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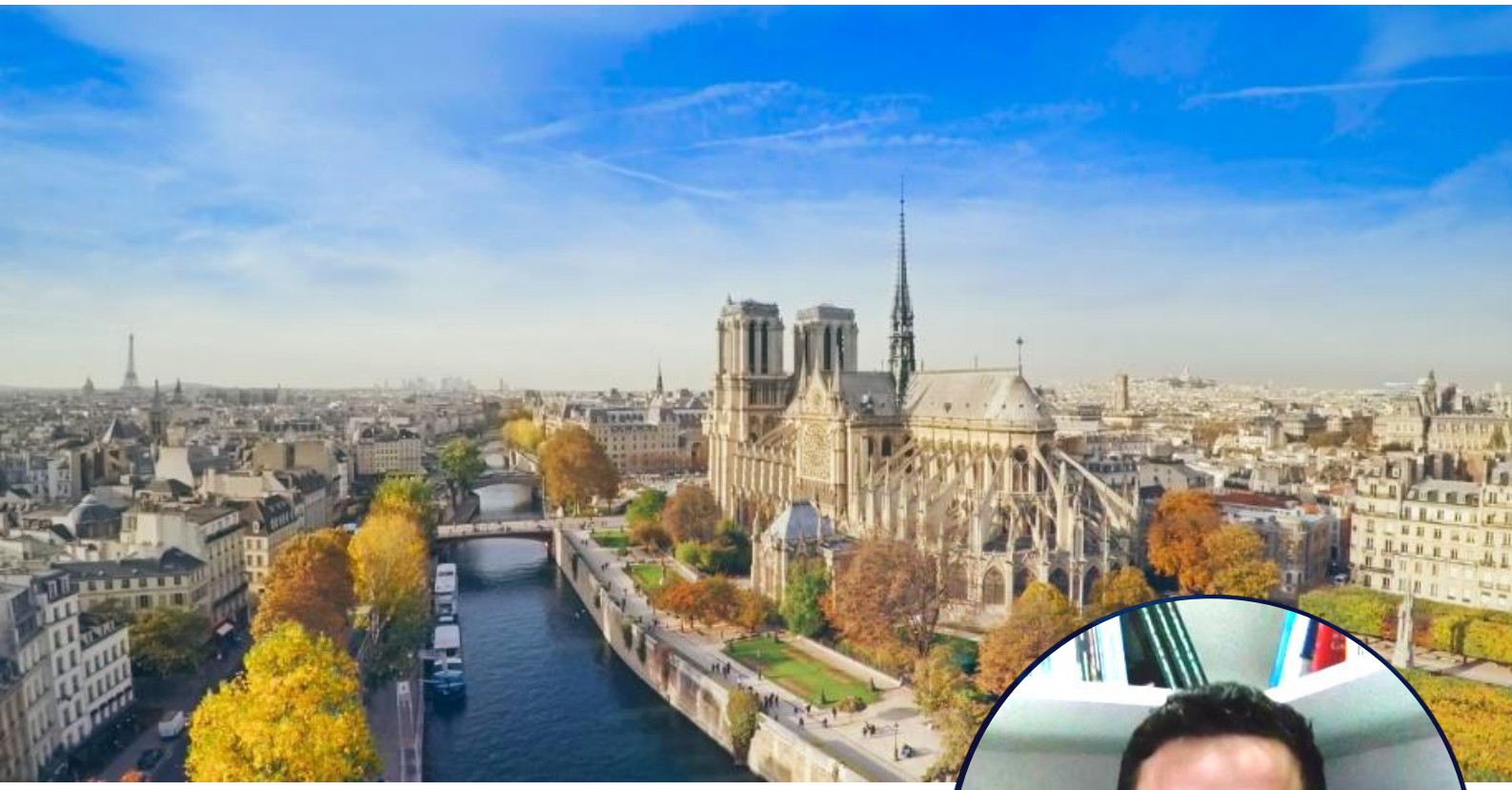

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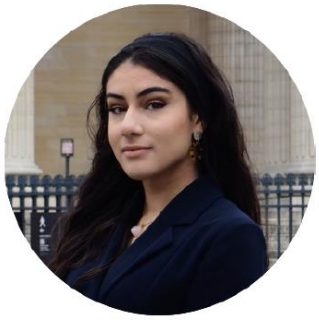

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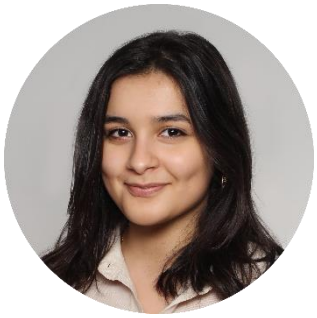

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FOREWORD

Paris Baby Arbitration is a Parisian association and an international forum aiming the promotion of young arbitration practice, as well as the accessibility and the popularizing of this field of law, still little known.

