SUMMARY
Commercial Arbitration. No. 1 for 2020

Articles

Dmitry V. Marenkov. **On the Partly Denial of Enforcement of an ICAC/MKAS Award in Germany Due to Public Policy Violation**

This article deals with the decision of the Higher Regional Court of Berlin (Kammergericht) of 7 February 2019 (Case No. 12 Sch 5/18). The German court partly rejected the enforcement of an ICAC/MKAS award in Germany due to a public policy violation resulting from an excessive interest rate. The underlying contract provided for a contractual penalty in the amount of 0.5 per cent for each day of the delay in payment. Besides the main claim and the costs of the arbitration, the arbitral tribunal awarded a contractual penalty for a 67-day payment delay. The Higher Regional Court of Berlin declared the parts of the award dealing with the main claim and the costs of the arbitration proceedings enforceable in Germany. By doing so, the German Court rejected the only respondent's defence in respect to the fact that the arbitration proceedings were conducted in Russian. The Court pointed to the default provision in the ICAC/MKAS Arbitration Rules concerning the language of arbitration and stated that the respondent was not deprived of the opportunity to present its case. However, the Higher Regional Court of Berlin ruled that a contractual penalty of 0.5 per cent a day with no cap (which means an interest rate of 180 per cent a year) in the absence of any exceptional circumstances – such as a very high inflation rate – violated international public policy. The Court referred to the pro-enforcement case law of the German Federal Supreme Court and underlined that the public policy defence must be construed narrowly. The Higher Regional Court of Berlin stressed that it is not entitled to review the merits of the award and to determine the appropriate amount of the contractual penalty. Thus, this part of the ICAC/MKAS was refused enforcement in Germany. The article compares the approach adopted by the Higher Regional Court of Berlin with the rulings of the Higher Regional Court of Dresden of 20 October 2010 and the Austrian Supreme Court of 26 January 2005 which concerned similar contractual penalties awarded by arbitral tribunals seated in the Czech Republic and Serbia.

Sergey D. Ivanov, Nikita S. Cheleikin. **Procedural Aspects of Application of Set-Off in Arbitral Proceedings on the Territory of the Russian Federation**

The article is dedicated to procedural questions of set-off application in arbitral proceedings on the territory of the Russian Federation. Based on the provisions of legislation, on the rules of permanent arbitral institutions and on judicial and arbitration practice the conditions of admissibility of set-off of arbitral claims and the procedural forms of the set-off are examined. The article also analyzes the influence of the set-off institute on the possibility of enforcement of an arbitral award.

Lars Markert. **Arbitrating Corporate Disputes – German Approaches and International Solutions to Reconcile Conflicting Principles**

Arbitration as a means of private dispute resolution has been gaining more and more popularity over recent years, exceeding its traditional realm of commercial and construction disputes and gaining a foothold in the areas of consumer, finance and investment law. Corporate disputes, formerly almost exclusively decided by state courts, are another area in which the use of arbitration has become more and more prevalent. As will be shown, this comes with its own set of problems. This article sheds some light on the pertinent issues arising when the corporate and arbitration "worlds collide", and on the approaches developed in German jurisprudence to reconcile the inherent tensions arising when arbitrating corporate disputes.

Anna G. Arkhipova. **Problems of Shipowners' Liability Insurance in Court and Arbitration Disputes**

The article analyzes most typical problems that arise during consideration of disputes relating to shipowners' liability insurance. These include determination of the scope of those issues covered by the insurance, construction of exclusions from insurance cover, and finding a proper approach to gross negligence. The analysis is based mostly on the practice of the Maritime Arbitration Commission at the Chamber of Commerce and Industry of the Russian Federation. Examples from court practice are also given. The author provides some practical recommendations on drafting shipowners' liability insurance contracts under the Russian law. She strikes that, while a comprehensive development of doctrine and judicial practice on the covered issues is still to be achieved, it is even more important for the parties to pay proper attention to the drafting of relevant clauses, taking advantage of the principle of freedom of contract that is still a cornerstone of this type of insurance.

