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in International Arbitration

Precedent In International Arbitration

The International Arbitration Institute (IAI), an organization created under the auspices of the Comite Francais de l'Arbitrage (CFA), was created to promote exchanges international arbitration. The IAI is designed to promote exchanges on

current issues in the field of international commercial arbitration.

Precedent in International Arbitration - IAI Series No. 5 ...

March 6, 2020. April 1, 2020. - by Phillip Rompotis. As a method of dispute

resolution, international arbitration is sometimes criticised as stifling the development of precedent. In an article, titled “Each Problem that I Solved Became a Rule, which Served Afterward to Solve Other Problems: Is International Arbitration Stifling the Development of Precedent-Based Legal Systems”, CMS

tackle this thorny issue, and consider why arbitration is regarded as a threat to precedent-based systems ...

International Arbitration and Precedent-Based Legal ...

This book may be cited as: IAI SERIES

ON INTERNATIONAL ARBITRATION No. 5, PRECEDENT IN INTERNATIONAL ARBITRATION (Y. Banifatemi ed., 2008) For any inquiry regarding these materials or the IAI, an organization created under the auspices of the Comité Français de l'Arbitrage (CFA), you may contact Nanou Leleu-Knobil

(nleleuknobil@shearman.com).

Precedent in International Arbitration precendent in international arbitration oscar nkengi academiaedu in its strict sense international arbitration does not recognize a de jure doctrine of precedent

however several investment tribunals tend to be influenced guided and informally follow precedents set by earlier international tribunals with while the place and importance of

[EBOOK]

Nicolas Béguin, The Rule of Precedent In International Arbitration, in: Jusletter 5. Januar 2009 ticle V(1)(e) 10 expressly gives the authority to the jurisdiction where the award was made and the jurisdiction under the law of which the award was made to set aside an award 11,

awards may generally be vacated only for some limited grounds 12.

The Rule of Precedent In International Arbitration

II OBSTACLES TO THE SYSTEM OF PRECEDENT. While investment treaty

arbitration largely draws on commercial arbitration, and hence has a mixed status, it concerns international public law matters ...

The Role of Precedent in Investment Treaty Arbitration ...

ARBITRAL PRECEDENT: what a topic, given that it is common knowledge that international arbitration lacks a doctrine of precedent, at least as it is formulated in the common-law system. 1. Regardless, arbitrators increasingly appear to refer to, discuss and rely on earlier cases. 2.

Arbitral Precedent: Dream, Necessity or Excuse?

Historically, the issue of precedent in international law was carefully considered for the first time at the time of the creation of the Permanent Court of Arbitration in the Hague Conventions of 1899 and 1907.

The drafters of these agreements were certainly aware that the Court they had created was a court in name only, and was not permanent.

Use of Precedent by International Judges and Arbitrators ...

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constitutes the

Precedent In International Arbitration PDF
Arbitration is a step away from formal litigation, but shares with it an essentially adversarial process and the fact that the ultimate decision (made by a third party)

is binding. It has been around for several hundred years, and is common in public international law and international trade, but arbitration may be an option in domestic law too.

And ADR

With the recent proliferation of published arbitral awards in investment treaty arbitrations a body of arbitral decisions is emerging in the sphere of investor-state disputes. This article considers what relevance, if any, the doctrine of precedent (stare decisis) has in the context of

investor-state arbitrations and whether it can be said that a body of case law is emerging and whether those decisions could, or should, amount to binding precedent in the sphere of investment arbitration.

Precedent in investment treaty arbitrations | United ...

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It is well settled that there is no rule of precedent in investment arbitration and arbitrators are not bound by decisions rendered by previous tribunals. Nevertheless, investment arbitration

practice shows that previous decisions are often observed and followed. Disputing parties and arbitrators devote significant attention to previous decisions and on several occasions arbitral tribunals rely on the reasoning of previous decision in order to legitimate their own decisions.

Previous Decisions in Investment Arbitration - Kluwer ...

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far no rule of precedent in general international law since international arbitration has no hierarchy of tribunals 45

and no secondary rule of adjudication providing that a tribunal is obligated to defer to a decision of any other tribunal stare decisis simply does not apply and tribunals ritualistic denials of its applicability are unnecessary ii a

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Precedent in International Arbitration Issue 5 of IAI series on international arbitration: Editors: Emmanuel Gaillard,

Yas Banifatemi, International Arbitration Institute: Publisher: Juris...

Precedent in International Arbitration - Google Books

Nearly all tribunals recognise (often explicitly) the lack of binding precedent in

arbitration, including of the investment treaty variety. But it is common to find only an assessment of legal rules posited on the basis of other decisions, rather than an exploration at the source, to determine whether those rules actually exist and apply to the state parties in the dispute at hand.

IAI Series No. 5 The International Arbitration Institute (IAI) series on international arbitration is a new periodic series of publications that will focus on cutting edge issues and developments in

international arbitration. About the IAI: The International Arbitration Institute (IAI), an organization created under the auspices of the Comite Francais de l'Arbitrage (CFA), was created to promote exchanges international arbitration. The IAI is designed to promote exchanges on current issues in the field of international

commercial arbitration. Its activities include the regular organization of international conferences, colloquiums, as well as conducting various research projects. About the book: Arbitrators routinely refer in their decisions to awards rendered by other arbitral tribunals that deal with the same issues. However

natural it may seem to arbitrators and to parties who will refer to arbitral precedents in an attempt to support their position, such an approach raises many practical and theoretical questions: Is there such a thing as arbitral precedent? What weight should arbitrators give to decisions previously rendered by other arbitral

tribunals? Can arbitral "case law" exist without consistency? Does such consistency exist? Is it necessary or simply desirable? What is the respective weight to be given to arbitral and national case law when arbitrators have to decide a case in accordance with a given law? These are some of the questions that this book

explores, in the context of both international commercial arbitration and investment arbitration.

