



Award under UNIDROIT Principles upheld in Paris

04 March 2020

Sebastian Perry



The Palais de Justice in Paris, which is home to the Court of Appeal of Paris (Credit: iStock/benedek)

An ICC tribunal did not exceed its mandate by deciding a dispute between Indian and Romanian parties exclusively on the basis of the UNIDROIT Principles, a French court has ruled.

On 25 February, the Paris Court of Appeal rejected Indian company Prakash Steelage's challenge to the award in favour of Uzuc, part of Romania's SCR Group.

Uzuc obtained the award for €1 million plus interest in 2017 in a dispute over a contract for the supply of stainless steel tubing. French tribunal chair **Philippe Cavalieros** (now of Simmons & Simmons) and Romanian **Grigore-Virgil Florescu** formed the majority that issued the award, while Indian co-arbitrator **Rajan Jodhraj Kochar** dissented.

Among its grounds of challenge, Prakash Steelage argued that the tribunal had violated its mission by making an award on the basis of equity and applying the 2010 UNIDROIT Principles of International Commercial Contracts rather than Indian law, which it argued was the law chosen by the parties.

The court observed that the parties had been at odds during the arbitration over the law applicable to the dispute, with Uzuc arguing for Romanian law and Prakash Steelage for Indian law.

After inviting submissions on the question, including the possibility of applying transnational rules of law, the tribunal had found it was empowered to apply the rules of law it found appropriate, based on the parties' agreement, the ICC rules and the French code of civil procedure. Noting the contract was "largely international", it applied the UNIDROIT Principles.

The court dismissed arguments the case had been decided on the basis of equity or that the parties had agreed on Indian law. It also rejected other grounds of challenge, including that the tribunal lacked jurisdiction and violated due process, and that the award violated international public order.

Ioana Knoll Tudor of Jeantet in Paris, who represented Uzuc in the set-aside proceedings, says: "The novelty of the Court of Appeal decision lies in the position taken by the court on the law applicable to the dispute: the court confirmed that an ICC tribunal may decide exclusively on the basis of the UNIDROIT Principles, in the event the parties do not agree on the applicable law."

She adds, "To my knowledge, there are very few arbitral awards in which the law applicable to the dispute is constituted exclusively by the UNIDROIT principles and even fewer decisions in which a national court has confirmed such application."

Uzuc was represented in the arbitration by Romanian firm Zamfirescu Racoti Vasile & Partners. Prakash Steelage initially used Indian firm Mulla & Mulla & Craigie Blunt & Caroe, later turning to Sinha Associates and Kevic Setalvad.

UNIDROIT is an intergovernmental organisation with 63 member states dedicated to harmonising international business law.

Uzuc v Prakash Steelage

Before the Paris Court of Appeal

Counsel to Prakash Steelage

- Lexavoué

Matthieu Boccon-Gibod

- Cabinet Elie Salhab

Camille Hayek

Counsel to Uzuc

- Pellerin - de Maria – Guerre

Luca De Maria

- Jeantet

Thierry Brun and Ioana Knoll Tudor in Paris

In the ICC arbitration

Tribunal

- **Philippe Cavalieros** (France) (president)
- **Grigore-Virgil Florescu** (Romania)
- **Rajan Jodhraj Kochar** (India)

Counsel to Uzuc

- Zamfirescu Racoti Vasile & Partners

Cosmin Vasile and **Violeta Saranciuc** in Bucharest

Counsel to Prakash Steelage

- Sinha Associates
- Kevic Setalvad

Sumi Patni

- Mulla & Mulla & Craigie Blunt & Caroe

DM Popat and **Bhavesh Panjuani** in Mumbai

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