

**Limits to Party Autonomy in
International Commercial
Arbitration**

Franco Ferrari
Editor

NYU
Center for Transnational Litigation,
Arbitration and Commercial Law

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 & Canada)

See our webpage about this book:

www.jurispub.com

COPYRIGHT 2016
JurisNet, LLC

All rights reserved. No part of this publication may be reproduced in any form or by any electronic or mechanical means including information storage and retrieval systems without permission in writing from the publisher.

Printed in the United States of America
ISBN 978-1-944825-01-0

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

Contents

ABOUT THE EDITOR	v
ABOUT THE CONTRIBUTORS	vii
PREFACE	xvii
Chapter 1	1
Limits to Party Autonomy and Institutional Rules <i>Andrea Carlevaris</i>	
Chapter 2	37
Party Autonomy, the “Right” to Appoint, and the Rise of Strategic Challenges <i>Brian King</i>	
Chapter 3	83
Limits to Party Autonomy in the Composition of the Arbitral Panel <i>George A. Bermann</i>	
Chapter 4	127
Inarbitrability: A Ghost Hovering over Europe? <i>Francesca Ragno</i>	
Chapter 5	165
Party Autonomy in relation to Competence-Competence <i>Stefan Kröll</i>	
Chapter 6	199
Arbitrator’s Procedural Powers: The Last Frontier of Party Autonomy? <i>Diego P. Fernández Arroyo</i>	

CONTENTS

Chapter 7	233
Private Preference, Public Process: U.S. Discovery in Aid of Foreign and International Arbitration <i>Kevin E. Davis, Helen Hershkoff, and Nathan Yaffe</i>	
Chapter 8	289
The Arbitral Tribunal's Power in respect of the Parties' Pleadings as a Limit to Party Autonomy <i>On Jura Novit Curia and Related Issues</i> <i>Giuditta Cordero-Moss</i>	
Chapter 9	331
Party Autonomy and the Rules Governing the Merits of the Dispute in Commercial Arbitration <i>Luca G. Radicati di Brozolo</i>	
Chapter 10	363
Limits to Party Autonomy, Good Faith, Fair Dealing and International Commercial Arbitration <i>Filip De Ly</i>	
Chapter 11	383
Party Autonomy and Public Policy Awards by Consent <i>Domenico Di Pietro</i>	
Chapter 12	401
Limits to Party Autonomy Imposed by European Mandatory Law <i>Inka Hanefeld</i>	
Chapter 13	419
Limits to Party Autonomy to Protect Weaker Parties in International Arbitration <i>Friedrich Rosenfeld</i>	
Chapter 14	441
Limits to Party Autonomy at the Post-Award Stage <i>Maxi Scherer and Linda Silberman</i>	
INDEX	493