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BOOK REVIEW

Karl-Heinz Böckstiegel, Stefan Michael Kröll & Patricia Nacimiento (eds), *Arbitration in Germany: The Model Law in Practice*, 2nd edn (Alphen aan den Rijn: Kluwer Law International, 2015), ISBN 978-90-411-5860-4

This book provides an excellent and unique comprehensive overview of German arbitration law covering a general overview of Germany as a place for international and domestic arbitrations, a commentary on the German arbitration law, a commentary on the DIS Arbitration Rules of the German Institution of Arbitration (Deutsche Institution für Schiedsgerichtsbarkeit [DIS]) and selected areas and issues of arbitration in Germany. As German arbitration law is based on the adoption of the UNCITRAL Model Law on International Commercial Arbitration, it was the intention of the editors to demonstrate that German arbitration law is in line with international practice and easily accessible for foreign users, especially for those of other UNCITRAL Model Law countries. Moreover, they want to illustrate the attractiveness of Germany as an appropriate place for international arbitration. The authors of this book have superbly succeeded in achieving these aims. Practicability aspects have continuously been considered by them. This is accurately reflected by the subtitle 'Model Law in Practice'.

International arbitration in Germany goes hand in hand with the development of international best practices. German courts apply and interpret arbitration law reliably and generally in line with these practices. Based on a neutral assessment, there are no objective reasons that speak against choosing Germany as a suitable place of arbitration. This is a message that is dealt with throughout the whole book.

Arbitrations seated in Germany are subject to the Tenth Book of the German Code of Civil Procedure (Zivilprozessordnung [ZPO]), as revised in 1998. It contains a full set of rules that are applicable to both domestic and international arbitration proceedings. In this book it is particularly described that German arbitration law does not distinguish between national and international cases, but provides a single regime for both types of arbitrations. The reader obtains useful information of the advantages of this.

Since the enactment of the new German arbitration law, based on the UNCITRAL Model Law on International Commercial Arbitration, Germany has been poised to become a more popular and accessible choice for arbitration

proceedings, also for cross-border disputes. This is one of the important aspects that is extensively dealt with in this book.

The provisions of the Tenth Book of the ZPO are, in accordance with the applicable territoriality principle, applicable where the place of arbitration proceedings is located in Germany. They comprise general provisions, amongst others the scope of application, and the following issues: arbitration agreement; constitution of the arbitral tribunal; jurisdiction of the arbitral tribunal; conduct of the arbitral proceeding; making of the award and termination of the proceedings; recourse against the award; prerequisites for the recognition and enforcement of awards; court proceedings; and arbitral tribunals not established by agreements. All this is commented on in detail by the authors.

The core arbitration rules that were of relevance in practice were incorporated into the Tenth Book of the ZPO with the aim to increase accessibility of German arbitration law to foreign arbitration practitioners. They can assume that the Tenth Book of the ZPO is the most important source of German arbitration law and that the predominant parts of German arbitration law are similar to the arbitration laws in other UNCITRAL Model Law countries. The authors explain why this does not only apply to other UNCITRAL Model Law countries which traditionally have close ties to the legal developments in Germany, but also others where courts and parties have relied on German decisions in their reasoning. Thereby the authors provide additional benefits for non-German readers. This is all the more so as the book includes reference to deviations from, and additions to, the UNCITRAL Model Law. Together with the detailed analysis contained in this book with respect to other UNCITRAL Model Law countries, the in-depth coverage of the UNCITRAL Model Law makes this handbook very useful for readers located in other jurisdictions than Germany.

German arbitration law grants parties wide procedural autonomy to stipulate the rules of procedure forming the basis for their arbitration. The authors of the commentary highlight that, subject to a limited number of mandatory rules, the parties to the dispute may enjoy their freedom to stipulate the rules of procedure. These remarks on a basic principle of German arbitration law are very useful for foreign practitioners and those who work on an international basis.

Because of the before-mentioned freedom the involved parties may also choose to conduct their arbitration proceedings in accordance with institutional arbitration rules, for example, the DIS Arbitration Rules. DIS is a registered association in Germany for the promotion of national and international arbitration and offers administrated arbitral proceedings pursuant to the DIS Arbitration Rules that reflect international standards. The book contains a very informative chapter on the profile and structure of DIS. It is outlined there that DIS is one of the leading international arbitration institutions and that DIS administers both

domestic and international cases. Furthermore, the growing importance of DIS as an international arbitration institution is highlighted. The author stresses that DIS is known for its commitment to excellence and efficiency.

