

Competence Centre: Arbitration and Crime

Background: Why such a Centre?

Many large contracts include arbitration clauses. Increasingly, both in commercial and in investment arbitration, arbitrators are confronted with allegations of illegal acts like fraud, corruption, money laundering or bid rigging etc. Parties and arbitrators are typically in a delicate situation as they lack the support of law enforcement agencies and coercive measures. The allegations of illegality can be a powerful weapon if substantiated. However, they are also used as an easy way to skirt obligations. Dealing with illegality poses problems of a substantive nature. But the rules of evidence also frequently require expertise. The Competence Centre Arbitration and Crime combines such expertise.

What does the Centre offer?

The Centre unites academic and practical experience. It is therefore able:

- to advise parties on strategic issues related to crime and arbitration;
- to write legal opinions and to defend them;
- to publish academic papers.

Experience:

Members of the Centre have participated in a number of proceedings as experts, including:

- *Spentex Netherlands B.V. and Republic of Uzbekistan*, ICSID Case No. ARB/13/26
- *Fraport AG Frankfurt Airport Services Worldwide and The Republic of the Philippines*, ICSID Cases No. ARB/03/25 and ARB/11/12
- ICC Case No. 19196
- *Bangkok Metropolitan Administration (BMA) v. Steyr-Daimler-Puch AG*, ICC Case No. 16768
- *Philippine International Air Terminals Co., Inc. (PIATCO) v. The Government of the Republic of the Philippines*, ICC Case No. 12610
- *IPOC International Growth Fund Ltd v. LV Finance Group Ltd (ad hoc)*

Publications:

- Pieth, Mark, Lucinda A. Low and Nicola Bonucci (eds.) (2014), *The OECD Convention on Bribery, A Commentary*, 2nd edn, Cambridge
- Pieth, Mark (2011), 'Contractual Freedom v. Public Policy Considerations in Arbitration', in: Büchler, A./Müller-Chen, M. (eds.), *Private Law, national-global-comparative, Festschrift für Ingeborg Schwenzer zum 60. Geburtstag*, Band II, Bern, 1375
- Pieth, Mark (2003), 'Transnational commercial bribery: Challenge to arbitration', in: Karsten, K./Berkeley, A. (eds.), *Arbitration: Money Laundering, Corruption and Fraud, ICC Dossiers*, Paris, 41
- Betz, Kathrin (2017), *Proving Bribery, Fraud and Money Laundering in International Arbitration, On Applicable Criminal Law and Evidence*, Cambridge
- Betz, Kathrin (2017), 'Economic crime in international arbitration', 35 *ASA Bulletin* 281

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