Each month, its team has the pleasure to present you the Biberon, an English and French newsletter, intended to facilitate the lecture of the latest and the most prominent decisions given by states and international jurisdictions, and the arbitral awards.

For this purpose, Paris Baby Arbitration encourages the collaboration and the contribution of the younger actors in arbitration.

Paris Baby Arbitration believes in work, goodwill and openness values, which explain its willingness to permit younger jurists and students, to express themselves and to communicate their passion for the arbitration.

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Enjoy reading!

FRENCH COURTS

COURTS OF APPEALS

Bordeaux Administrative Court of Appeal, 30 March 2022

Contributed by Sarah Lazar

In this case, the Bordeaux Administrative Court of Appeal rules on the legality of two awards rendered by the London Court of Arbitration following an application for exequatur.

On 2 October 2007, the Syndicat Mixte des Aéroports de Charente (hereinafter "SMAC"), owner of Angoulême airport, concluded two contracts relating to an air link from Angoulême airport to Stansted airport (London region) with the company Ryanair. The first agreement was concluded on 8 February 2008 with the company Ryanair designated (hereinafter "Ryanair") and the second marketing assistance agreement was concluded on 14 February 2008 with the company Airport Marketing Services Limited (hereinafter "Airport Marketing Services"). Both contracts contained an arbitration clause requiring arbitration at the London Court of International Arbitration. On 17 February 2010, Ryanair notified SMAC of its decision to discontinue the air service between London and Angoulême, terminating one of the two agreements.

Ryanair and Airport Marketing Services filed a claim in the London Court of Arbitration. In two arbitration awards, the Court first accepted jurisdiction and decided that the airport services contract had been lawfully terminated. As a result, SMAC had to pay the cost of the arbitration, which amounted to £103,075.37.

Ryanair and Airport Marketing Services then applied on 15 December 2020 to the Poitiers Administrative Court for an order to enforce the arbitration awards of 22 July 2011 and 18 June 2012. The court rejected their request. The companies appealed this decision to the Bordeaux Administrative Court of Appeal on 30 March 2022.

The Court rejected the two companies' requests for the exequatur of the two arbitral awards rendered by the London Court of International Arbitration. It considers the awards to be irregular and therefore cannot be incorporated into the French legal system. Indeed, Article 1 of the European Convention on International Commercial Arbitration, relating to its scope of application, states that it is only applicable to arbitration agreements concluded between parties having their residence or seat in contracting States. However, Ryanair and Airport Marketing have their headquarters in Ireland, a State which is not a party to the European Convention on International Commercial Arbitration. The second point of irregularity of the decision is the legal nature of the SMAC. Indeed, even if the contract involved international commercial interests, this

does not allow for a derogation from the general principle of French law prohibiting public persons from evading the rules for determining the jurisdiction of national courts. In the present case, the Court of Arbitration directly considered itself competent, without allowing the national courts to express themselves on their competence.

For these grounds, the Court rejects the appeal of the two companies. It declared the two awards irregular and rejected the request for exequatur.

Paris Court of Appeal, 5 April 2022, no. 20/03242

Contributed by Pierre Collet

On April 5, 2022, the Paris Court of Appeal annuls the arbitration award rendered against State A for violation of public policy due to the corruption that affected the conclusion of public works contracts.

The award arose out of a dispute concerning several public contracts for road construction works concluded between Consortium B and State A. After the unsuccessful formal notice to proceed with payment, Consortium B filed a request for arbitration with the International Chamber of Commerce (ICC) in October 2015. On November 19, 2019, the court rendered its award, ordering State A to pay Consortium B the principal amount in addition to late payment interest.

On February 12, 2020, State A brought an action for annulment against this award before the Paris Court of Appeal.

State A argues that the award should be annulled because it gives effect to contracts obtained through corruption by Consortium B. State A relies, in particular, on testimonies and the presence in the accounts of Minister E of sums in considerable cash that cannot be explained by his civil servant income, but also by the absence of a call for tenders or any call for competition or even the overvaluation of market prices, which are between 16% and 79% higher than the average of the prices practised on markets comparable to State A.

Consortium B considers that the allegation of corruption is false and aims to allow State A to escape the payment of its debts while its reputation as a bad payer is established. He considers that the contestation of the method of awarding the contracts constitutes an attempt to revise the merits of the award insofar as the Arbitral Tribunal has analysed this point.

