
Foreword

Anyone who has acted as arbitrator or counsel in an arbitration in which more than one language was used, sat as judge on an international court that had more than one working language, or served on a drafting committee of a multi-language treaty knows how many unexpected complications, both procedural and substantive, the ‘language issue’ can create. And the problems that arise in that context are not limited to those that relate to the choice of the most appropriate translation of a particular word or that arise from a later discovered translation error. Although finding the most appropriate translation for a given word or phrase to be used when drafting legal documents intended to be equally authentic, for example, is by no means always an easy matter. Language issues can present innumerable more serious types of problems depending on a particular legal setting; they can also have unforeseen and costly consequences.

In this thoroughly researched and carefully structured book, Professor Tibor Várady focuses on the variety of language issues that can arise at different stages of international commercial arbitration proceedings. He also proposes sound and creative solutions designed to help the parties to the proceedings, their arbitrators and counsel to anticipate and resolve these problems. The result is, to my knowledge, the first book-length monograph on the subject that addresses all language issues likely to arise in international commercial arbitrations. What is more, it is a work of high scholarly quality. Although such a combination of the practical and theoretical is rare, Professor Várady has managed to achieve it.

This book could probably only have been written by a person of Professor Várady’s rather unique linguistic background and his extensive practical experience as a commercial arbitrator who also happens to be an eminent scholar. He was born an ethnic Hungarian in the former Yugoslavia, which at the time was a multi-language country in which Serbo-Croat predominated; he is married to an ethnic Serb; he studied law in Belgrade where the language of instruction was Serbian, although his first language was Hungarian; and he wrote his Master of Laws thesis and Doctor of Juridical Science dissertation in English at the Harvard Law School. He has conducted arbitrations in five different languages and has taught in English at a number of American law schools, including the University of California at Berkeley, Emory University and Cornell University. He was a professor of law at the University of Novi Sad in Serbia, where the language of instruction is Serbian. Professor Várady now lives in Hungary and teaches at the Central European University in Budapest. There he lectures in English. He is also the co-author, with two American legal scholars,

of *International Commercial Arbitration*, a leading American law school course book, now in its third edition.

What makes Professor Várady's present book so valuable, particularly as a text for practitioners, is the systematic manner in which he deals with the multitude of language issues that can arise in arbitration proceedings, beginning with language-related issues that should be addressed prior to the constitution of an arbitral tribunal and concluding with those likely to arise in judicial proceedings following the arbitral award. Also analyzed are the various considerations relating to the determination of the language of the arbitration, problems of translation and interpretation in international arbitration proceedings, and many other matters in which language issues can play an important role in the arbitral context. What is more, the book provides the reader with strategies for the avoidance of language problems and with an overview of the language regulations that different national and international arbitration facilities have promulgated. Relevant arbitral and judicial jurisprudence is also analyzed. All in all, this book provides the reader with a comprehensive and insightful study of a subject that until the publication of Professor Várady's impressive work had been largely neglected in the literature.

The Hague, September 2006

Judge Thomas BUERGENTHAL
International Court of Justice