



ICC Institute Advanced Level Training Programme
Oral advocacy in international arbitration: the good, the bad and the in between

Chair of the training:

Georges Affaki

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Professor of Law, University of Paris II

Council Member, ICC Institute of World Business Law

Monday 3 April 2017

08.30 – 09.00 *Welcome coffee*

09.00 – 09.15 **Welcoming address, introduction and presentation of the mock case**

- **Georges Affaki**

09.15 – 10.15 **Oral versus written advocacy: counsel and tribunal perspectives**

- Defining the elements of “oral advocacy”: pleadings, witnesses, experts, demonstratives, other features
 - Early assessment of the pros and cons of the elements of “oral advocacy”: the opportunities and the limitations depending on the initial presentation of the dispute
 - Perspectives as claimant versus as respondent
 - The interrelationship between the assessment and the selection of the tribunal members: party autonomy vs. tribunal direction
 - The interrelationship between the assessment and the applicable law(s) including respecting burden of proof and burden of persuasion
 - The assessment and the desired role for the tribunal: “inquisitorial” vs. “adversarial” vs. something in between
- **Georges Affaki**
 - **Zoe O’Sullivan QC**, Barrister and Arbitrator, Chambers of Lord Ghabiner QC, One Essex Court, United Kingdom

10.15 – 10.45 **Q&A**

10.45 – 11.00 *Coffee break*

- 11.00 – 11.45 **Oral advocacy, party autonomy and the determination of the facts of the dispute: the opening statement at the hearing**
- The hearing and oral opening statements: good practices, bad practices, best practices
 - Orally pleading the case “through” prior written memorials: counsel perspectives, tribunal perspectives
 - Opening statements and post-hearing briefs: the desired relationship
 - Exhibits and visuals and their role in oral advocacy and decision-making
- **Teresa Giovannini**, Partner, Lalive, Switzerland; Member, ICC International Court of Arbitration; Council Member, ICC Institute of World Business Law
 - **Simon Greenberg**, Partner, Clifford Chance Europe LLP, France; Alternate Member, ICC International Court of Arbitration
- 11.45 – 13.00 **Case scenarios and Q&A**
- 13.00 – 14.00 *Lunch (The Thai Kitchen, Park Hyatt)*
- 14.00 – 14.30 **Focus on cross-examination**
- Effective preparation for cross examination
 - Effective styles of cross-examination
 - “Remember the dead horse”: knowing when to let go
 - “Putting your case to the witness” versus character assassination
 - Lay witnesses and expert witnesses
- **Nadia Darwazeh**, Partner, Curtis, Mallet-Prevost, Colt & Mosle LLP, France
- 14.30 – 15.30 **Case scenarios and Q&A**
- 15.30– 15.45 *Coffee break*
- 15.45 – 16.15 **Oral advocacy at the main hearing**
- Orally pleading the case “through” witness examination: counsel perspectives, tribunal perspectives
 - Closing statements and post-hearing briefs: transcripts, recency and the new emphasis on speed in rendering the award
- **Philippe Leboulanger**, Founding Partner, Leboulanger & Associés, France; Member, ICC Institute of World Business Law
- 16.15 – 17.15 **Case scenarios and Q&A**
- 17.15 – 17.30 **Concluding remarks**
- **Georges Affaki**