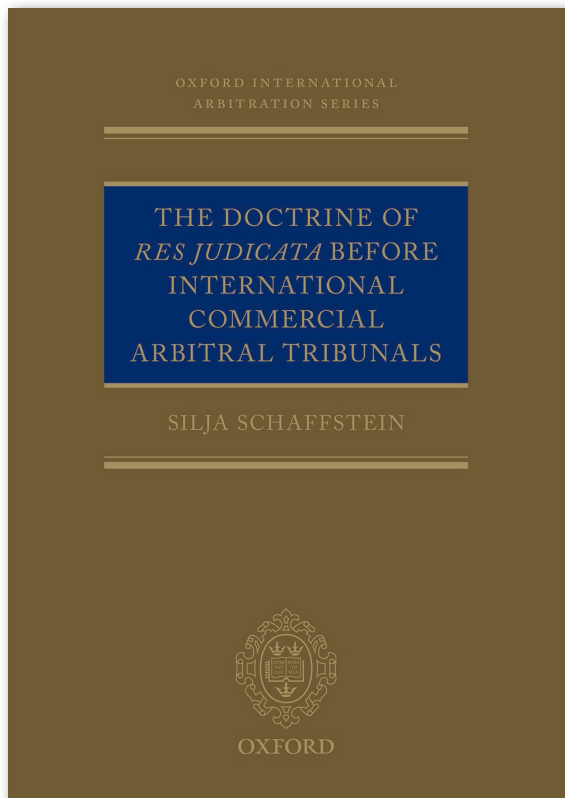


The Doctrine of Res Judicata Before International Commercial Arbitral Tribunals

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By **Silja Schaffstein**, Associate, Lévy Kaufmann-Kohler, Attorneys-At-Law

Today, international commercial disputes regularly involve multiple parties, contracts, and issues. The number of disputes that are tried in two or more different forums has increased, giving rise to difficult issues regarding the conclusive and preclusive effects of prior judgments or awards. The doctrine of res judicata, which requires that a final decision by a court or arbitral tribunal be conclusive and that it should not be re-litigated, is of increasing significance. Dr Silja Schaffstein provides practical and comprehensive guidelines for matters of res judicata for international commercial arbitration practitioners.

- Offers an incisive cross-jurisdictional analysis of how court and arbitral decisions can impact on each other
- Sets out a full survey of applicable case law
- Identifies a series of guidelines to support the treatment of res judicata issues in international commercial arbitration

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Reviews and Endorsements

“The superb treatise by Silja Schaffstein offers a stimulating study of res judicata in international arbitration, examining analogues in national litigation, public international law and conflicts-of-law principles. Comprehensive and thoughtful, her book will assist both scholars and practitioners in grappling with a subject that continues to resist facile solutions.”

Rusty Park, Professor of Law, Boston University; President, London Court of International Arbitration.

“In times of an ever-increasing number of parallel and satellite proceedings in international arbitration, the question of a decision’s res judicata effect on any future proceeding across national frontiers has reached key importance. As there is no uniform approach to dealing with this issue in national codes of civil procedure or arbitration laws, the need for the development of a transnational standard cannot be overstated. Dr Schaffstein’s remarkable treatise offers a welcome contribution to such a development. At the same time, it is a useful guide for practitioners, encountering specific questions in regard to res judicata in international arbitral practice. As such, the study is an indispensable addition to any library on international arbitration.”

Professor Klaus Peter Berger, Professor of Law, University of Cologne; Founder and Executive Director, Center for Transnational Law (CENTRAL); President, German Institution of Arbitration (DIS).

“Silja Schaffstein’s new book, *The Doctrine of Res Judicata before International Commercial Arbitral Tribunals* does long overdue justice to a topic that has received all too little sustained attention in the literature and jurisprudence alike. It will rightly guide all future treatments of the subject.”

Professor George Bermann, Director, Center for International Commercial and Investment Arbitration, Columbia University. Editor-in-Chief, American Review of International Arbitration.

“Schaffstein’s careful analysis of the present situation and meaningful proposals on ways to approach the situation going forward arrive at an opportune time in the midst of this debate ... Her work as a whole can be considered an important new asset to arbitration practitioners which will greatly facilitate the promulgation of what should today be considered the correct approach to the issue of res judicata in arbitration. In particular, the rules she has proposed will be a very valuable tool for arbitrators who decide to follow the transnational path when rendering a decision on res judicata.”

Nathalie Voser, Partner Schellenberg Wittmer Ltd, Zürich, Professor of Law, University of Basel

“Dr. Schaffstein’s treatise on res judicata in international commercial arbitration is a highly valuable contribution to an aspect of international arbitration law with delicate theoretical implications and great practical relevance. It will certainly become a starting point for any analysis of the res judicata effects of awards, especially by arbitral tribunals, and should contribute to a shared approach to the subject.”

Professor Luca Radicati di Brozolo, Catholic University of Milan School of Law; Partner, Arblit Radicati di Brozolo Sabatini Benedettelli; Fountain Court Chambers

“This book provides a valuable guide to the theories and practical applications of res judicata in international commercial arbitration, an excellent and topical subject on which there is little other substantial publication.”

Julian DM Lew QC, Professor of Law, Head of the School of International Arbitration, Queen Mary University of London; FCI Arb, Barrister/International Arbitrator, 20 Essex Street, London.

“Silja Schaffstein’s new book sheds light on the complex questions that arise in this context through a thorough analysis of the approaches taken in common and civil law jurisdictions, international law, and commercial arbitral jurisprudence. Her insights and the suggestion of transnational rules for the principle’s application will be extremely useful for arbitration practitioners and make a highly welcome contribution to the debate in this field.”

Hanno Wehland, PhD, Arbitration Practitioner and Author of *The Coordination of Multiple Proceedings in Investment Treaty Arbitration* (OUP, 2013)