Konstantin O. Galenskiy. **FIDIC Silver Book. Model Clauses on Time Periods and the Need for Their Alteration in Contracts Governed by the Russian Law**

The article contains comparative analysis of the Conditions of Contract for EPC/ Turnkey Projects as prepared by Fédération Internationale des Ingénieurs-Conseils (FIDIC) and the Russian legislation and judicial practice from the perspective of regulation of time periods. The article focuses on the issues of enforceability of the time-related provisions of the standard form of contracts under the Russian law and, where necessary, proposes amendments to the standard form for compliance with the Russian law.

Eduard A. Evstigneev. **Liability for Harm Caused by a Source of Increased Danger. Commentary on Judicial Practice**

The author of this article analyzes the legal problems that currently occur with regard to causing harm by a source of increased danger. Many concepts of tort law should be re-evaluated due to development of practice of applying strict liability provisions and technological progress. One of such concepts is the current understanding of the concept of "the source of increased danger". A new approach to determining the content of this concept is demonstrated in this article through consideration of a judicial case. The author proposes to expand the content of this concept and to determine the status of the source of increased danger irrespective of how such an object is used. However, on the basis of analysis of a judicial case the author also suggests to change the key approaches to the rules on strict liability. In particular, it is proposed to transfer many of the cases of strict liability to the category of culpable liability, where the occurrence of an obligation from causing harm depends on the negligence of the tortfeasor. Such an approach will also make it possible to simplify

the proof of cause and effect, which is the most difficult condition of responsibility from the point of view of proof, by evaluating the condition of guilt.

Cases relating to causing of harm by a source of increased danger may be the subject of consideration by arbitral tribunals. It is hoped that the implementation of the author's approach in practice will make the procedure of consideration of the respective disputes by arbitral tribunals more attractive and could contribute to a more complete and qualified resolution of disputes.

Oleg O. Melnikov. **Legal Nature of the Grid Connection Agreement to Electric Network in Doctrine, Legislation and Practice**

This article is devoted to the grid connection agreement. The latter sets forth technical connection of physical and legal entities to electricity networks and is a prerequisite for further electricity supply. The agreement is a new type of contract in Russia. Its appearance is connected with the reform in the Russian electric power industry and, to be exact, with the adoption of the Russian electric power industry law in 2007. Until now the legal nature of this contract gives rise to discussions among lawyers. Some of them believe that it is a construction contract, others suppose that it may be an agreement on rendition of services or a partnership agreement. The courts do not have a clear answer either. In the article the author represents his own concept of the grid connection agreement that substantially differs from the abovementioned approaches.

Tatiana S. Lubarskaya. **Party Autonomy in Determining a Property Statute on Cross-Border Secured Transactions in Respect of Movable Property: Brief Overview of Russian and Foreign Experience**

This article is devoted to the issue of party autonomy as related to the property rights concerning the cross-border secured transactions with movable property. The author concentrates her research around Russian and selected foreign regulations of securities rights and the party autonomy in the identified field, explores legislation and case law. The author concludes that there are very few examples of legislation establishing party autonomy, and courts have also taken a cautious approach to the recognition of the parties' choice of the applicable law to proprietary rights in cross-border secured transactions.

Sergey V. Glandin. **Application of Ukrainian Sanctions by Ukrainian Courts in Cases with Russian Parties**

By virtue of sovereignty, any state has the right to pursue its own sanctions policy; however, the efficiency of this policy is manifested in the absence of problems among ordinary courts and law enforcement when implementing respective rules and regulations. A recent case of a Russian MIG Corporation against one Ukrainian aggregate plant showed that the commercial courts of Ukraine have to adjudicate in the context of serious gaps in the relevant legislation, and the victim of that shortcoming became a Russian defense enterprise. In the absence of direct prohibitions on satisfying the claims, the trial court had to ignore the public policy requirements of the sanctions legislation of its country and the status of the defendant, whereas the court of appeal had to come up with an artificial legal construction in order to legitimize the unjust withholding of prepayment by the Ukrainian company. In similar situations, in the countries of the European Union, from which Ukraine is trying to take an example, an unearned advance is not assigned by the courts in favor of its enterprise, but is rather placed on a bank deposit until the sanctions with respect to the other party to the dispute are in force.

