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integrando la Convenzione di New York del 1958, la quale disciplina questo aspetto specifico. Quest'ultima Convenzione non ci dà una definizione specifica di arbitrato internazionale ma si limita a dirci, all'articolo I: La presente Convenzione si applica al riconoscimento e all'esecuzione delle sentenze arbitrali emesse sul territorio

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International Arbitration Law Library # 61 The 1958 New York Convention is universally acclaimed as one of the most important instruments on international commercial arbitration. Although the Convention ensures that contracting States cannot justify failure to comply with their treaty obligations by reference to domestic law, the courts of different contracting States apply the Convention differently. This diverging case law arises from uncertainty as to whether certain concepts employed in the Convention must be construed autonomously or in light of domestic law. This incomparable analysis of the New York 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 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 jurisdictions 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 paranoia 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 confl ict 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 confl ict rules to determine the applicable law. This raises the question of what confl ict 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 confl ict of laws questions in arbitration is the Vivendi-Elektrim 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.

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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’. Appendixes 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.

This work presents a thorough investigation of existing rules and features of the treatment of foreign law in various jurisdictions. Private international law (conflict of laws) and civil procedure rules concerning the application and ascertainment of foreign law differ significantly from jurisdiction to jurisdiction. Combining general and individual national reports, this volume demonstrates when and how foreign law is applied, ascertained, interpreted and reviewed by appeal courts. Traditionally, conflicts lawyers have been faced with two contrasting approaches. Civil law jurisdictions characterize foreign law as “law” and provide for the ex officio application and ascertainment of foreign law by judges. Common law jurisdictions consider foreign law as “fact” and require that parties plead and prove foreign law. A closer look at various reports, however, reveals more differentiated features with their own nuances among civil law jurisdictions, and the difference of the treatment of foreign law from other facts in common law jurisdictions. This challenges the appropriacy of the conventional “law-fact” dichotomy. This book further examines the need for facilitating access to foreign law. After carefully analyzing the benefits and drawbacks of existing instruments, this book explores alternative methods for enhancing access to foreign law and considers practical ways of obtaining information on foreign law. It remains to be seen whether and the extent to which legal systems around the world will integrate and converge in their treatment of foreign law.

Il Trattato sviluppa in 4 tomi lo studio sistematico degli istituti di diritto processuale civile: vengono analizzate le norme generali del processo di primo grado e delle impugnazioni, i processi speciali (il processo sommario di cognizione, il processo del lavoro, e l’arbitrato), il processo esecutivo e il processo cautelare. La trattazione comprende, inoltre, l’analisi delle seguenti fondamentali discipline, pur non contenute nel codice di rito: - le norme sulla competenza internazionale e il riconoscimento delle sentenze, previste nella l. 218/1995 e nel regolamento UE 1215/2012; - l’impugnazione delle delibere societarie (art. 2378 c.c.) e il procedimento ex art. 2409 c.c.; - i profili processuali degli istituti della interdizione, inabilitazione e amministrazione di sostegno; - le norme sulla mediazione (d.lgs. 28 del 2010) e la negoziazione assistita (d.l. 132 del 2014). L’Opera

è un utile strumento di consultazione anche pratica, che pone una minuziosa attenzione ai recenti interventi legislativi e ai più significativi orientamenti della giurisprudenza contemporanea, in tema, ad esempio, di liberalizzazione dei servizi postali per le notificazioni a mezzo posta (l. 14.8.2017, n. 124 e l. 27/12/2017, n. 205); di riforma delle competenze del giudice di pace (D.Lgs. 13.7.2017, n. 116); di processo civile telematico, di azioni di classe, compensazione delle spese del giudizio (Corte Cost. n. 77/2018); ammissibilità della mutatio libelli della domanda giudiziale (Cass. S.U. 15.6.2015, n. 12310) e, da ultimo, le novità introdotte dal decreto semplificazione in materia di esecuzione forzata nei confronti dei soggetti creditori della pubblica amministrazione (D.L. 14.12.2018, n. 135).

Nella legge n. 80 del 2005, accanto a rilevanti modifiche al processo di cognizione, al procedimento cautelare e al processo esecutivo, trovava posto la delega al Governo per le riforme del giudizio di cassazione e del giudizio arbitrale. Il legislatore delegato ha provveduto ad entrambe con il dlgs. n. 40 del 2006, entrato in vigore nel marzo di tale anno. Recentemente il legislatore, con la legge n. 69 del 2009, ha dato corpo ad una nuova riforma che ha fortemente innovato proprio la disciplina dell’ arbitrato. Il volume si presenta come un commento articolo per articolo delle norme del codice di procedura civile che esaminano l'arbitrato e, ovviamente, tiene conto della riforma del processo civile, recentemente approvata, che ha fortemente innovato gli articoli che disciplinano la materia. Ogni articolo del codice viene commentato con particolare riferimento agli elementi di novità introdotti nel tessuto normativo, e agli orientamenti giurisprudenziali precedentemente formatisi laddove essi possano aiutare ad individuare le migliori linee interpretative.