The Paris Court of Appeal begins by recalling that in order to determine whether the recognition and enforcement of the award is compatible with public policy, it is up to the court to verify whether the recognition and enforcement of the award is such as to hinder the objective of combating corruption by allowing part of the proceeds of activities of this nature to benefit. It goes on to state that such research is neither limited to the evidence produced before the arbitrators nor bound by the findings, assessments and qualifications made by them. The Court must only ensure that the production of evidence before it respects the adversarial principle and that of equality of arms.

The Court of Appeal retains several elements: the public works contracts were signed by Mr. E, then Minister; the contracts were concluded by means of direct agreements without call for tenders or competitive bidding and that these contracts were concluded for prices above the average for comparable markets by 16% to 79%; despite the contestation of these figures, Consortium B did not produce any second opinion; the finding of large sums of money paid into the personal accounts of Mr. E over the period of conclusion of the said contracts that the sole remuneration as Minister cannot explain; observation of significant cash withdrawals by Consortium B over the same period; observation of a correlation between the cash deposits by Mr. E and the payments made by State A to Group B; the persons working for Consortium B declaring that they participated in the remittance of sums of money in cash to Mr. E, during the criminal proceedings conducted in State A. The Court of Appeal adds that other elements subsequent to the sentence corroborates these indications, including the order of the Federal Prosecutor of the Public Ministry of the Swiss Confederation refusing a request to lift the sequestration of assets in a Swiss account in view of the suspicions of corruption of foreign public officials. It notes that the flows on certain Swiss accounts can be linked to public contracts concluded between State A and Consortium B.

The Court of Appeal concludes that there is a body of sufficiently serious, precise and consistent evidence to taint the conclusion and execution of public procurement contracts, to which the arbitral award gives effect, of corruption. Therefore, the recognition and enforcement of this award in France are likely to violate public policy in a characterised manner. The Court of Appeal annuls this arbitration award.

FOREIGN COURTS

High Court of Justice of England and Wales, Judgement, 11 April 2022, [2022] EWHC 757

Contributed by Victoria Muntean

On April 11th, 2022, Judge Pelling QC, rejected a claim under Section 68(2)(a) of the Arbitration Act 1996 (hereinafter the "1996 Act") to set aside and/or remit back to consideration of the arbitral tribunal an award issued by the London Court of International Arbitration on grounds of failure to comply with Section 33 of the 1996.

The Parties to the proceedings were Livian GmbH (the "Claimant"), a German developer and manufacturer of electronic equipment used in the healthcare sector, Elekta Limited (the "First Defendant"), an English manufacturer and seller of equipment for clinical treatment of cancer and associated diseases (Linear Particle Accelerators "(LINACs"), and Medical Intelligence GmbH (the "Second Defendant") the subsidiary of the First Defendant. The three had entered an agreement in writing dated 20 October 2011, the "*Private Labeller and Distribution Agreement*" ("PLDA"), whereby the Claimant was to cede in favour of the defendant several rights related to the development, marketing and distribution of "*Identify*" - an automated patient identification and accessory verification system ("Identify" or "the Product") (§2-4).

A dispute arose whereby the Claimant was alleging that the Defendants had breached their contractual obligation to promote, market, sell and more specifically "bundle" the sale of the Product with the sale of complex and novel LINACs. Arguably, from September 2013, the breach was constituted by their failure to exclusively sell new LINACs paired with Identify for which the Claimant sought to be compensated for dome €575 million (§6).

Following Clause 22.1 of the agreement, an arbitration tribunal was formed under the rules of the London Court of International Arbitration to adjudicate the dispute (§5). It was found that the case turned upon the construction and the meaning of the PLDA under the German Law. Importantly, the governing law required that when construing a contract, one must pay regard to the content of the negotiations and the subjective intention of the involved parties. Therefore, based on the supporting evidence, in particular the correspondence between Mr Prosser and employees of the claimant, and Mr Hieronimi - the individual who controlled the claimant (§16), the Tribunal dismissed the claim. Consequently, the claimants alleged that the Tribunal's reliance on some but other pieces of evidence when issuing the award constituted a serious irregularity affecting the outcome of the award in a way that caused substantial injustice to the Claimant. Hence, they sought to have the award set aside, or have it remitted for reconsideration, (§17).

The Court found that the applicable principles are those found in Section 33(1) and 33(2) of the Act and Section 68(1) to Section 68(3). In particular, the Judge uttered that it had been authoritatively stated that a court shall exclusively intervene under Section 68(2)(a) in a case where the Tribunal is shown to have failed in general duty to act fairly and impartially as set out in Section 33 amounting to a serious irregularity and giving rise to substantial injustice (§20). Serious irregularity and substantial injustice are essential requirements to make a successful case and the threshold to establish these is high. A successful application under Section 33 would have required the claimant to show that the tribunal reached a decision on the basis of a point to which no fair opportunity had been given to deal with. In the present case, the Court offered a review to the authorities as they stand finding that, albeit in principle an instance where the Tribunal is shown to have overlooked the evidence presented may be sufficient to support a section 68 challenge of an award based on a breach of section 33 duties, on the facts this was not demonstrated.