Azar Aliyev, Turkhan Ismayilzada. **Commercial Arbitration in Azerbaijan: Status quo and Perspectives of Development**

This article presents the status quo of commercial arbitration in Azerbaijan, including both the regulation of national and international commercial arbitration and the procedure for the recognition and enforcement of foreign arbitral awards. Particular attention is paid to the elements that are not in accordance with the best international practice. At the same time, an attempt has been made to determine the vector of further development in the light of recent reforms of economic legislation and the decision of the Constitutional Court of Azerbaijan on recognition and enforcement of the arbitral award rendered by the Korean Commercial Arbitration Board (KCAB).

Aleksey I. Anischenko, Valeria V. Dubeshko. **Special Aspects of Challenges to Arbitrators: Examples from the Practice of the Stockholm Chamber of Commerce**

Possibility to select arbitrators, whose qualifications are tailored to the specific needs of the dispute (whether it is knowledge of certain language or expertise in the particular area of law) is one of the arbitration advantages in comparison to the court proceedings. At the same time impartiality and independence of arbitrators are the cornerstones of the arbitration, which need to be secured. The challenge to arbitrators is a way to secure that parties do not abuse the right to appoint an arbitrator, arbitrators thoroughly approach disclosure of the conflict of interest etc. However, challenges to arbitrators can be used as a dilatory tactic as well. Therefore, it is the task of the arbitration institution to analyze whether the challenge is justified and sustain or dismiss the challenge thereafter. In this article the authors explore recent practice of the SCC challenges that was published in the "SCC Practice Note: Challenges to arbitrators 2016–2018" and briefly outline consequences of the challenges.

Anton V. Shagalov, Aleksey N. Zhiltsov. **Anonymous Publication of Arbitral Awards. Introduction to the Russian Translation of the Guidelines for the Anonymous Publication of Arbitral Awards of the Milan Chamber of Arbitration**

The issue as to whether international arbitral awards may be published and what are the conditions on which arbitral awards may be published remains full of controversy. Some arbitration institutions do not allow such publications, some require the obligatory consent thereto by the parties to the respective proceedings, while some allow publication of awards, but only after editing aimed at making the awards anonymous. The Guidelines for the Anonymous Publication of Arbitral Awards of the Milan Chamber of Arbitration represent a rare instance where an arbitral institution has prepared a detailed set of rules providing the necessary guidance in preparing awards for publication. In this article the authors not only offer a general description of the Guidelines, but also analyze various approaches to publication of arbitral awards as taken by the legislation of various countries and arbitration rules of selected arbitral institutions. The article is followed by the Russian text of the Guidelines for the Anonymous Publication of Arbitral Awards of the Milan Chamber of Arbitration.

The Interview with the Secretary-General of the Vienna International Arbitral Centre (VIAC) Dr. Alice Fremuth-Wolf

The interview with the Secretary-General of the Vienna International Arbitral Centre (VIAC) Dr. Alice Fremuth-Wolf deals with various aspects of VIAC's history and recent activities, including VIAC's latest acquisition of the permission to administer arbitrations

seated in Russia, its focus on CEE/CIS countries, the conduct of arbitration proceedings under the Vienna Rules, typical issues with arbitration agreements, the time and cost issues in VIAC arbitrations, the core changes in the latest version of the Vienna Rules which entered into force on 1 January 2018, the expedited and emergency arbitrator proceedings, the publication of awards, the arbitrability of disputes under Austrian law and some other issues of practical importance for parties and arbitrators interested in VIAC arbitration in Austria. The interview was conducted and translated into Russian by Mr. Dmitry V. Marenkov, LLM, FCIArb, member of the Editorial board of this journal.