Definitely, this book provides a comprehensive and in-depth overview of all relevant aspects of German arbitration law, both for domestic and international arbitration proceedings. Thirty-eight leading German lawyers and academics analyse this complex area of law in a clear and concise manner. This compendium is the first full, detailed commentary on German arbitration law and the DIS Arbitration Rules in the English language.

Positive feedback on the first edition and the development of arbitration in Germany since the publishing of the previous edition made an update of this book both necessary and sensible. In comparison with the first edition, a number of chapters on arbitration in important industry sectors or on issues of general importance were added.

While Part I provides the reader with a general overview of the practice of arbitration in Germany, Part II is a detailed commentary on all provisions of the Tenth Book of the ZPO, including references to the UNCITRAL Model Law, both with respect to deviations from, and additions thereto. In this connection the authors provide the reader with a detailed description. They describe, for example, the considerable easing of the form requirements for the arbitration agreement which allows the so-called half written form, such as arbitration agreements in letters of confirmation, the provisions regulating the enforcement of interim relief, a special procedure to determine the admissibility of arbitral proceeding, additional supportive powers of the courts in relation to appointment, and a provision dealing with awards on costs.

Part III contains an extensive commentary of the DIS Arbitration Rules. Furthermore, in Part IV the commentary deals with specific areas of practice, such as construction, energy, banking, and insurance arbitration, and general issues of arbitration in Germany, such as privacy and confidentiality or insolvency.

The entire contents of this commentary primarily serve only one aim, namely, as the editors say in the preface to the book, to provide comprehensive guidance to all parties who are either planning to arbitrate in Germany or already involved in arbitral proceedings or arbitration related to court proceedings in Germany. No doubt, this aim has been achieved perfectly! Additionally, it equally serves as a highly valuable reference book for all those who deal with arbitrations in Germany.

The book guides its readers systematically and, relating to its contents, in a most profound way through the details of German arbitration law. Moreover, it is to be welcomed that both aspects of law and of practice are discussed simultaneously.

Several annexes, including a synopsis of the UNCITRAL Model Law and the German statutory arbitration law in tabular form and in English, increase the practical use of the commentary. Extensive source material, both literature and case law, has been taken into account by the eminently qualified group of experts who contributed to this book. This, amongst others, is the guarantee for a high level of quality. It is a very useful concept that both the Tenth Book of the ZPO and the DIS Arbitration Rules are commented on in one comprehensive publication.

This unique commentary is hugely valuable, both for practitioners and scholars – a true heavyweight among the literature on German arbitration law in the English language. Highly recommended!

*Klaus Vorpeil**

* Rechtsanwalt (German lawyer).

[A] Aim of the Journal

Since its 1984 launch, the Journal of International Arbitration has established itself as a thought provoking, ground breaking journal aimed at the specific requirements of those involved in international arbitration. Each issue contains in depth investigations of the most important current issues in international arbitration, focusing on business, investment, and economic disputes between private corporations, State controlled entities, and States. The new Notes and Current Developments sections contain concise and critical commentary on new developments. The journal's worldwide coverage and bimonthly circulation give it even more immediacy as a forum for original thinking, penetrating analysis and lively discussion of international arbitration issues from around the globe.

[B] Contact Details

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- [2] The front page should include the author's name and email address, as well as an article title.
- [3] The article should contain an abstract of about 200 words.
- [4] Heading levels should be clearly indicated.
- [5] The first footnote should include a brief biographical note with the author's current affiliation.
- [6] Special attention should be paid to quotations, footnotes, and references. All citations and quotations must be verified before submission of the manuscript. The accuracy of the contribution is the responsibility of the author. The journal has adopted the Association of Legal Writing Directors (ALWD) legal citation style to ensure uniformity. Citations should not appear in the text but in the footnotes. Footnotes should be numbered consecutively, using the footnote function in Word so that if any footnotes are added or deleted the others are automatically renumbered.
- [7] For guidance on style, see the House Style Guide available on this website: <http://www.kluwerlaw.com/ContactUs/>

[D] Review Process

- [1] After review by the Editor, manuscripts may be returned to authors with suggestions related to substance and/or style.
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[E] Publication Process

- [1] For accepted articles, authors will be expected to execute a Consent to Publish form.
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