

**ASA Special Series No. 44**

**10 Years of  
Swiss Rules of International  
Arbitration**

**Nathalie Voser**

**Editor**



Association Suisse de l'Arbitrage  
Schweiz. Vereinigung für Schiedsgerichtsbarkeit  
Associazione Svizzera per l'Arbitrato  
Swiss Arbitration Association

**JURIS**

**Questions About This Publication**

For assistance with shipments, billing or other customer service matters, please call our Customer Services Department at:

1-631-350-2100

To obtain a copy of this book, call our Sales Department:

1-631-351-5430

Fax: 1-631-351-5712

Toll Free Order Line:

1-800-887-4064 (United States and Canada)

See our web page about this book:  
[www.arbitrationlaw.com](http://www.arbitrationlaw.com)

COPYRIGHT 2014

JurisNet, LLC

All rights reserved.

---

Printed in the United States of America

ISBN 978-1-937518-49-3

---

JurisNet, LLC

71 New Street

Huntington, New York 11743

USA

[www.arbitrationlaw.com](http://www.arbitrationlaw.com)

## TABLE OF CONTENTS

|  |       |
|--|-------|
| <b>Foreword</b> .....  | vii   |
| <b>About the Editor</b> .....  | ix    |
| <b>About the ASA President</b> .....   | xi    |
| <b>About the Session Chairs and Panelists</b> .....  | xiii  |
| <b>Programme of the Conference</b> .....   | xxiii |
| <b>Introduction by ASA President</b> ..... <i>Elliott Geisinger</i>  | 1     |
| <b>Panel 1: “Past and Present”: Background and Main Characteristics of the Swiss Rules</b>   |       |
| The Background of the 2004 Swiss Rules ..... <i>Wolfgang Peter</i>   | 3     |
| Background of the 2012 Revision: What Were the Main Objectives? ..... <i>Christoph Müller</i>  | 9     |
| <b>Panel 2: Key Features of the Swiss Rules, Part I</b>  |       |
| Joinder and Consolidation: Examining Best Practice in the Swiss, HKIAC and ICC Rules ..... <i>Ruth Stackpool-Moore</i>   | 15    |
| Jurisdiction of an Arbitral Tribunal over Set-off under Swiss Rules of International Arbitration ..... <i>Vladimir Pavić</i>   | 35    |
| Expedited Procedure under Art. 42 Swiss Rules ..... <i>Thomas Rohner</i>   | 55    |
| <b>Panel 3: Key Features of the Swiss Rules, Part II</b>   |       |
| Preliminary Orders and the Emergency Arbitrator: Urgent Interim Relief by an Arbitral Decision Maker in Exceptional Circumstances ..... <i>Christopher Boog and Bertrand Stoffel</i> | 71    |
| Confidentiality under Art. 44 Swiss Rules ..... <i>Pascal Hollander</i>  | 83    |
| Settlement Facilitation ..... <i>Markus Wirth</i>  | 95    |

**Panel 4: Swiss Rules in Practice: The Insiders' View**

|  |                         |     |
|--|-------------------------|-----|
| Case Administration .....  | <i>Michael Fischer</i>  | 103 |
| Appendix 1: Sample Letter to Respondent concerning<br>Receipt of Notice of Arbitration.....                    |                         | 109 |
| Appendix 2: Sample Letter of Receipt of Answer to the<br>Notice of Arbitration .....                           |                         | 112 |
| Appendix 3: Sample Letter of Confirmation of<br>Consent to Appointment, Constitution<br>and Further Steps..... |                         | 114 |
| Appendix 4: Sample Form for Consent to Appointment<br>and Statement of Independence .....                      |                         | 117 |
| Institutional Involvement and Costs .....  | <i>Joya Raha</i>        | 121 |
| The Workings of the Special Committee<br>and the Arbitration Court .....                                       | <i>Philipp Habegger</i> | 131 |

**Panel 5: Perspectives from Users, Arbitrators and Counsel,  
and the Way Forward**

|  |  |     |
|--|--|-----|
| The Swiss Rules from the Users' Perspective:<br>A Pharmaceutical Company .....                   | <i>François Naef</i>                         | 149 |
| The Swiss Rules from the Users' Perspective:<br>A Sports Organization .....                      | <i>Marco Villiger</i>                        | 153 |
| Counsel's Perspective on the Swiss Rules .....   | <i>Bennar Balkaya</i>                        | 157 |
| Counsel's Perspective on the Model of Decentralized<br>Administration .....                      | <i>Daniele Favalli</i>                       | 165 |
| An Arbitrator's View: Can Party Autonomy<br>Hinder Procedural Efficiency?<br>.....               | <i>Rudolf Fiebinger and Christoph Hauser</i> | 169 |
| An Arbitrator's View: A Few Reflections about Case<br>Administration under the Swiss Rules ..... | <i>Frank Spoorenberg</i>                     | 183 |
| <b>Closing Address</b> .....   | <i>Nathalie Voser</i>                        | 195 |

**Appendices**

|  |     |
|--|-----|
| Appendix A: Swiss Rules of International<br>Arbitration 2012 .....                               | 197 |
| Appendix B: Comparison of the 2004 and<br>2012 Swiss Rules of<br>International Arbitration ..... | 233 |
| Appendix C: Survey on Swiss Rules of International<br>Arbitration .....                          | 289 |

