

## Sam MOSS

Counsel



### Admission

New York, 2009

### Nationality

Canadian, Swiss, British

### Languages

English, French

German

### Practices

International Commercial Arbitration

Investment Arbitration

### Areas of focus

Construction and Infrastructure

tel: +41 58 105 2000  
email: smoss@lalive.law

Rue de la Mairie 35  
PO Box 6569  
1211 Geneva 6 - Switzerland

## BIOGRAPHY

Sam Moss is an international arbitration lawyer trained in both civil and common law, and focuses on disputes in the construction and energy sectors.

He has acted as counsel or arbitrator in numerous international arbitration proceedings conducted under the ICC Rules, the Swiss Rules, the DIAC Rules, and the ICSID Convention, and governed by a variety of substantive laws, including Swiss, Ukrainian, Qatari, US, Lithuanian, and Public International Law. He also assists clients with the management of claims in construction projects, and on the drafting and negotiation of construction contracts.

Sam Moss regularly publishes and speaks at conferences on construction disputes and arbitration, and is active in several professional organisations. He is the founder and co-chair of YConstruction, an international group for young construction arbitration practitioners, and serves as an officer of the International Bar Association's International Construction Projects Committee. He is also a member of the Swiss Arbitration Association (ASA), ASA below 40, and the Young Canadian Arbitration Practitioners. Sam Moss has been ranked for several years as a leading construction lawyer, and as a Future Leader in International Arbitration, by Who's Who Legal.

Prior to joining LALIVE, Sam Moss was Assistant Legal Counsel at the Permanent Court of Arbitration in The Hague (2006-2007), and served as a law clerk to a judge of the Quebec Court of Appeal (2005-2006).

He is pursuing an MSc in Construction Law and Dispute Resolution at King's College, London, and holds a Master of International Studies in International Law from the Graduate Institute of International and Development Studies in Geneva (2007-2009), and joint common and civil law degrees (B.C.L./LL.B. (Honours), with great distinction) from McGill University (2006), where he served as Executive Editor of the McGill Law Journal (2005-2006).

## PUBLICATIONS

### **The 2021 ICC Arbitration Rules – what revised joinder and consolidation rules mean for construction disputes**

Bernd Ehle, Sam Moss, 2021

In: The International Law Office (ILO) - Projects, Construction & Infrastructure Newsletter

### **The virtual matrix: re-thinking hearings in international arbitration**

Veijo Heiskanen, Sam Moss, Anita Subedi, 2020

LALIVE Blog, 31 August 2020

### **Construction projects and Covid-19: Three practical steps to protect your legal position and minimise future disputes**

Sam Moss, 2020

LALIVE Blog, 7 April 2020

### **Five points to look out for when signing construction contracts governed by Swiss law**

Matthias Scherer, Sam Moss, 2020

International Law Office, Newsletter (Construction), 24 February 2020

### **The Application of Swiss Law to FIDIC Contracts**

Sam Moss, Tino Schneider, 2019

In: Donald Charrett (ed.), The International Application of FIDIC Contracts: A Practical Guide, Informa Law, London, 2019

### **Model for dealing with geotechnical uncertainty: FIDIC Emerald Book for underground works**

China Irwin, Sam Moss, 2019

International Law Office, Newsletter (Construction), 29 July 2019

### **Employer termination of a construction contract**

Sam Moss, China Irwin, 2018

International Law Office, Newsletter (Construction), 5 November 2018

### **Contractors beware: clause requiring employer pre-approval of additional work costs**

Matthias Scherer, Sam Moss, 2018

International Law Office, Newsletter (Construction), 10 September 2018

### **Construction Arbitration in Switzerland**

Matthias Scherer, Bernd Ehle, Samuel Moss, 2018

In: Manuel Arroyo (Ed.), Arbitration in Switzerland - The Practitioner's Guide, 2<sup>nd</sup> ed., Wolters Kluwer, The Hague, 2018, pp. 1015-1046