Ilia V. Rachkov, Ksenia A. Deeva. **Recognition and Enforcement of CIETAC Arbitral Awards by the Supreme Court of the Russian Federation**

This article deals with a recent recognition and enforcement of two CIETAC arbitral awards by the Supreme Court of the Russian Federation. Russian arbitrazh courts of lower instances refused to recognize and to enforce these foreign arbitral awards on the sole ground: CIETAC failed to notify the Russian respondent, as it sent all correspondence to the respondent's mailing address specified in the sales contracts, and not to its official address specified in the Russian Unified State Register of Legal Entities. The fact is that prior to the commencement of the arbitration proceedings at CIETAC the respondent changed its official corporate seat, although the latter remained in Moscow. The Supreme Court of the Russian Federation set aside the judicial acts of lower instances in both cases without remanding the cases to the court of the first instance and recognized and enforced both CIETAC's awards on the territory of the Russian Federation.

The authors describe the factual allegations of the cases, the arguments of the claimants and the respondent in the court proceedings and the criteria for a proper notification of a party about the arbitration proceedings based on the case law of Russian and foreign state courts.

Olga S. Kokoz. **Commentary to Certain Provisions of the Resolution of the Plenum of the Supreme Court of the Russian Federation No. 53 dated 10 December 2019 "On Performing of Assistance and Control Functions in Relation to Domestic Arbitration and International Commercial Arbitration by the Courts of the Russian Federation"**

In this article the author analyses some provisions of the recently adopted Resolution of the Plenum of the Supreme Court of the Russian Federation in relation to arbitration, which concern such issues as the role of the state courts in arbitration, competence-competence principle, arbitrability of disputes, effect of arbitration agreements, performance of assistance functions by state courts and enforceability of the awards. The author notes that while some of the issues which demanded attention from the Plenum were omitted, many of the clarifications merely summarize and remind approaches that already exist in law or case law. However, others introduce certain important novelties, among which the following may be noted: wide interpretation of the competence-competence principle, determination of the law applicable to the arbitration clause, scope of application of the arbitration clause, differentiation between place and venue of arbitration. Some of the clarifications are less positive, in particular those which relate to characteristics of ad hoc arbitration. Nevertheless, the author concludes that the general trend of the Resolution is arbitration-friendly.

Maya S. Kovaleva. **The Consequences of Refusal to Apply to the Court for Obtaining the Writ of Execution for Domestic or International Arbitral Awards Rendered on the Territory of Russia: The Possibility for Inclusion of a Claim in the Register of Creditors' Claims within Bankruptcy Procedure of the Debtor**

The article reviews the issue of maintaining the right to judicial protection after the acceptance by state arbitration court of plaintiff's refusal to apply to the court in order to enforce the award of the domestic or international arbitral tribunal rendered on the territory of the Russian Federation. Particularly the author considers whether it is legitimate for such a plaintiff (creditor) to apply for inclusion of its claim in the register of creditors' claims within bankruptcy procedure of the debtor who appeared to be a defendant in the accomplished arbitral proceedings. Since this issue is neither directly regulated by the law nor explained by state courts the author makes her conclusions on the basis of the general analysis of the Russian judicial practice and Russian procedural legislation.

Sergey I. Komaritsky. **Commentary to the Decision of the Supreme Court of the Russian Federation of September 18, 2019 in Case No. 307-ЭС19-7534**

In his article the author critically reviews the findings in the indicated Decision of the Supreme Court of the Russian Federation relating to refusal to issue a writ of execution to an arbitral award on public policy grounds.

Arbitral Awards

Award of the ICAC at the RF CCI dated 15 November 2011. Case No. 233/2010

1. One of the significant issues considered in the present case related to the consequences of the failure of the contractor to provide a bank guarantee under the contract for his subsequent demand for payment of the work. Namely, whether the client has the right to demand a reduction in the price of work by the amount of such a guarantee. The arbitral tribunal proceeded from the fact that the provision of a bank guarantee does not constitute the principal, but an accessory obligation of a party to the contract – a way to ensure the principal obligation. Non-fulfillment by a party of an accessory obligation does not release the other party from fulfillment of its obligation under the contract. Consequently, the failure of the contractor to provide the client with a bank guarantee does not relieve the client of the obligation to pay for the work in the amount of such a guarantee.

