

ARBITRATION

Malaysia:

High Court removes arbitrator over impartiality concerns

Author: K Shanti Mogan

(Source: International Law Office)

(Read article <http://www.internationallawoffice.com/?i=55592&l=7F4VG6R>)

In a recent case the High Court relied on its powers under the 1952 Arbitration Act, which provides for the removal of an arbitrator on grounds of misconduct or lack of impartiality.

Although the court found that the opposing party had not made a case for removal and the arbitrator's conduct did not warrant interference, concerns were raised over whether the arbitrator's continued presence would lead to a miscarriage of justice.

Mexico:

Commerce Code changes on judicial intervention in arbitration

Authors: Luis Alberto Aziz Checa, Rebeca Sanchez Perez

(Source: International Law Office)

(Read article <http://www.internationallawoffice.com/?i=55592&l=7F4VG7F>)

Recent amendments to the Commerce Code include several provisions regarding judicial involvement in arbitration procedures. Although various changes will expedite the arbitration procedure by clarifying the judiciary's scope of action, the provisions relating to injunctions represent a risk for arbitral tribunals.

Portugal:

Court rules on objective arbitrability and non-disposable rights

Authors: José Miguel Júdice, António P Pinto Monteiro

(Source: International Law Office)

(Read article <http://www.internationallawoffice.com/?i=55592&l=7F4VG88>)

Disputes concerning non-disposable rights cannot be arbitrated. However, the Lisbon Court of Appeal recently held that in such cases the invalidity of an arbitration agreement relates only to those rights which are absolutely non-disposable, not to those which are relatively non-disposable, such as rights that involve an economic interest.

Switzerland:

Supreme Court rules on prior involvement of arbitrators

Authors: Frank Spoorenberg, Isabelle Fellrath

(Source: International Law Office)

(Read article <http://www.internationallawoffice.com/?i=55592&l=7F4VG9D>)

The Swiss Supreme Court has ruled that, in principle, it is admissible for an arbitrator to be involved in various stages of an arbitral process without this fact alone constituting sufficient grounds to question that arbitrator's independence and impartiality.

Ukraine:

ECHR and Ukraine: state responsibility and approaches to enforcement

Authors: Andrey Y Astapov, Ivan Lishchyna

(Source: International Law Office)

(Read article <http://www.internationallawoffice.com/?i=55592&l=7F4VGAQ>)

Until recently it was widely held that human rights had little or no relevance to international arbitration, but decisions of the European Court of Human Rights (ECHR) have identified a

remedy for a party seeking enforcement. A number of ECHR cases have considered Ukrainian law and institutions; understanding this case law is likely to help overcome the problems of enforcing foreign arbitral awards in Ukraine.

Canada:

Sikorsky ordered to proceed in Newfoundland action

Author: Carlos P Martins

(Source: International Law Office)

(Read article <http://www.internationallawoffice.com/?i=55592&l=7F5JUUD>)

In 2009 a Sikorsky S-92 helicopter operated by Cougar Helicopters Inc crashed approximately 35 miles off the coast of Newfoundland, resulting in the deaths of 17 passengers and crew and the total loss of the helicopter. There was one surviving passenger. The flight was carrying oil workers to an offshore drilling rig. Two separate legal proceedings ensued as a result of the crash.

Israel:

Delayed flight – Cause for compensation on grounds of mental anguish

Authors: Peggy Sharon, Keren Marco

(Source: International Law Office)

(Read article <http://www.internationallawoffice.com/?i=55592&l=7F5JUV0>)

The Rishon Le-Zion Magistrates' Court recently handed down judgment in a case involving eight claims filed by passengers as a result of a 17-hour delay in a flight from Israel to Turkey. Some of the passengers decided not to take the delayed flight and thus claimed for a full refund; other passengers took the delayed flight and claimed for damages (mainly for mental anguish) caused by the delay.