### **Contractors' obligation of diligence and duty to inform persist even after termination**

Matthias Scherer, Samuel Moss, 2018

International Law Office, Newsletter (Construction), 2 July 2018

### **Pricing unilateral change orders in lump-sum contracts**

Matthias Scherer, Samuel Moss, 2018

International Law Office, Newsletter (Construction), 26 March 2018

### **No contractor liability for defects visible at final inspection except concealed defects**

Matthias Scherer, Samuel Moss, 2017

International Law Office, Newsletter (Construction), 9 October 2017

## **Implicit employer approval of progress reports**

Matthias Scherer, Samuel Moss, 2017

International Law Office, Newsletter (Construction), 13 February 2017

## **Construction (Qatar)**

Marcus C. Boeglin, Matthias Scherer, Samuel Moss, Marie-Anne Roberty-Jabbour, 2017

In: Robert S Peckar and Michael S Zicherman (Contributing Eds.), *Getting the Deal Through. Construction in 27 jurisdictions worldwide - 2017*, Law Business Research Ltd, 2017, pp. 109-114

## **Construction (Switzerland)**

Michael E. Schneider, Matthias Scherer, Bernd Ehle, Cédric Lenoir, 2017

In: Robert S Peckar and Michael S Zicherman (Contributing Eds.), *Getting the Deal Through. Construction in 27 jurisdictions worldwide - 2017*, Law Business Research Ltd, 2017, pp. 139-143

## **The consequence of skipping a mandatory pre-arbitral step**

Matthias Scherer, Samuel Moss, 2016

International Law Office, Newsletter (Construction and Energy), 5 December 2016

## **Award in commodities sector enforced despite absence of original arbitration agreement**

Matthias Scherer, Samuel Moss, 2016

Kluwer Arbitration Blog, 11 June 2016

## **Do erroneous tender documents entitle a lump-sum contractor to additional remuneration?**

Matthias Scherer, Samuel Moss, Cédric Lenoir, 2016

International Law Office, Newsletter (Construction), 23 May 2016

## **İnşaat Uyuşmazlıklarının İsviçre Milletlerarası Tahkim Kuralları Çerçevesinde Etkin Çözümü ("The efficient resolution of construction disputes under the Swiss Rules of International Arbitration – The role of The Swiss Chambers' Arbitration Institution")**

Domitille Baizeau, Samuel Moss, 2016

In: Atamer et al. (Eds.), *Uluslararası İnşaat Sözleşmeleri ve Uyuşmazlık Çözüm Yolları, On İki Levha*, 2016, pp. 207-226

## **Swiss law vs English law on contract interpretation: Is Swiss law better suited to the realities of international construction contracts?**

Samuel Moss, 2015

International Construction Law Review, 2015, Issue 4, pp. 470-492

## **UK versus Swiss law on contract interpretation: which approach is best suited to international construction contracts?**

Samuel Moss, Shona Frame, 2015

Construction Law International, Vol. 10, Issue 3, pp. 9-15

## **Construction (Qatar)**

Marcus C. Boeglin, Matthias Scherer, Samuel Moss, Marie-Anne Roberty-Jabbour, Tabara Sy, 2015

In: Robert S. Peckar and Michael S. Zicherman (Contributing Eds.), *Getting the Deal Through: Construction in 26 jurisdictions worldwide – 2015*, Law Business Research Ltd, 2015, pp. 97-102

## **Construction (Switzerland)**

Michael E. Schneider, Matthias Scherer, Bernd Ehle, Samuel Moss, 2015

In: Robert S. Peckar and Michael S. Zicherman (Contributing Eds.), *Getting the Deal Through: Construction in 26 jurisdictions worldwide – 2015*, Law Business Research Ltd, 2015, pp. 120-124

## **Mass Claims Processes Under Public International Law**

Sandrine Giroud, Samuel Moss, 2015

In: Lein et al. (éds.), *Collective Redress in Europe – Why and How?*, British Institute of International and Comparative Law, London, 2015, pp. 481-503.