In addition, the arbitral tribunal took into account the purpose of providing the bank guarantee by the contractor as agreed upon by the parties: it was to guarantee the protection of the client from losses caused by improper performance of the relevant work by the contractor, that is, to ensure that the contractor fulfills its obligation for timely and high-quality work performance for the relevant period. Since the client did not dispute that the work for this period was completed and did not specify the cost of eliminating its deficiencies, there was no reason to deduct the full amount of the bank guarantee from the price of the work. Accordingly, the client's refusal to pay because of non-provision of a bank guarantee by the contractor was rejected.

As follows from the commented award, if the client had specified and formalized his monetary claims on the contractor due to deficiencies in the work, such claims could have been set off against claims for the recovery of the payment for the work.

2. The arbitral tribunal in this case has repeatedly drawn attention to the fact that the remedy used by the party must comply with the nature of the alleged breach of the law. So, if a bank guarantee was not provided, an appropriate remedy for the respondent would be, for example, a claim for compensation for losses caused by this, but not a refusal to pay for the work performed.

As follows from the commented award, unless otherwise provided by the contract, the presence of deficiencies in the executive documentation also does not allow the respondent to delay payment for the work performed by the claimant. By virtue of Article 723 of the Russian Civil Code, the client has the right to demand from the contractor a proportionate reduction in the price established for the work or, if he chooses so, reimbursement of his expenses to eliminate deficiencies in the executive documentation. However, if the client did not use this right, and instead referred to flaws in such documentation to substantiate his refusal to pay for the work, then his reference to the non-transfer (or improper transfer) of the executive documentation by the contractor should not be recognized as a sufficient reason for refusing to pay for the work.

3. Another issue to which attention should be paid is the inadmissibility of unreasonable delay in the notice to the contractor about the deficiencies of work. The arbitral tribunal applied clause 4 of Article 755 of the Russian Civil Code, according to which, if during the warranty period defects are found that are specified in clause 1, Article 754 of the Civil Code, the client must notify the contractor about them within a reasonable time upon their discovery. From this, the court concluded that if the client / general contractor has complaints about the work performed, then he must file them without unreasonable delay and, of course, before the start of the arbitration.

4. The arbitral tribunal qualified the respondent's references to the claimant's counter debt as a claim for set-off. By virtue of the Schedule of Arbitration Fees and Costs of the ICAC (as applicable at that period), such a claim can be considered by a court only if the respective arbitration fee is timely paid. If the applicable arbitration fee was not paid by the respondent, then the amount of the debt recovered from the respondent shall not be reduced (set off). However, at the same time, the respondent is not deprived of the right to further file an independent claim to recover such a debt from the claimant.

5. The arbitral tribunal also concluded that the general rule of the Schedule of Arbitration Fees and Costs on imposing the arbitration fee on the party against which the arbitral award was made does not apply if the parties agreed that each of them independently bears the costs associated with the arbitration procedure. Moreover, by virtue of Article 431 of the Russian Civil Code, when interpreting the terms of the contract by the court, the literal meaning of the words and expressions contained therein is taken into account. A literal interpretation of such a clause leads to the conclusion that the parties bear all the costs associated with the arbitral procedure, which, of course, includes the arbitration fee.

In general, this arbitral award undoubtedly deserves careful study, and primarily in relation to the resolution of disputes arising from contracts based on Russian substantive law.

The author is grateful to Alexander Yuryevich Robakidze (https://zakon.ru/robakidze), who had completed practical training at the Russian CCI, for his participation in the preparation of this extract from the arbitral award.

The award was reviewed and edited by Dmitry L. Davydenko, Ph.D. in Law, arbitrator at ICAC and the MAC at the RF CCI, associate professor of the Department of International Private and Civil Law named after S.N. Lebedev, MGIMO University of the Ministry of Foreign Affairs of Russia.

