

The Bulletin in Brief

This last issue of the Bulletin for 2012 contains three articles, a number of arbitration-related court decisions and orders and the consolidated index of all articles, notes and decisions published this year.

The first article by *Werner Wenger* sets out the key features of the revised **arbitration rules of the German-Swiss Chamber of Commerce**, head-quartered in Zurich, that came into force on 1 July 2012, highlighting the inquisitorial (and unusual) nature of the procedure provided for in the rules.

Then, *Marc Iynedjian* analyses **gas sale and purchase contracts (GSPAs) under Swiss law** as sales contracts primarily governed Articles 184 ff of the Swiss Code of Obligations, and in particular Take or Pay clauses and clauses relating to shortfall of gas, price adjustment and force majeure.

In the third article, *Sandrine Giroud* reviews how Swiss Courts deal with immunity defences in the **enforcement and execution of ICSID awards against State assets in Switzerland** in the light of three recent decisions of the Federal Supreme Court.

Finally, *Konstantin Pilkov* comments on the “Ukraine. Arbitration-friendly jurisdiction: 2011-2012 statistical report” to explain how, in recent years, the **Ukrainian legal system** has made significant progress in adopting an arbitration-friendly approach.

A summary of the decisions and orders published in this issue is set out in the Introduction to the **Case Law** Section (p. 770), including:

- A recently published decision, 4A_119/2012 of 6 August 2012, in which the Supreme Court confirmed its own jurisprudence according to which state courts facing a jurisdictional defence based on an alleged arbitration agreement (**Article 7 PIL Act**) must not assess in full the **validity of the arbitration agreement**, and must limit themselves to a **summary examination** of whether or not a valid arbitration agreement exists;
- Several decisions and procedural orders from the Supreme Court (in cases 4A_711/2011, 4A_98/2011, 4A_280/2010 and 4A_122/2012) dealing with the **award of costs against the applicant in setting aside proceedings** when the case is struck out for non-payment of the advance on fees or the application withdrawn;
- A decision, 5A_681/2011 of 23 November 2011, in which the Supreme Court gives some welcome guidance on the **execution of ICSID awards in Switzerland** and another one, 5A_360/2010 of

12 July 2010, in which the Supreme Court confirmed the **immunity from jurisdiction and execution** of the **Bank for International Settlement** in the context of an attempt by NML Capital Ltd and EM Limited to enforce a 2006 US judgment against the **Republic of Argentina** concerning investments in Argentine bonds; and

- A decision of the Supreme court which addresses several procedural issues in the context of a domestic dispute – 4A_424/2011 of 2 November 2011.

Also included in this issue are news about ASA, in particular the Minutes of the General Meeting of 28 September 2012, including the President's report on the new ASA Website and the Swiss Arbitration Hub, the ASA local groups' activities and contact details, as well as the bibliography.

As always, if you have critical remarks or suggestions as to how the Bulletin could be further improved, or wish to provide materials for possible publication, please do not hesitate to contact us.

For the Editorial Board

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