This standard work on prosecuting abroad considers all aspects of conducting cases abroad. Since the previous edition's publication, the number of Member States of the European Union has more than doubled. The Community has enacted many new regulations in the field of civil procedure and many States have reformed their civil procedure law. In the field of international arbitration numerous new laws on arbitration proceedings have been enacted. This new edition also takes into account the great increase in literature and legislation on the problems of international prosecution.

The New York Convention may require statutory implementation at the national level. Beyond that, the Convention requires of national courts an apt understanding of the principles and policies that underlie the Convention’s various provisions. Through its in-depth coverage of the understandings of the Convention that prevail across national legal systems, the book gives practitioners and scholars a much-improved appreciation of how the Convention “on the ground.”

The absence of a coherent body of case law on due process has increasingly motivated recalcitrant parties to use due process as a strategic tool, thereby putting at risk the prospect of obtaining an enforceable award in expeditious proceedings. Countering this inherent danger, here for the first time is a comprehensive study on due process as a limit to arbitral discretion, showing how due process applies in practice in key jurisdictions around the world. Based on country reports prepared by leading arbitration practitioners and academics, the book explores how courts in major arbitration centers apply due process guarantees when performing their post-award review. The contributors, driven by an interest in exploring the interplay between due process and efficiency, focus on those due process guarantees that set limits to arbitral discretion. Matters covered include the following: the right to be heard and how it may be affected by submission deadlines, evidentiary offers by the opposing party, and directions to the parties as to which aspects require further pleading; the right to be treated equally and its interplay with the duty to give each party full opportunity to present its case and to comment on submissions and evidence filed by the other party; the duty to effect proper notice, including delivery and language issues; the independence and impartiality of arbitrators with a focus on when an arbitrator’s conduct can become the basis for a successful challenge; and courts’ standards of deference when examining issues arising at the post-award stage. An introductory general report thoroughly analyses the normative basis of due process and its interplay with party autonomy, as well as applicable standards of review and commonalities among manifestations of due process across jurisdictions. A signal contribution to the debate regarding the so-called due process para die affecting arbitral tribunals – a topic relevant in every single arbitration proceeding – this book provides practical guidelines on how to maintain the balance between due process and efficiency and how to apply due process and counteract its misuse in arbitration proceedings. It will be welcomed by counsel, arbitrators, and judges from all countries, as well as by academics and researchers concerned with international commercial arbitration.

Irrespective of the increasing harmonization of law at the transnational level, every arbitration raises a number of conflict of laws problems relating to procedural questions as well as to issues concerning the merits of the case. Unlike a state court judge, the arbitrator has no “lex fori” in the proper sense providing the relevant conflict of laws rules to determine the applicable law. This raises the question of what conflict of laws rules to apply and, consequently, of the extent of the freedom the arbitrator enjoys in dealing with this and related issues. The best example of the importance of conflict of laws questions in arbitration is the Vivendi–Elektrom saga where the outcome of the various proceedings depended on the question of characterization. This very beneficial book is dealing with the arbitration agreement, - the jurisdiction of the arbitral tribunal, - the law applicable to the merits and - the arbitration procedure.

This Commentary gives a detailed description of the meaning and application of the ICSID Convention.
Convention as an instrument of uniform law presents insightful contributions by some of the world’s most distinguished academics and practitioners in the field of arbitration and is sure to significantly contribute to arbitral practice and jurisprudence in the Convention’s more than 160 contracting States. With extensive reference to case law from major arbitration hubs, the contributors examine the Convention with the aim of identifying the boundaries between autonomous and domestic concepts. Key elements covered include the following: the role of private international law under the Convention; notions of arbitrability and arbitral award; procedures for the enforcement of awards; nullity, invalidity, and conflict of laws under Articles II(3) and V(1)(a); the incapacity defence under Article V(1)(a); deviations from procedure; autonomous boundaries as to what falls under the issue of scope; and public policy under the Convention. The first and only resource of its kind, this book provides an invaluable clarification of the extent to which the Convention leaves room for the application of domestic law and, if so, how to determine which particular domestic law may be applicable. It will be welcomed by counsel, judges, arbitrators, and academics throughout the States that have signed the New York Convention.