Award of the ICAC at the RF CCI dated 27 January 2017. Case No. 4/2015

In this case the dispute has arisen within the framework of the contract for delivery of the specific goods (hydraulic press) between a Russian closed joint-stock company (the claimant) and a German limited liability company (the respondent).

The factual circumstances may be summarized as follows. The seller (the Respondent) fulfilled its obligation to deliver the goods, but their quality did not conform with contractual requirements. The buyer (the claimant) fixed an additional period for the performance by the seller of his obligations. However, six months after the delivery of the hydraulic press the parties were never able to agree on the certificates on its final acceptance. Subsequently, the claimant notified the respondent of a unilateral repudiation of the contract, referring to the substantial violation of its conditions by the respondent. As the seller (the respondent) did not return the advance payment, the buyer filed a claim with the ICAC at the RF CCI. In the course of arbitral proceedings, the parties signed an agreement for the purpose of reaching an amicable settlement of the dispute, but were unable to execute it. Subsequently, the arbitral tribunal at the request of the parties ordered inspection of the hydraulic press by an expert.

The award rendered in this case raises a number of interesting issues related to the application of the UN Convention on Contracts for the International Sale of Goods (Vienna, 11 April 1980): on the burden of proof; on definition of fundamental breach of a contract; on limitation on recoverable damages by the foreseeability rule; on peculiarities of interest calculation.

One of the interesting points in the case was that the respondent, after receiving an expert report, asked the arbitral tribunal to conduct the re-inspection of the hydraulic press by another expert. The arbitral tribunal qualified respondent`s request as a statement of challenge of the primary expert.

The award was unsuccessfully contested in the Russian state arbitrazh court.

The award was reviewed and edited by Anton G. Benov, Ph.D. in Law, reporter at the ICAC at the RF CCI.

Award of the ICAC at the RF CCI dated 3 September 2018. Case No. M-4/2018**

In this case the dispute arose between Russian Limited Liability Company and a Company with its place of business on the territory of the Federal Republic of Germany. The parties entered into delivery contact under which the respondent undertook to deliver equipment to the claimant's counterparty under another contract.

The claimant (the Russian LLC) filed a claim with the ICAC to terminate delivery contract, recover the first advance payment made by the claimant under the contract, the interest for using thereof as well as a fine for breach of delivery terms by the respondent. The main claimant's argument in support of termination of the contract was a material breach thereof by the respondent that took the form of a long-term violation of the obligation to deliver equipment.

The panel of arbitrators, having carefully analyzed parties' arguments and mainly the behavior of the parties during execution of the contract, refused to satisfy all claims, since the arbitrators determined that the respondent fulfilled its contractual obligations properly, but, acting reasonably and in good faith, could not deliver the equipment on time due to the dishonest behavior of the claimant.

The award was reviewed and edited by Maria V. Radetskaya, Ph.D. in Law, reporter at the ICAC at the RF CCI.

Award of the ICAC at the RF CCI dated 14 September 2018. Case No. M-132/2017

In the abovementioned award of the ICAC, the panel of arbitrators faced several complicated issues relating to substantive and procedural aspects of the case and its circumstances.

The panel of arbitrators considered a claim for recovery of debt for services rendered under a contract for operation and maintenance of a solar power plant concluded between two Russian companies. The peculiarity of this case is that before the filing of the claim, the defendant was declared insolvent and bankruptcy proceedings were initiated.

Objecting to the stated claims, the bankruptcy trustee pointed to the overestimated cost of services under the contract, the conspiracy of the plaintiff and the defendant with the aim of reducing the bankruptcy estate of the debtor. The main argument was that the ICAC had no authority to consider the alleged claim because of the initiating of bankruptcy proceedings.

The panel of arbitrators decided that it has the authority to settle the dispute because in case if the court – a state court or the ICAC – satisfies the claims of the creditor of the current payments earlier than the claims of bankruptcy creditors, this would correspond to the provisions of the law on bankruptcy regarding the order of satisfaction of creditors' claims. Considering all the circumstances of the case ICAC rendered an award for the claimant.

