3	4 Tahkimde Taraf Vekilliği Eğitimi (*Attorneyship in Arbitration Training*) ONLINE
5 Tahkimde Taraf Vekilliği Eğitimi (*Attorneyship in Arbitration Training*) ONLINE	6	7 ICC YAF: Meet your ICC Case Management Team ONLINE 2021 Tokyo Forum on Dispute Resolution ONLINE	8 Investment Mediation Insights: Investment Mediation - From the Investor's Perspective ONLINE	9	10 ICC Friday eChaikhana: ICC Arbitration Series for Central Asia ONLINE	11
12	13 Meet the LCIA European Users' Council ONLINE	14 ICC YAF: Youthquake: How arbitration will change when the new generation leads MIAMI, USA	15	16	17	18
ICC Miami Conference on International Arbitration MIAMI, USA						
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26	27	28	29 Tahkim Okulu Panel 32: Tahkimde İddia ve Savunmayı Değiştirme ve Genişletme Yasağı (*School of Arbitration Panel 32: Prohibition of Modifying and Extending Claims and Defences in Arbitration*) ONLINE	30	31	

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23	24	25	26 Tahkim Okulu Panel 33: Tahkimde Esasa Uygulanacak Hukuk (*School of Arbitration Panel 33: Substantive Law in Arbitration*)	27	28	29
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20	21	22	23 Tahkim Okulu Panel 33: Tahkimde Esasa Uygulanacak Hukuk (School of Arbitration Panel 34: Overriding Mandatory Rules in Arbitration) ONLINE	24 Arbitration 101: Understanding the International Arbitration Legal Framework ONLINE	25	26
	10th ICC MENA Conference on International Arbitration DUBAI, UAE					

Organized by: ISTAC | ISTAC and Istanbul Bar Association | ICC | ICSID | Marmara University and ISTAC | SIAC