The present volume intends to confront the topic of international contracts in their original form, from a new perspective: the relationship between party autonomy and State sovereignty in the governance of arbitrations; the relationship between the New York Convention and the bilateral investment protection treaty to which Italy is a party. This book may also be of general interest for scholars and practitioners of international arbitration at large to the extent that in which the Convention leaves room for the application of domestic law and, if so, how to determine which particular domestic law may be applicable. It will be welcomed by counsel, judges, arbitrators, and academics throughout the States that have signed the New York Convention.

The Academy is a prestigious international institution for the study and teaching of Public and Private International Law and related subjects. The work of the Hague Academy receives the support and recognition of the UN. Its purpose is to encourage a thorough and impartial examination of the problems arising from international relations in the field of law. The courses deal with the theoretical and practical aspects of the subject, including legislation and case law. All courses at the Academy are, in principle, published in the language in which they were delivered in the "Collected Courses of the Hague Academy of International Law."

Central to the book’s purpose is the procedural challenge facing arbitrators at each and every stage of the arbitral process when fairness arguments conflict with efficiency concerns and trade-offs must be determined. Some key themes include how can a tribunal be fair, and in particular be neutral, if parties are so diverse? How can arbitration be made efficient and cost-effective without undue inroads into fairness and accuracy? How does a tribunal do what is best if the parties are choosing a suboptimal process? When can or must an arbitrator ignore procedural choices made by the parties? The author thoroughly evaluates competing arguments and adds his own practical tips, expertly synthesizing and engaging with the conference literature and differing authors’ views. He identifies criteria that offer a harmonized approach to each stage of the arbitral process, with particular attention to such aspects of international arbitration as: appropriate trade-offs between flexibility and certainty; the rights, duties and powers of arbitrators; appointment and challenge of arbitrators; responses to ‘guerilla’ tactics; drafting of arbitration agreements, including specialty clauses; drafting of required commencement notices and response documents; set-off; fast track arbitration and other efficiency options; strategic use of preliminary conferences and timetabling; online arbitration; multi-party, multi-contract, class arbitration; amicus and third party funders; pre-arbitral referees and interim relief; witness evidence, both factual and expert; documentary evidence, production obligations, and challenges to production; identifying applicable law; and remedies and costs.

Arbitrating cross-border business disputes has been common practice in Italy since centuries. It is no wonder, then, that Italian arbitration law and jurisprudence are ample and sophisticated. Italian courts have already rendered thousands of judgments addressing complex problems hidden in the regulation of arbitration. Italian jurists have been among the outstanding members of the international arbitration community, starting from when back in 1958, Professor Eugenio Minoli was among the promoters of the New York Convention. Being Italy the third-largest economy in the European Union and the eighth-largest economy by nominal GDP in the world, it also comes as no surprise that Italian companies, and foreign companies with respect to the business they do in the Italian market, are among the main ‘users’ of international arbitration, nor that Italy is part to a network of more than 80 treaties aimed to protect inbound and outbound foreign direct investments and being the ground for investment arbitration cases. Moreover, in recent years, Italy has risen to prominence as a neutral arbitral seat, in particular for the settlement of ‘intra-Mediterranean’ disputes, also thanks to the reputation acquired by the Milan Chamber of Arbitration which has become one of the main European arbitral institutions. This book is the first commentary on international arbitration in Italy ever written in English. It is an indispensable tool for arbitrators, counsel, experts, officers of arbitral institutions and judges who happen to be involved in arbitral proceedings or arbitration-related court proceedings somewhat linked to the Italian legal system, either because Italy is the seat of the arbitration, the Italian jurisdiction has been ousted by a foreign-seated arbitration, the assistance of Italian courts is sought for the granting of interim measures or the enforcement of a foreign award or the arbitration results from a multilateral or bilateral investment protection treaty to which Italy is a party. This book may also be of general interest for scholars and practitioners of international arbitration at large to the extent that it deals with the ‘theory’ of international arbitration and illustrates original solutions offered by Italian arbitration law to various complex issues, such as: the potential conflicts (and required balance) between party autonomy and State sovereignty in the governance of arbitrations; the relationship between the New York Convention and the
legal system of the State of the arbitral seat; the potential impact on cross-border arbitrations of insolvencies, human rights, or European Union law; the arbitrability of corporate disputes; the extension of arbitration agreements to ‘necessary parties’. Appendices include an English translation of the main provisions of Italian law relevant to arbitration, a list of the investment protection treaties to which Italy is a party, and an English version of the Rules of Arbitration of the Milan Chamber of Arbitration. The author, who is full professor of international law, name partner of ArbLit (the first Italian boutique focusing on cross-border dispute settlement) and the current Italian member of the ICC Court of Arbitration, has written the book aiming to combine his academic background with his long-standing experience as counsel and arbitrator.