Pelling QC dismissed the case stressing that the section 33 test of serious irregularity was strict and purported to limit the intervention of the court to extreme situations where the Tribunal's conduct in the arbitral proceedings was so wrong that it caused injustice between the parties. However, this was not demonstrated; there was nothing in the allegedly disregarded oral evidence that could have otherwise yielded a significantly different outcome finding in favour of the claimant's argument.

Singapore International Commercial Court, Judgement, 13 April 2022, Lao Holdings v. Laos (I), ICSID AF Case.

Contributed by Katerina Nikolaou

On 13 April 2022 the Court fixes the costs in SIC/OS 5/2020 and SIC/OS 6/2020 Applications following their dismissal to set aside an ICSID arbitration award as well as a PCA award respectively in the Lao Holdings NV v Government of the Lao People's Democratic Republic ('GOL') case and in the Sealing Applications. The Applications represented a culmination of more than nine years of arbitral and court proceedings, in which the plaintiffs have resolutely sought to vindicate the wrongs allegedly done to them, while GOL has sought to defend itself against these allegations.

With regard to the costs, the plaintiffs, namely Lao Holdings NV and its wholly-owned subsidiary, Sanum Investments Ltd argued that the costs award should take into account Appendix G. They also submitted that any costs order be subject to the terms that the costs be paid to GOL's solicitors on their undertaking to repay the sums to the plaintiffs in the event that the appeal against the Judgment (in CA/CA 55/2021) is successful. In relation to the Sealing Applications, the plaintiffs were entitled to their costs as the successful party, in reasonable disbursements.

The Court considers both pre- and post-transfer costs distinctly, which often arises in the context of SICC proceedings. Pursuant to the costs recovery rule, of an award of costs in the SICC under O 110 of the ROC 'The unsuccessful party in any application or proceedings in the Court must pay the reasonable costs of the application or proceedings to the successful party, unless the Court orders otherwise'. In assessing the notion of 'reasonable costs', the Tribunal considers all the facts and circumstances in a given case to determine the appropriate quantum of costs to be awarded. Skill, expertise and specialized knowledge coupled with the novelty of the issues raised are important considerations. The Court also agrees with the reasoning of the court in Kiri Industries Ltd v Senda International Capital Ltd and another [2022] in which the question of what costs a successful party will be able recover from the unsuccessful party is ultimately a question of policy.

The Commercial Court concludes that the overriding and primary policy in the SICC is to compensate the successful party, as far as it is reasonable, for costs incurred in the pursuit of a claim or maintenance of a defence that is meritorious. Consequently, (a) regarding the Applications, the plaintiffs are, on a joint and several basis, to pay GOL costs fixed at S$222,000 (all-in), (b) For the Sealing Applications, GOL is to pay to the plaintiffs' costs fixed at S$8,000 (all-in), (c) Setting off these sums, the plaintiffs are, on a joint and several basis, to pay GOL S$214,000 as costs of the Applications and Sealing.

International Court of Justice, Judgment on Alleged Violations of Sovereign Rights and Maritime Spaces in the Caribbean Sea (Nicaragua v. Colombia), 21 April 2022

Contributed by Nadina Akhmedova

On 21 April 2022 the International Court of Justice (hereinafter "ICJ" or "Court") delivers its judgement in the case concerning Alleged Violations of Sovereign Rights and Maritime Spaces in the Caribbean Sea, whereby it determined that the Republic of Colombia (hereinafter "Colombia") breached its obligation under international law in regard to sovereign rights and jurisdiction of the Republic of Nicaragua (hereinafter "Nicaragua") in its exclusive economic zone and must therefore immediately cease its wrongful conduct. The Court however rejects both claims put forward by Nicaragua, i.e. the request for compensation and the request that the Court should remain seized of the case until full recognition by Colombia of Nicaragua's rights encompassed in the 2012 ICJ Judgement.

The Court draws attention to submission of the parties. In particular, Nicaragua contends that Colombia hindered Nicaragua-flagged or Nicaragua-licensed fishing and marine vessels in several cases with participation of Colombian naval vessels and aircrafts. Nicaragua also submits that

Colombia authorized Colombian and third States nationals to conduct fishing and marine scientific research activities in the exclusive economic zone of Nicaragua. Lastly, Nicaragua argues that Colombia offered and awarded hydrocarbon blocks within the exclusive economic zone of Nicaragua and has therefore breached its sovereign right of exploration and exploitation of natural resources within this zone. In sum, Nicaragua claims that the above actions of Colombia amount to violation of Nicaragua's sovereign rights and jurisdiction over its exclusive economic zone. Nicaragua also condemns Colombian Presidential Decree No. 1946 as of 2013 which determined an "integral contiguous zone" overlapping with waters attributed by the ICJ to Nicaragua and argues that this legislative act violates customary international law.

