

X v. Y, Award, CAM Case No. 13209, 1 December 2010

Stefano Azzali, Chamber of Arbitration of Milan;

Benedetta Coppo, Chamber of Arbitration of Milan

Headnote

In X v. Y, the sole arbitrator found that the UN Convention on Contracts for the International Sale of Goods (CISG) is applicable to the dispute and declared the contract partially void (1 December 2010)

Digest

The dispute is related to a sales contract (hereinafter “the Contract”) between the Italian company X and the Turkish company Y. The Contract was concluded for the sale of three lines for the production of PVC items. The dispute arose when X claimed that Y did not pay the entire price of the goods, while Y claimed that all the three lines were not in conformance with the Contract.

After the dispute arose, the parties signed an arbitration agreement providing that the dispute itself, as well as any other dispute arising out of the Contract to be settled by arbitration under the Rules of the Chamber of Arbitration of Milan. The said agreement called for the appointment of a sole arbitrator and provided that Italian law is the applicable law. As to this point, X called for the application of the U.N. Convention on Contracts for the International Sale of Goods (hereinafter “CISG”) and Y claimed that the Italian Civil Code is applicable.

The sole arbitrator found the CISG applicable. The arbitrator reasoned that by choosing the Italian law as the law applicable to the case, the parties have included the uniform substantive law Conventions incorporated by it. Since Italy is a party to the CISG, and since the grounds for its application were met in the case at hand (as per Arts. 2 and 3 CISG), the Convention should apply under Art. 1.1(b) CISG. Art. 1.1(b) states that the Convention “applies to contracts of sale of goods between parties whose places of business are in different States: [...] (b) when the rules of private international law lead to the application of the law of a Contracting State”. In addition, the arbitrator noted that the parties had not excluded the application of the CISG (see Art. 6 CISG), and that the “general terms and conditions” of the Contract also referred to it. With regard to the non-conformance of the lines, the arbitrator stated that only one of the lines did not comply with the conditions stated in the Contract. Based on the above, the arbitrator declared the Contract partially void in accordance with Art. 51.2 CISG. Parties: unknown, case no: unknown, Chamber of Arbitration of Milan, Italy.