

School of International Arbitration and ICC Institute of World Business Law
33rd Annual Joint Symposium of Arbitrators
London, 12 March 2018

Venue: Herbert Smith Freehills LLP, Exchange House,
Primrose St, London EC2A 2EG

ETHICS IN INTERNATIONAL ARBITRATION:
ARBITRATORS, COUNSEL, EXPERTS, WITNESSES, PARTIES & FUNDERS

The 33rd Joint Symposium of the School of International Arbitration and the ICC Institute of World Business Law will examine the topical subject of *Ethics in International Arbitration*. While the discussion on ethics has often focused on ethical duties for arbitrators and counsel, the speakers of the Symposium will discuss a wide range of topics in addition to ethical duties for arbitrators and party representatives, including ethical duties for experts, witnesses, parties, and funders in international arbitration. Participants at the Symposium will have the opportunity to listen to practical and informative presentations from experienced arbitration lawyers, arbitrators, counsel and funders.

PROGRAMME

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| Joint Chair | Stavros Brekoulakis , Professor, School of International Arbitration, QMUL Yves Derains , Chairman, ICC Institute of World Business Law |
| 09:00 – 9:30 | <i>Registration and coffee</i> |
| 09.30-09.45 | Welcome address Stavros Brekoulakis , Professor, School of International Arbitration, QMUL |
| 09.45-11.00 | Ethical Rules and Duties for Arbitrators Issues to be addressed: |

- What are the ethical obligations of arbitrators and what is the source of such obligations? What kind of conduct should be considered inappropriate for arbitrators?
- Is there a trend for an increasing number of challenges against arbitrators lately? More generally, is there an increasing tension between arbitrators and counsel? If yes, is the practice of unilateral appointments responsible for the increasing number of challenges and tension in arbitration?
- What are the standards and tests for bias in different jurisdictions? Are there different standards for party-appointed arbitrators than for presiding / sole arbitrators?
- What are greatest ethical challenges for today's arbitrators? Are the multiple roles of a modern practitioner, who may act as counsel, expert and arbitrator, threatening arbitrators' impartiality?

Speakers:

- **Paula Hodges**, QC Partner, Herbert Smith Freehills LLP, London
- **Audley Sheppard**, QC Partner, Clifford Chance LLP, London
- **Fernando Mantilla-Serrano**, Partner, Latham & Watkins, Paris
- **Laurent Lévy**, Partner, Lévy Kaufmann-Kohler, Geneva

11.00-11.15

Coffee Break

11.15-12.30

Ethical Rules and Duties for Party Representatives in International Arbitration

Issues to be addressed:

- What are the ethical obligations of party representatives and what is the source of such obligations? What kind of conduct should be considered inappropriate for party representatives?
- Have the IBA Guidelines on Party Representatives in International Arbitration made any difference in counsel's conduct before international tribunals? Are there any practical issues in applying the IBA Guidelines? Are there any areas that can be improved in the future?
- How do arbitration institutions address ethical issues for party representatives? What more needs to be done and by whom?
- Are there different ethical perspectives for party representatives between civil and common law counsel in international arbitration? What are the main areas of tension between civil and common law counsel?

Speakers:

- **Domitille Baizeau**, Partner, Lalive, Geneva
- **Ania Farren**, Partner, Berwin Leighton Paisner LLP, London
- **Asli Yilmaz**, Counsel, ICC, Paris
- **James Castello**, Partner, King & Spalding International LLP, Paris

12.30-14.15

Lunch

14.15-15.30

Ethical Duties for Experts, Witnesses and Parties in International Arbitration

Issues to be addressed:

- What are the ethical obligations of experts in international arbitration and what is the source of such obligations? Is the common perception of experts as hired guns justified?
- What are the ethical obligations of witnesses in international arbitration and what is the source of such obligations? What are the potential sanctions for witnesses who violate their ethical obligations?
- What are the ethical obligations of parties in international arbitration and what is the source of such obligations?
- What are the main ethical challenges of counsel in dealing with experts, witnesses and parties in international arbitration?

Speakers

- **Jean-Luc Guitera**, Partner, KPMG SA, Paris
- **Stephan Wilske**, Partner, Gleiss Lutz, Stuttgart
- **Abhijit Mukhopadhyay**, President (Legal) and General Counsel, Hinduja Group
- **Kate Davies**, Partner, Allen & Overy, London

15.30-15.45

Coffee break

15.45-17.00

Ethical Rules and Duties for Funders in International Arbitration

Issues to be addressed:

- What are the ethical obligations of funders in international arbitration and what is the source of such obligations?
- Should funders and funded parties be subject to rules for disclosure in international arbitration? In which circumstances? What ethical challenges third-party funding presents for arbitrators?
- Should funders be directly liable for adverse costs in international arbitration? If yes, what are the best ways to achieve this in international arbitration?
- What are the ethical challenges for counsel and law firms in dealing with third-party funding? What ethical duties do they owe to their parties especially in portfolio funding? What are the ethical challenges for counsel and law firms in the context of contingency fee agreements?

Speakers:

- **Susan Dunn**, Founder, Harbour, London
- **Christopher Harris**, 3 Verulam Buildings, London
- **Jean-Christophe Honlet**, Partner, Dentons, Paris
- **Michael Young**, Partner, Quinn Emanuel Urquhart & Sullivan LLP, Paris

17.00-17.15

Conclusion

Yves Derains, Chairman, ICC Institute of World Business Law