On the other hand, Colombia claims that Nicaragua has infringed the traditional fishing rights of the San Andrés Archipelago inhabitants and prevented them from accessing fishing banks located beyond the territorial sea of the San Andrés Archipelago islands. Colombia further objects to the straight baselines of Nicaragua determined by Decree 33-2013 as of 19 August 2013 and claims that these baselines violate sovereign rights and jurisdiction of Colombia in the Caribbean Sea.

The Court commences with establishing its jurisdiction *ratione temporis* in regard to Nicaragua's claims over incidents that allegedly occurred after 27 November 2013 and finds that these incidents arose directly out of the issue related to the subject-matter of the Application. Since there is a link between the alleged incidents and those incidents which were found to fall within the Court's jurisdiction, the ICJ finds that it has jurisdiction *ratione temporis* over the claims submitted by Nicaragua in relation to those alleged incidents.

The ICJ examines the alleged incidents in the south-western Caribbean Sea, Colombia's alleged authorization of fishing activities and marine scientific research in the exclusive economic zone of Nicaragua and Colombia's alleged licensing on oil exploration.

The Court rules that Colombia has violated its obligation under international law and infringed sovereign rights and jurisdiction of Nicaragua within its exclusive economic zone, since it: (i) infringed fishing and marine scientific research activities of Nicaraguan flagged and licensed vessels and interfered with Nicaragua's naval vessels within its exclusive economic zone; (ii) sought to implement conservation measures in the exclusive economic zone of Nicaragua; and (iii) authorized conducting of fishing activities in the exclusive economic zone of Nicaragua.

Lastly, the Court finds Colombia to be in breach of customary international law by establishing integral contiguous zone by its national Presidential Decree 1946 since this zone is not in conformity with the 24-nautical-mile rule and this Decree grants the authority to Colombia to implement control measures over violations of its laws and regulations in respect of the integral contiguous zone in contradiction to Art. 33 of the United Nations Convention on the Law of the Sea. The ICJ concludes that Colombia's integral contiguous zone overlaps with Nicaragua's exclusive economic zone and determines that Colombia must, by means at its disposal, bring the relevant provisions of Presidential Decree 1946 into compliance with customary international law. At the same time, the Court rejects all other submissions made by the Parties.

International Court of Justice, Order on the Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation), 8 April 2022

Contributed by Nadina Akhmedova

On 8 April 2022 the International Court of Justice (hereinafter "ICJ") issued an Order, whereby Ukraine was granted an extended timeframe to submit its filing until 29 April 2022, while the time-limit of Russian Federation for filing of its Rejoinder was prolonged to 19 January 2023. The ICJ retains the subsequent procedure for further decision.

The ICJ takes into account its earlier Order as of 8 October 2021, by virtue of which it established 8 April 2022 and 8 December 2022 as time-limits for submitting the Reply of Ukraine and the Rejoinder of the Russian Federation accordingly. The ICJ notes that by a letter dated 6 April 2022 it was notified that due to complications stemming from the on-going situation in Ukraine the Co-Agent of Ukraine requested to extend the time-limit for filing of the Reply of Ukraine to 29 April 2022. As the Russian Federation immediately received the copy of the letter, it posed no objection to this request of three-week extension for filing the Reply as long as the ICJ grants an equal prolongation period for submission of its Rejoinder as well. The ICJ satisfies both claims and determined a three-week extension period for both Ukraine and the Russian Federation.

ARBITRAL AWARDS

ICDR, Monsoon v. Magic Micro, Case No. 01-19-0002-4620, Final Award, 14 April 2022

Contributed by Seung Pyo Hong

The award was rendered by the sole arbitrator Stephanie Cohen on April 14, 2022 according to the rules of the American Arbitration Association (AAA) and the application of Art. 9 U.S.C., Section 1 et seq. The parties provided on November 23, 2018 in their 'Series A Preferred Stock Purchase Agreement' an arbitration clause in section 6.13, where all disputes on the agreement would be resolved by arbitration according to the rules of the American Arbitration Association (AAA) with its seat of arbitration in Las Vegas, Nevada. However, the parties to the arbitration have agreed to conduct the arbitration in New York, NY under the Commercial Arbitration Rules of the American Arbitration Association (AAA).

