

Arbitration and Crime

Dealing with Allegations of Economic Crime in Arbitration

Conference

Thu 11 – Fri 12 January 2018

Basel, Switzerland



Both in investment and in commercial arbitration, it has become more and more frequent that a party raises the objection of corruption, money laundering, fraud or bid rigging. The challenges this presents for arbitrators and parties are considerable: What are the limits of the objection, how do you prove it, how can you fight unfounded allegations? If proven, the problems really only begin: What are the consequences? Is jurisdiction denied or is the issue dealt with on merits? How does one balance a huge claim denied against a doubtful victory, in particular where both parties carry part of the blame?

Thursday, 11 January 2018

Time	
19.00	Pre-conference apéro and dinner in Hotel Krafft (Rheingasse 12, 4058 Basel)

Friday, 12 January 2018

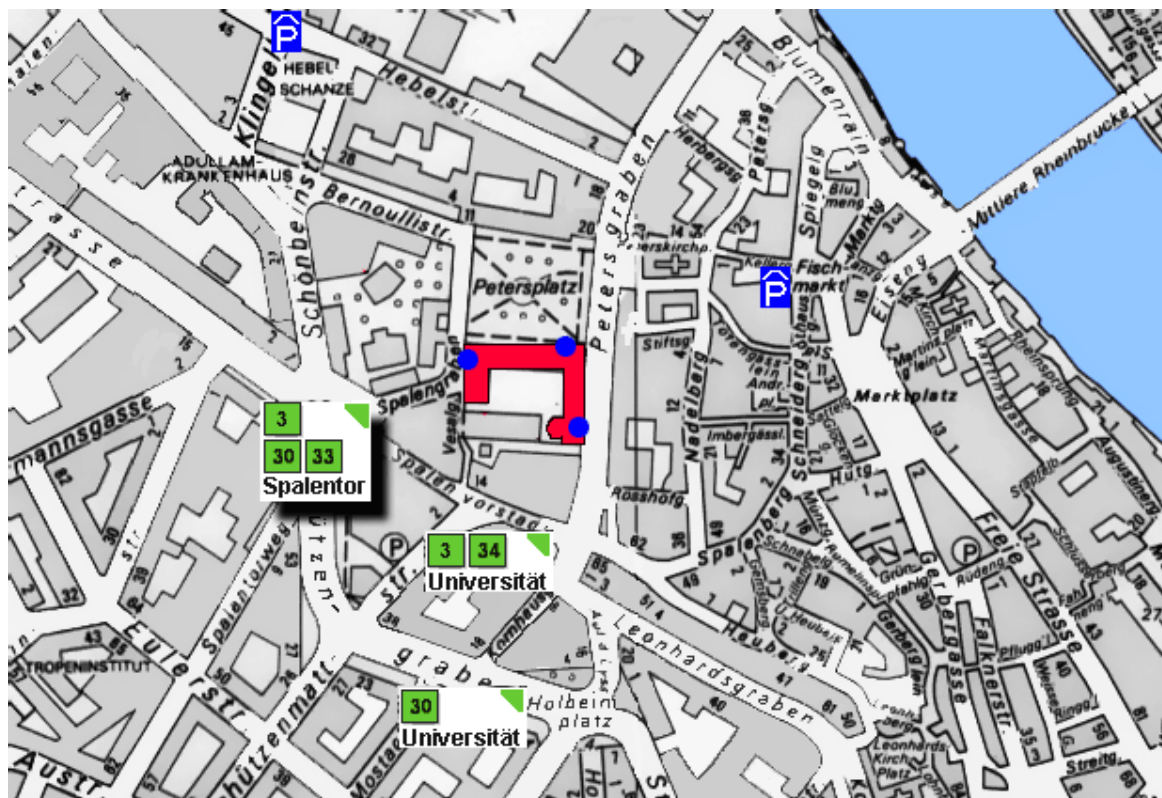
Time	Agenda item	
08.30	Welcome coffee	
09.00-09.15	Welcome / Introduction	Mark Pieth, Basel University Elliott Geisinger, Schellenberg Wittmer Ltd, President ASA
09.15-10.15 <i>Panel & plenary discussion</i>	Corruption, money laundering, fraud and bid rigging as public order issues in investment and commercial arbitration <i>Addressing the impact of international anti-corruption and anti-money laundering conventions</i>	Chair: Gemma Aiolfi, Basel Institute on Governance Panel: <ul style="list-style-type: none"> • Nicola Bonucci, Legal Director OECD • Stanimir Alexandrov, Stanimir A. Alexandrov PLLC • Marin Mrčela, President of the Group of States against Corruption (GRECO), Council of Europe • Anne Peters, Max Planck Institute for Comparative Public Law and International Law • Philipp Lüttmann, BDO AG
10.15-10.45	Coffee break	
10.45-11.45 <i>Short case presentations & discussion</i>	Case studies: e.g. <ul style="list-style-type: none"> • <i>Metal-Tech v. Uzbekistan</i> (ICSID Case No. ARB/10/3) • <i>Spentex v. Uzbekistan</i> (ICSID Case No. ARB/13/26) • <i>Fraport v. Philippines</i> (ICSID Cases No. ARB/03/25 and ARB/11/12) • <i>Siemens v. Argentina</i> (ICSID Case No. ARB/02/8) • <i>IPOC International Growth Fund Ltd v. LV Finance Group Ltd</i> • <i>Bangkok Metropolitan Administration v. Steyr-Daimler-Puch AG</i> 	Chair: Carolyn B. Lamm, White & Case LLP <ul style="list-style-type: none"> • Claus von Wobeser, Von Wobeser y Sierra, S.C. • Lucinda A. Low, Steptoe & Johnson LLP • Balz Gross, Homburger • David A. Lawson, Bonnard Lawson
11.45-12.30 <i>Panel & plenary discussion</i>	How to prove criminal conduct? Evidence issues: <ul style="list-style-type: none"> • <i>Difficulties in the marshalling of evidence: the role of forensic service providers</i> • <i>Admissibility of evidence</i> • <i>Significance of red flags</i> • <i>Adverse inferences</i> 	Chair: Cecily Rose, Leiden University Panel: <ul style="list-style-type: none"> • Gianfranco Mautone, PwC AG • Juan Fernández-Armesto, Armesto & Asociados • Yves Klein, Monfrini Bitton Klein • Kathrin Betz, Basel University