The Oxford Handbooks series is a major new initiative in academic publishing. Each volume offers an authoritative and state-of-the-art survey of current thinking

and research in a particular subject area. Specially commissioned essays from leading international figures in the discipline give critical examinations of the progress and direction of debates. Oxford Handbooks provide scholars and graduate students with compelling new perspectives upon a wide range of subjects in the

humanities and social sciences. The Oxford Handbook of International Investment Law aims to provide the first truly exhaustive account of the current state and future development of this important and topical field of international law. The Handbook is divided into three main parts. Part One deals with

fundamental conceptual issues, Part Two deals with the main substantive areas of law, and Part Three deals with the major procedural issues arising out of the settlement of international investment disputes. The book has a policy-oriented introduction, setting the more technical chapters that follow in their policy

environment within which contemporary norms for international foreign investment law are evolving. The Handbook concludes with a chapter written by the editors to highlight the major conclusions of the collection, to identify trends in the existing law, and to look forward to the future development of this field.

One of the cornerstones of arbitration is the finality of arbitral awards. Saving rare exceptions, arbitral awards cannot be subject to challenges based on the arbitrator's errors of law. Furthermore, there is no hierarchy between arbitral tribunals and judicial courts, nor are

arbitrators part of any judicial system. Thus, if arbitrators are not part of any hierarchical scheme and if there is no challenge or appeal available against their errors of law, how could one say that arbitrators have a duty to follow judicial precedents? Besides, when individuals agree to solve their disputes outside the

judicial arena, should they expect a private arbitrator to abide by the same standards of a system they have just avoided? Is the choice for arbitration not a choice for an entirely different legal system, unbound by the so-called judge-made law? This book attempts to answer those questions by presenting a comprehensive guide to the

relation between judicial precedents and arbitration in the United States, the United Kingdom and in Brazil, as well as in international arbitration as a whole.

The 2015 volume of Contemporary Issues in International Arbitration and Mediation: The Fordham Papers is a collection of

important works in the field written by the speakers at the 2015 Fordham Law School Conference on International Arbitration and Mediation.

Investor-state arbitration is a relatively new dispute settlement mechanism that allows foreign investors the opportunity to

seek redress for damages arising out of breaches of investment-related treaty obligations by the governments of host countries. Claims are submitted to independent, international arbitration tribunals, which are called upon to interpret the treaty at hand. Because of the public interest involved in these cases, the

awards of these tribunals are subject to much scrutiny and debate. Thus, it has already generated hundreds of cases and created new legal disciplines, inspiring a continuous string of legal writings. This book provides a comprehensive analysis of the main issues that arise in investor-state arbitration. It accompanies the reader

through the phases of such a procedure, starting with an examination of the instruments, which provide, in the overwhelming majority of the cases, the legal basis for the requests for such arbitration. It then continues with the launching of the arbitration procedure, followed by the analysis of the main

jurisdictional and substantive issues that the tribunals are confronted with, and the review procedures, when there is a request for setting aside of the award. It finally looks at the post-award phase and concludes with a reflection on the role of precedent in investment arbitration.

Arbitration under International Investment

Agreements: a Guide to the Key Issues contains in one volume what everybody needs to know on this evolving topic. Calling on the most renowned experts in this field, private practitioners, academics, government and international organization officials, it describes the process in all its phases from A to Z, providing a

comprehensive insight in the way investor-state arbitration works from the perspective of the main actors involved. Its analyses of all key aspects of the topic are pragmatic and reliable.

Study by a distinguished judge of the role of precedent in the World Court.

V.3: " ... provides a detailed discussion of the issues arising from international arbitration awards. It includes chapters covering the form and contents of awards; the correction, interpretation and supplementation of awards; the annulment and confirmation of awards; the

recognition and enforcement of arbitral awards; and issues of preclusion, lis pendens and staredecisis."--Descripción del editor.

The development of international arbitration as an autonomous legal order comprises one of the most remarkable

stories of institution building at the global level over the past century. Today, transnational firms and states settle their most important commercial and investment disputes not in courts, but in arbitral centres, a tightly networked set of organizations that compete with one another for docket, resources, and

influence. In this book, Alec Stone Sweet and Florian Grisel show that international arbitration has undergone a self-sustaining process of institutional evolution that has steadily enhanced arbitral authority. This judicialization process was sustained by the explosion of trade and investment, which generated a steady stream of high

stakes disputes, and the efforts of elite arbitrators and the major centres to construct arbitration as a viable substitute for litigation in domestic courts. For their part, state officials (as legislators and treaty makers), and national judges (as enforcers of arbitral awards), have not just adapted to the expansion of arbitration;

they have heavily invested in it, extending the arbitral order's reach and effectiveness. Arbitration's very success has, nonetheless, raised serious questions about its legitimacy as a mode of transnational governance. The book provides a clear causal theory of judicialization, original data collection and analysis, and a broad,

relatively non-technical overview of the evolution of the arbitral order. Each chapter compares international commercial and investor-state arbitration, across clearly specified measures of judicialization and governance. Topics include: the evolution of procedures; the development of precedent and the demand

for appeal; balancing in the public interest; legitimacy debates and proposals for systemic reform. This book is a timely assessment of how arbitration has risen to become a key component of international economic law and why its future is far from settled.

This book discusses how international judicial authority is established and managed in key fields of international economic law. Its unique legal-centric approach sees the consolidation of judicial authority as a universal trend and its broad

international appeal makes it essential reading for researchers, practitioners and students alike.