In the present case, the two parties to the dispute, the plaintiff, Monsoon Blockchain Storage, Inc. (hereinafter 'Monsoon') on the one hand, and the defendant, Magic Micro Co., Ltd. (hereinafter 'Magic Micro') on the other hand, entered into a Series A Preferred Stock Purchase Agreement

(Stock Purchase Agreement, 'SPA') on November 23, 2018 with an additional agreement (Extension Agreement) dated February 12, 2019. In the preferred stock purchase agreement, Magic Micro had granted a purchase of 5,874,980 shares for a price of $30 million USD in exchange for Series A shares in the company Monsoon. Magic Micro's investment of $30 million USD was conditional on Monsoon's financial and legal due diligence according to the Revised Term Sheet dated September 24, 2018, which could be considered as pre-contractual negotiation.

However, Magic Micro failed to meet its obligation to pay $27 million USD, which was the amount owed by Magic Micro after transferring $3 million USD on September 27, 2018 to the escrow account mutually designated by an agreement to purchase the convertible notes into shares (Note Purchase Agreement, hereinafter 'NPA') dated September 24, 2018. $3 million USD was transferred according to the Revised Term Sheet of September 24, 2018 which provided that $3 million USD consisted of 10% of the total investment, and could be converted into shares after the due diligence procedure. These notes provided for a compound interest of 5% *per annum*, and a maturity date of September 24, 2020 according to Section 1(h) of the NPA. Regarding the remainder of the $27 million USD, Magic Micro claims that it was conditional on a mutual effort to solicit and secure third party funding.

The arbitration award rendered on April 14, 2022 first decides that there is a valid contract between the two parties under New York law, and that there is an offer and acceptance between the parties to the three contracts of Revised Term Sheet, the SPA, as well as the Extension Agreement. The sole arbitrator then investigates whether there was a clause relating to third party financing in these contracts, however he did not find such a written clause. In the absence of a written support, the defendant proceeded to establish evidence by the parol evidence rule and an agreement of third-party funding. The Sole Arbitrator finds that parol evidence is admissible, however, he finds no substantial evidence to decide that third-party funding is a condition precedent to the aforementioned contracts.

Defendant otherwise argues that the transaction would have been contrary and unlawful against Section 4(a)(2) of the United States Securities Exchange Act of 1933, because Monsoon's disclosure obligation during the pre-investment phase had not been lawful within the law (i); otherwise, the information given during due diligence had been limited or even unverified (ii). The Sole Arbitrator, however, does not give recognition to this argument, as the defending party had confirmed in Section 3.3 of the SPA that it had received all information necessary to proceed with the investment decision (i); even despite the fact that the defendant's representatives, advisers, and experts had given red flags to certain potentially unverifiable information concerning Monsoon such as the White Paper analysis and the link between the plaintiff and the financial company Rothschild (ii).

Lastly, the defendant argues that even if the contracts are valid and enforceable, Magic Micro is exempted from the execution of its contractual obligation because it is in the impossibility, the impracticability, and frustration of purpose of the contract because of failure to obtain third-party funding which had gravely and fundamentally changed the commercial relationship between the two parties. However, the sole arbitrator observes that the doctrine of impossibility in New York law is only applicable in the presence of unforeseeable events which could not have been foreseen at the time of the conclusion of the contract, and that in the given case, it is not the case.

With respect to damages, the Sole Arbitrator decides that defendant, Magic Micro, per Section 1.1(c) and 5 of the SPA, is obligated to pay plaintiff, Monsoon, the full purchase price of $30 million USD share in full with 1% interest per month commencing March 15, 2019, pursuant to Sections 3 and 4 of the Extension Agreement (i); as well as ICDR's procedural administrative costs and sole arbitrator's costs incurred by the requested party, as well as Monsoon Blockchain's attorney's fees and transcription costs (ii).

Otherwise, upon payment of the full remaining $27 million, Monsoon shall confer the Series A preferred stock within 30 days of payment. Otherwise, regarding the $3 million that is already deposited in the escrow account, Monsoon will pay Magic Micro compound interest at 5% per annum from September 27, 2018.

The legal nature of this arbitration is quite classic: it is an interpretation of the validity of the contract (i); observance of banking and financial law (United States Securities Exchange Act of 1933) (ii); then to the doctrine of impossibility (iii). However, this case is interesting on two counts. Initially, the procedure of this arbitration procedure was impacted by the COVID-19 sanitary crisis because the parties to the arbitration were dispersed in the two geographical areas between the United States and South Korea, and could not physically meet at the originally agreed seat of arbitration, Las Vegas, Nevada, nor at the modified seat in New York, New York. Thus, in the procedural history, the sole arbitrator had to carry out the arbitration procedure via videoconference and also by considering the time differences so that a party would not be left disadvantaged due to the time differences between the United States and Korea. Secondly, this case relates to the Blockchain sector, and the obligation of pre-contractual information relating to the blockchain sector and in the issuance of tokens by Initial Coin Offering ('ICO'). Since the nature of the blockchain sector is decentralized (DeFi) and so decentralized that it can even be considered stateless, this arbitration award gives a practical case for dispute resolution in the dematerialized sector which is that of Blockchain *via* a means also dematerialized videoconferencing.

