

ASA Special Series No. 37

**The Sense and Non-sense of
Guidelines, Rules and other
Para-regulatory Texts in
International Arbitration**

Daniele Favalli

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: 1-631-673-9117

Toll Free Order Line:

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

See our web page about this book:
www.arbitrationlaw.com

COPYRIGHT 2015
JurisNet, LLC

All rights reserved.

Printed in the United States of America
ISBN 978-1-933833-92-7

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

TABLE OF CONTENTS

Foreword	<i>Daniele Favalli</i>	v
About the Editor		vii
About the Contributors		ix
Chapter 1 An Overview of Existing Para-regulatory Texts (“PRTs”): Analysis, Facts and Figures.....	<i>Daniele Favalli</i>	1
Chapter 2 “Soft Law” and Hard Questions: ASA’s Initiative in the Debate on Counsel Ethics in International Arbitration.....	<i>Elliott Geisinger</i>	17
Chapter 3 A Critical Analysis of the IBA Guidelines on Party Representation	<i>Felix Dasser</i>	33
Chapter 4 Importance and Impact of the First PRT, the IBA Evidence Rules.....	<i>Christoph Müller</i>	63
Chapter 5 How Should Para-regulatory Texts Be Drafted?	<i>C. Ryan Reetz</i>	87
Chapter 6 The Authority of Para-regulatory Texts	<i>Marco Stacher</i>	107
Chapter 7 The Challenge of an Arbitral Award on the Basis of Para-regulatory Texts (Soft Law)	<i>Balz Gross and Mladen Stojiljković</i>	127
Chapter 8 What Remains to Be Done? Future Para-regulatory Text Projects	<i>Phillip Landolt</i>	139

Chapter 9

Romanian Case Law as an Example of the Impact of
Para-regulatory Texts on Decisions of National Courts

.....*Crenguta Leaua* 169

Appendices

Appendix A: ASA Board Position on IBA Guidelines
on Party Representation..... 197