The award was reviewed and edited by Maria N. Lubimova, reporter at the ICAC at the RF CCI.

Award of the Maritime Arbitration Commission at the RF CCI dated 25 June 2015. Case No. 1/2015

The award is an example of a situation where the arbitral tribunal may disagree with how the parties (or one of them) qualify the legal relationship between them as well as the claims filed, and, accordingly, give their own qualifications (principle jura novit arbiter).

1. First of all (although this did not play a decisive role in resolving this dispute), the arbitrators did not agree with the qualification of the agreement concluded between the parties as a "towing contract".

The commented award demonstrates the distinction between the towing contract and the contract for the carriage of goods in tow: the key criterion is whether the towed vessel or other floating facility is provided by the customer or contractor. If the customer does not provide such an object, but only transfers the cargo for placement on the towed object, then this is not a towing contract, but a contract for the carriage of goods in tow.

2. The arbitrators also did not agree with how the claimant (with reference to the contract of the parties) qualified his claims: as "a fee for delaying the ship". In light of the provisions of the law (namely, the Merchant Shipping Code of Russia), and regardless of the provisions of the contract, these requirements were qualified as demurrage (forfeit) – a fee due to the carrier (ship owner) for the detention of a vessel over lay time (i.e. over the period during which the carrier provides the vessel for loading / unloading the cargo and holds it under loading / unloading the cargo without additional charges to the freight).

3. The award demonstrates the approach of the arbitral tribunal to replenish incomplete or unclearly worded terms of the contract, taking into account the subsequent behavior of the parties, including their conduct during the arbitration. In interpreting the contractual terms regarding the nature of the lay time agreed upon in the contract (the contract did not expressly indicate whether such time is reverse), the arbitrators accepted the common position of the parties. Namely, the claimant made his calculation of such time in a reverse

order, and the respondent in his speech at the arbitration hearing also insisted that the time was reversed. Therefore, the arbitrators came to the conclusion that the parties agreed to take lay time in exactly the reverse order.

4. Also of interest is the analysis by the arbitral tribunal of a causal relationship between the losses of the claimant and the behavior of the respondent, in particular whether the demurrage of the vessel was caused by the shipowner. The arbitral tribunal took into account the positions of the parties, the uncontested facts and written evidence – correspondence by e-mail.

The author is grateful to Alexander Yuryevich Robakidze, who had completed practical training at the Russian CCI, for his participation in the preparation of this extract from the arbitral award.

The award was reviewed and edited by Dmitry L. Davydenko, Ph.D. in Law, arbitrator at ICAC and the MAC at the RF CCI, associate professor of the Department of International Private and Civil Law named after S.N. Lebedev, MGIMO University of the Ministry of Foreign Affairs of Russia.

Book Review

Alexander V. Grebelsky. **A Tool in the Hands of a Professional. Review of the Book: Khodykin R., Mulcahy C., Fletcher N. (Consultant Editor). A Guide to the IBA Rules on the Taking of Evidence in International Arbitration. – Oxford University Press, 2019**

In October 2019, Oxford University Press published 'A Guide to the IBA Rules on the Taking of Evidence in International Arbitration', one of the co-authors of which is Roman Khodykin, a renowned specialist in the field of international arbitration, member of the Editorial Council of this journal.

IBA Rules on the Taking of Evidence in International Arbitration are by far the most popular source of soft law in arbitration. The Rules provide mechanisms for the presentation of documents, witnesses of fact and expert witnesses, inspections, as well as the conduct of evidentiary hearings.

According to the reviewer, the new publication, due to the deep level of elaboration of certain issues and a truly international approach that is not confined to a single legal system, will become the leading doctrinal source on evidence in international arbitration.

Andrey V. Egorov. **The Journal of the Russian School for Private Law – A Young Journal on Private Law in Russia**

In his review the general editor of the journal describes the main features and objectives of the new journal and provides a detailed description of one of its most interesting recent issues.