INTERVIEW WITH YURI PEDROZA LEITE

1. Hi Yuri, thank you very much for accepting to answer our questions this month. Can you briefly recall your background for our readers?

I am originally from São Paulo, Brazil, where I studied law and where I am admitted to practice since 2014. I have avidly participated in mooting competitions then, which sparked an interest in international arbitration practice and which led to my first couple of years in Brazil working as an associate in international cases for a boutique firm, both as counsel and as secretary to arbitration tribunals in commercial cases. Later, in 2016, I did a summer course in Washington DC with professor Horacio Grigera-Naón, before starting my studies at the *Université de Versailles* with professors Thomas Clay and Sandrine Clavel. This master program was also filled with new learnings, presented a challenge (my first time taking law exams in French!), and even more mooting (my teams and I went to Hong Kong, Singapore, and Montpellier). As part of the master 2 program, I did an internship at the Paris office of Latham & Watkins, with the team spearheaded by Fernando Mantilla-Serrano, where I got to work on both commercial and investment arbitration proceedings, until the end of 2017. By then, I had been offered a position as a staff lawyer at Volterra Fietta in London, to work with Public International Law, which was an unmissable opportunity to diversify my background and have experience in yet another pre-eminent jurisdiction for the international arbitration practice. More so given my background being from Brazil, a jurisdiction not part of the Washington Convention and isolated from the ISDS arbitration system. My initial plan was to stay in London only temporarily, and return to Paris after a year. I did not count in falling in love for and in the City, leading me to seek for opportunities to stay here in the long term. This resulted in me starting a position with Arbitration Chambers from the end of 2018 until the beginning of 2021. There, I have worked alongside a stellar team of arbitrators as secretary to tribunals in a variety of disputes. It was also there that, during the pandemic, I started studying for my conversion exams to become a solicitor in the UK. On the day I was officially registered to the roll of solicitors, I had also started my work with Arnold & Porter.

2. You've been practising at Arnold & Porter Kaye Scholer LLP for over a year now, can you tell us what their main area of work is and what your day-to-day life is like? In a few words, can you also tell us a bit more about the Clerkship Programme?

The Arnold & Porter international arbitration practice focuses on representing States in ISDS disputes. The larger practice of the firm also includes representing parties in commercial cases as well, but my focus during my time here has been centred on the aforementioned ISDS disputes. A large part of my work has been

dedicated to work in cases involving respondent States in Latin America, where I was able to use my Spanish and Portuguese language skills for both drafting and researching tasks, which leads me to the second question. The clerkship program was the perfect opportunity for me to get back to the counsel's table (having been with by the tribunal's side for the previous years), and it is quite an exciting practice. Research tasks on cutting-edge topics of international investment law are always plentiful and there is always something new to address in a case, and the associates and partners are constantly allocating the team of clerks to various client matters and tasks, so our routine never gets repetitive.

3. You are now a qualified lawyer in England & Wales and in Brazil but also studied and worked in France, what a journey! May I ask you what made you come and stay to the UK and if you have any tips to any of our readers and foreign lawyers willing to qualify as a Solicitor too?

I have mostly answered the reasons why I have stayed in the UK before, but to add a little more to it, I just felt more at ease with the city itself and its vibrant energy. It just felt right for me at the time, and I do believe that is still the case today.

On the topic of qualifying here in the UK, that is a tricky question. It involves a lot of the individual career plans and circumstances. In my case, I saw it as an opportunity to bring some luster to my profile (which was mostly centred in civil law jurisdictions, having studied in Brazil and France), considering I have not had the opportunity to study in a long program in a common law jurisdiction. It looked to me that qualifying as a solicitor in the UK was a no-brainer for my ambitions to stay in this country. It was a heavy personal and financial investment, so the first tip would be to analyse carefully the pros and cons of going for the solicitor route, and your long time career plans involving the UK (and also to potentially explore the barrister route, if it would be more suitable for one's own expectations). The international arbitration market is known for the diversity of profiles that it attracts, but it is also a very difficult market and highly competitive. Another issue that I feel is that becoming a solicitor on paper is just the first step. More daunting is to become a solicitor by practice, that is, one has to also find ways to get relevant English law experience. It can become quite a long journey to get all this experience while navigating the murky waters of a career in international arbitration as a foreigner.

