

Conflict of Laws in International Commercial Arbitration - Call for Papers

In 2010, Professors Franco Ferrari and Stefan Kroell organized a seminar on “conflict of laws in international commercial arbitration”, conscious of the fact that every arbitration raises a number of ‘conflict of laws’ problems both at the pre-award and post-award stage. Unlike state court judges, arbitrators have no *lex fori* in the proper sense, providing the relevant conflict rules to determine the applicable law. This raises the question of which conflict of laws rules apply and, consequently, the extent of the freedom arbitrators enjoy in dealing with this and related issues. The papers presented at that conference were later published in a book co-edited by the two organizers of said conference. Professors Ferrari and Kroell are now preparing a new edition of the book, which has attracted a lot of attention over the years. Apart from updated versions of the papers published in the first edition (with the following titles: “Conflicts of law in international arbitration: an overview” by Filip De Ly, “The law applicable to the validity of the arbitration agreement: a practitioner’s view” by Leonardo Graffi, “Applicable laws under the New York Convention” by Domenico Di Pietro, “Jurisdiction and applicable law in the case of so-called pathological arbitration clauses in view of the proposed reform of the Brussels I-Regulation” by Ruggiero Cafari Panico, “Arbitrability and conflict of jurisdictions: the (diminishing) relevance of *lex fori* and *lex loci arbitri*” by Stavros Brekoulakis, “Extension of arbitration agreements to third parties: a never ending legal quest through the spatial-temporal continuum” by Mohamed S. Abdel Wahab, “The effect of overriding mandatory rules on the arbitration agreement” by Karsten Thorn and Walter Grenz, “Arbitration and insolvency: selected conflict of laws problems” by Stefan Kröll, “Getting to the law applicable to the merits in international arbitration and the consequences of getting it wrong” by Franco Ferrari and Linda Silberman, “Mandatory rules of law in international arbitration” by George A. Bermann, “Conflict of overriding mandatory rules in arbitration” by Anne-Sophie Papeil, “The law applicable to the assignment of claims subject to an arbitration agreement” by Daniel Girsberger, “The laws governing interim measures in international arbitration” by Christopher Boog), the new edition seeks to include

papers on new topics, such as the law governing arbitrators' liability, the law governing issues of characterization in commercial and investment arbitration, the law governing limitation periods (including their characterization as procedural or substantive), the law governing the taking of evidence (including the characterization of evidence as procedural or substantive, its admissibility and weight), the law governing damages (including whether different laws govern *heads* of damages and *quantification*), the law governing issues fees and costs, the law governing *res iudicata*, the law governing privilege, the law governing ethical obligations (both of arbitrators and counsel), the role of the Hague Principles on Choice of Law in international arbitration).

The editors welcome the submission of papers on any of the aforementioned topics as well as other topics related to the relationship between conflict of laws and international commercial arbitration. If interested, please submit an abstract (2000 words) and a basic bibliography to Professors Ferrari (franco.ferrari@nyu.edu) and Kroell (stefan.kroell@law-school.de) for acceptance by 1 October 2017. If accepted, the paper will need to be submitted (in blue book format) by 1 February 2018.