

ASA Special Series No. 30

**PERFORMANCE AS A REMEDY:
NON-MONETARY RELIEF IN
INTERNATIONAL ARBITRATION**

MICHAEL E. SCHNEIDER

&

JOACHIM KNOLL

Editors



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

COPYRIGHT © 2011
by JurisNet, LLC

All rights reserved.

Printed in the United States of America
ISBN: 978-1-933833-36-1

JurisNet, LLC
71 New Street
Huntington, New York 11743
USA
www.arbitrationlaw.com

TABLE OF CONTENTS

About the Book	vii
About the Editors	ix
About the Authors	xi
Part I. Introduction and Overview	1
Chapter 1 Non-Monetary Relief in International Arbitration: Principles and Arbitration Practice <i>Michael E. Schneider</i>	3
Part II. The Legal Regime of Specific Performance	49
Chapter 2 A Comparative Overview on Performance as a Remedy: A Key to Divergent Approaches <i>Christine Chappuis</i>	51
Chapter 3 The Power of Arbitrators to Make <i>Pro-Futuro</i> Orders <i>David Ramos Muñoz</i>	91
Part III. Reports and Materials from Arbitration Institutions	123
Chapter 4 Chamber of Arbitration of Milan <i>Stefano Azzali</i>	127
Chapter 5 Geneva Chamber of Commerce (CCIG) - Swiss Rules <i>Eric Biesel</i>	131
Chapter 6 German Institute of Arbitration (DIS) <i>Jens Bredow</i>	133

Chapter 7	
International Arbitral Centre of the Austrian Federal Economic Chamber (Vienna International Arbitral Centre)	<i>Manfred Heider</i> 135
Chapter 8	
International Chamber of Commerce (ICC)	<i>Francesca Mazza</i> 141
Chapter 9	
International Centre for Dispute Resolution (ICDR)/ American Arbitration Association (AAA)	<i>Ryan Boyle</i> 151
Chapter 10	
Kuala Lumpur Regional Centre for Arbitration	157
Chapter 11	
London Court of International Arbitration (LCIA)	<i>Michael E. Schneider</i> 159
Chapter 12	
WIPO Arbitration and Mediation Center	<i>Erik Wilbers, Ignacio de Castro, Eun-Joo Min, and Sarah Theurich</i> 179
Chapter 13	
Selected Other Cases	<i>Michael E. Schneider</i> 187
Part IV. Non-Monetary Relief in Different Types of Contracts	209
Chapter 14	
Specific Issues in Different Types of Contractual Relations: Corporate Disputes	<i>Rudolf Tschäni</i> 211
Chapter 15	
Performance as a Remedy: Specific Issues Relating to Competition	<i>Siegfried H. Elsing</i> 247
Chapter 16	
Specific Performance as a Remedy in Construction and Manufacturing.....	<i>Roland Hürlimann</i> 265

Chapter 17 "Redress": A Remedy for the Limits of Traditional Remedies..... <i>Henry Peter</i>	275
Chapter 18 The Use of Non-pecuniary Remedies in WTO Dispute Settlement: Lessons for Arbitral Practitioners..... <i>Brooks E. Allen</i>	281
Part V. Interim Measures	311
Chapter 19 Interim Measures Ordering Performance: Procedural Implementation	313
<i>Charles Kaplan</i>	
Part VI. Enforcement of Specific Performance	327
Chapter 20 Trans-Border Enforcement of Non-Monetary Arbitral Awards.....	329
<i>Peter Schlosser</i>	
Chapter 21 Specific Problems when Enforcing a Non-Monetary Award in Austria.....	347
<i>Hubertus Schumacher</i>	
Chapter 22 Judicial Penalties and Specific Performance in International Arbitration	355
<i>Alexis Mourre</i>	
Appendix The ASA Research Project and the 2008 Basel ASA Conference	379
Index	387