More practically, the qualification exam is quite tough and demands a lot of preparation time. Learning the blackletter of the English law from scratch, and then doing a set of six practical exams on various fields of law demand discipline and time commitment that could be jeopardized by demanding roles in international arbitration.

4. Can you tell us more about your experience in France and why you decided to study there? What do you think makes France so attractive for many young professionals and arbitration students?

I always had an inexplicable attraction to France and French culture since I was young, probably spurred by my learning the language from a young age. I was only able to travel to Europe as an adult, so the prospect of going to France and specifically (and not at all surprising) Paris, really excited me. I made it my goal to improve my French and attain the necessary level of fluency to apply directly for master programs in international arbitration, and when I got a full scholarship for the MACI program, I had my bags packed and jumped on a plane with no second guessing. France was also my main focus as during my mooting experience in Brazil, I came across the late professor Gaillard's *Aspects Philosophiques du Droit de l'Arbitrage*

International, and I was fascinated by the sophistication of the ideas therein presented, and how they permeated the little I already know about the French law on domestic and international arbitration (a dualist system that also caught my attention during my early times studying arbitration). The French legal system is also much relevant to numerous civil law systems, and one cannot escape the occasional French terminology during their legal studies. Add to that its historical importance in the development of Western values on the rule of law and democracy, and France truly becomes a beacon for high level studies.

5. If you could change one thing in the Arbitration sector, what would it be?

If we are speaking about the arbitration market in general, I would like to see it to be even more democratic, and I see that, potentially, its biggest challenge is one of diversity and legitimacy moving forward. Sadly, I see so many competent young lawyers trying their hardest to enter the market, but only a few succeed. The prized positions in big law firms are already diverse, but there are only so many positions to fill, but arbitration's popularity only increases. I see that the access to such market by those with diverse international backgrounds is not as simple as the one provided for those following the expected career pattern of more domestic practices. In a way, I believe these interview series we see in Biberon, and also the increasing mentorship programs for young practitioners, can only benefit young lawyers, be it for them to draw their career strategies, be it for managing their expectations moving forward.

However, if I could change something in the arbitration procedure, I would join the chorus and wish to see a more streamlined (and less adversarial) procedure relating to the production of documents. Coming from an country with a more inquisitorial tradition for its civil litigation proceedings, I do wonder if the solution could lie in giving more powers to arbitrators, or having more creative procedures developed by law firms or legal associations (the Prague Rules being one of such initiatives, but still not as widespread), to reduce the length, cost, and volume of documents that sometimes are the source of nightmares in our practice.

6. Do you have any advice for students starting out in this field and wishing to practice in a foreign country?

I think my advice is best formulated as a list of suggestions, as I do not believe there is a recipe to success in this market: research the arbitration (and the legal market at large) in the jurisdictions you are considering to work at, understand their legal traditions and also the "regular" route to become a lawyer were you to be a national of that country. An international career at a young age is full of surprising obstacles and opportunities, and can be very daunting in terms of expectations and the current opportunities (especially in the world we live in). Be flexible, but also have a clear goal, and trace steps to achieve it. Look out for mentors who have experience with moving around (young lawyer groups like the Paris and the London Very Young Arbitration Groups offer a really good network of people in similar circumstances, and also promote mentoring programs with established practitioners as well). Gather as much information as you can and try to think 5 steps ahead, and what each of those steps are. Seek opportunities wherever you can, but research them thoroughly: do not accept an inadequate role for your profile or ambitions just for the sake of it. Finally, do ponder whether you want or need to go abroad for studies or work very soon in life, or whether targeting firms in your home country could actually become a faster route for an international career. There is no clear cut path to success in this area and what has worked for some will not necessarily work for the many.

EVENTS OF THE NEXT MONTH

June 15th, Reza Mohtashami QC on "The Three Standards that Should Underpin the Presentation of Expert Evidence in International Arbitration"

ONLINE

In this webinar, Reza Mohtashami QC will "The Three Standards that Should Underpin the Presentation of Expert Evidence in International Arbitration" with hosts Dr Kabir Duggal and Amanda Lee.

Website: https://delosdr.org/global-arbitration-events-calendar/

June 22nd, 7th ICC Asia Pacific Conference on International Arbitration

ONLINE

Interactive discussion on the latest regional developments in international arbitration.

Website: https://2go.iccwbo.org/icc-apac-conference-on-international-arbitration-online.html

June 29th, ICC YAF / GIAC in Tbilisi: Hot Topics in International Arbitration

ONLINE

In-depth panel discussion on the aspects of arbitrator selection and on what steps parties can take to make sure that a suitable tribunal is constituted.

Website: https://2go.iccwbo.org/icc-apac-conference-on-international-arbitration-online.html