12.30-13.30	Lunch	
13.30-14.30 <i>Panel & plenary discussion</i>	<p>Legal challenges</p> <ul style="list-style-type: none"> • <i>Protection against unsubstantiated allegations of crime</i> • <i>Manipulation to obtain an investment vs. manipulation during performance of an investment</i> • <i>The relationship between arbitration and domestic criminal law: impact of domestic criminal proceedings</i> 	<p>Chair: Lord Peter Goldsmith QC, Debevoise & Plimpton LLP</p> <p>Panel:</p> <ul style="list-style-type: none"> • Joachim Knoll, LALIVE SA • David Huw Williams QC, Fulcrum Chambers Ltd • Vladimir Khvalei, Baker McKenzie • Nadia Darwazeh, Curtis, Mallet-Prevost, Colt & Mosle LLP
14.30-15.30 <i>Panel & plenary discussion</i>	<p>Consequences of proven crime in arbitration</p> <ul style="list-style-type: none"> • <i>Jurisdiction, admissibility, and the clean hands doctrine in investment arbitration</i> • <i>Voidability of the underlying contract</i> • <i>Public policy and enforcement of arbitral awards</i> 	<p>Chair: Yves Fortier QC, Cabinet Yves Fortier</p> <p>Panel:</p> <ul style="list-style-type: none"> • Bruno Cova, Paul Hastings LLP • Craig Orr QC, One Essex Court • Stéphane Bonifassi, BONIFASSI Avocats • Nathalie Voser, Schellenberg Wittmer Ltd
15.30-15.45	Short coffee break	
15.45-16.30 <i>Concluding panel & plenary discussion</i>	<ul style="list-style-type: none"> • <i>'Perverse effects': How to balance the fact that both parties carry responsibility?</i> • <i>An easy option out of one's obligations?</i> • <i>A duty of host states to prosecute corrupt officials?</i> 	<p>Chair: Mark Pieth, Basel University</p> <p>Panel:</p> <ul style="list-style-type: none"> • Stephan Wilske, Gleiss Lutz • Carolyn B. Lamm, White & Case LLP • Nicola Bonucci, Legal Director OECD • Monty Raphael QC, Peters & Peters Solicitors LLP
16.30-16.40	Conclusion	Krista Nadakavukaren Schefer, Swiss Institute of Comparative Law

Practical Information

Conference Venue

The conference takes place at the main building (Kollegienhaus, marked in red on the map below) of the University of Basel, Petersplatz 1, 4001 Basel, Switzerland, in the Aula (large auditorium on the ground floor). Wardrobe facilities and event WiFi are available.



Conference Fee

The conference fee is CHF 300.00 per person (CHF 200.00 for students). Payment details will be communicated upon registration.

Accommodation

Conveniently located hotels in Basel include:

- Hotel Krafft (www.krafftbasel.ch)
- Hotel Bildungszentrum 21 (www.bz21.ch)

Pre-Conference Dinner

You are invited to join us for an (informal) pre-conference dinner on Thursday, 11 January, at 19.00 in Restaurant Krafft (www.krafftbasel.ch).

Registration

Please register until **30 November 2017** by writing an e-mail to kathrin.betz@unibas.ch.

Website

For conference updates, please visit <https://arbcime.org/conference>.