Reports of the World Bank Convention on the Settlement of Investment Disputes are presented for the first time in consolidated form covering the period of 1981-1983. The law of international civil procedure is not centrally regulated in Germany. The legal provisions of German international civil procedure law are dispersed throughout the Code of Civil Procedure (ZPO) and other legal codes as well. The key provisions to international litigation found in paragraphs 110, 293, 328, 722 f., 1061 and 1067ff. as well as the rules pertaining to international pending matters, which are not regulated in the Code of Civil Procedure (ZPO), are annotated in the commentary ("Großkommentar") on the Code of Civil Procedure (ZPO). The editor of this special edition has updated the existing commentary and added new elements.

L’enforcement delle sentenze arbitrali del commercio internazionale il principio del rispetto della volontà delle partiGiuffrè EditoreAutonomous Versus Domestic Concepts under the New York ConventionKluwer Law International B.V.

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Since the 1st edition of this fundamental work appeared twenty years ago, international civil process law has undergone breathtaking developments. No stone has remained in place. In the Amsterdam Treaty of 1997 the ambitious goal of creating a standardised European legal framework was postulated. After only a few years a standardised regulatory order of legal jurisdiction, international service notification and hearing of evidence, effectiveness on civil judgments and insolvency law have been created. The expansion of the European Union through the accession of new states has ushered in an extensive system of European civil action law in its field of application. This new issue considers all the modifications and updates the work to the latest conditions. The author looks at all aspects of German international civil procedural law especially the jurisdiction including the problems of the immunity of foreign states, state-owned companies and state-owned banks, international jurisdiction, the execution of the procedures with foreign connections and foreigner participation, the recognition and declaration of execution of foreign civil judgments, international sub judice cases, international arbitration and international legal aid. Specific importance is given to the presentation of European civil action law. The EuGVVO (European Regulation on jurisdiction and the recognition and enforcement) and other important EU regulations are looked at in detail. The work combines the scientific grasp of the problems with the presentation of the decades of practical experience of the author. A comprehensive index facilitates the use. The Italian Yearbook of International Law aims at making accessible to the English speaking public the Italian contribution to the practice and literature of international law. Volume XVIII (2008) marks the tenth anniversary of the New Series of the YIL. The Volume is organised in three sections. The first is thematically structured around a main topic and a series of doctrinal contributions on relevant and topical issues of international law. The feature theme of this volume is controversial territorial situations and the role of recognition and secession. The articles by Gioia and Tancredi bring valuable insights and intellectual rigour in this debate, while the piece by Serra examines the related issue of the legal consequences of the continued presence of the international civil administration in Kosovo. The other main articles provide innovative perspectives on two important issues: the status of private military companies in the law of armed conflicts (Sossai) and the recurring question of the treatment of WTO law by the European Community Courts (Gatirana). Doctrinal contributions also include a variety of notes covering timely topics such as the role of IAEA in the fight against nuclear terrorism, the controversial return by Italy of cultural treasures to Libya, and the choice of forum in human rights adjudication. The usual surveys on the activities of the ICJ, the ILC, the ECHR, ICSID, international criminal justice, and the Italian practice occupy the rest of this section. The second section covers the Italian practice in the areas of i) judicial decisions; ii) diplomatic and parliamentary practice; iii) treaty practice; and iv) national legislation. The third section contains a systematic bibliographical index of Italian literature in the field of international law and reviews of recent books. The volume ends with an analytical index for ready consultation that includes the main judicial cases and legal instruments cited throughout the Yearbook.