## **Guide to ADR in Construction in Switzerland**

Matthias Scherer, Samuel Moss, 2014

IBA International Construction Projects Committee – Country Guides on ADR in Construction

## **Swiss Supreme Court analyses enforceability of pre-arbitral procedure in multi-tier dispute resolution provision (FIDIC DAB)**

Matthias Scherer, Samuel Moss, 2014

Kluwer Arbitration Blog, 1 October 2014

## **Switzerland – Supreme Court: DAB proceedings precondition for arbitration under FIDIC Conditions**

Matthias Scherer, Samuel Moss, 2014

International Law Office, 2014, Newsletter (Construction)

## **Switzerland – Will new Swiss sanctions against Russia affect construction projects?**

Matthias Scherer, Samuel Moss, 2014

International Law Office, 2014, Newsletter (Construction)

## **Swiss and English courts analyse enforceability of multi-tier dispute resolution provision providing for DAB proceedings (FIDIC, clause 20)**

Matthias Scherer, Samuel Moss, 2014

ASA Bulletin 4/2014, Vol. 32, pp. 849-853

## **Construction (Qatar)**

Marcus C. Boeglin, Matthias Scherer, Ramy Saleh, Marie-Anne Roberty Jabbour, Sam Moss, 2014

In: Robert S Peckar (Contributing Ed.), *Getting the Deal Through. Construction in 31 jurisdictions worldwide - 2014*, Law Business Research Ltd, 2014, pp. 124-130

## **Construction (Switzerland)**

Michael E. Schneider, Matthias Scherer, Bernd Ehle, Samuel Moss, 2014

In: Robert S Peckar (Contributing Ed.), *Getting the Deal Through. Construction in 31 jurisdictions worldwide - 2014*, Law Business Research Ltd, 2014, pp. 156-161

## **Additional works performed with owner's knowledge but without formal approval**

Matthias Scherer, Samuel Moss, 2014

International Law Office, 2014, Newsletter (Construction)

## **Construction Arbitration in Switzerland**

Matthias Scherer, Bernd Ehle, Samuel Moss, 2014

In: Manuel Arroyo (Ed.), *Arbitration in Switzerland - The Practitioner's Guide: Commentary*, Wolters Kluwer, The Hague, 2013, pp. 1179-1202

## **Changes to The Swiss Law on General Terms and Conditions: What Do Construction Practitioners Need to Know?**

Bernd Ehle, Samuel Moss, 2013

Construction Law International, Volume 8, Issue 2, pp. 17-21

## **Switzerland**

Michael E. Schneider, Matthias Scherer, Bernd Ehle, Samuel Moss, 2013

Getting the Deal Through - Construction 2014

**Enforcement: Swiss courts may dispense with the requirement of a full certified translation of an award under Art. IV(2) of the New York Convention**

Matthias Scherer, Samuel Moss

Kluwer Arbitration Blog, 6 August 2012

**A primer on pathological arbitration clauses in Swiss law**

Matthias Scherer, Samuel Moss

Kluwer Arbitration Blog, 2 February 2012

**Switzerland**

Michael E. Schneider, Matthias Scherer, Samuel Moss, Nathalie Bigler, 2010

In: Robert S Peckar (Ed.), *Getting the Deal Through - Construction 2011 in 35 jurisdictions worldwide*, 2010, Getting the Deal Through, 2011, pp. 178-183

**Failure of performance tests and contractual grounds for termination**

Matthias Scherer, Samuel Moss, 2010

International Law Office, 2010, Newsletter

**Domestic review of investment treaty arbitrations: the Swiss experience**

Matthias Scherer, Veijo Heiskanen, Samuel Moss, 2009

ASA Bull. 2/2009, Vol. 27, pp. 256-279

**Resisting enforcement of a foreign arbitral award under the New York convention**

Matthias Scherer, Samuel Moss, 2008

Inter-Pacific Bar Association Journal, September 2008, pp. 17-26

---

## CONFERENCES

**Ukrainian Arbitration Association**

UAA Online Arbitration School 2021

22 April 2021

Speaker: Introduction to Arbitration in Construction Disputes

**International Bar Association Annual Conference (Virtually Together 2020)**

International Construction Projects Committee – Where's the Money? Impact of insolvency on a construction project and on the parties in the contractual pyramid

16 November 2020

Moderator

**University of Southern California Gould School of Law / JAMS Arbitration Institute Webinar Series: The Future of Dispute Resolution**

Global Construction Dispute Resolution Update – 2020

14 September 2020

Speaker: Use of Emergency Arbitrators in Construction Matters; and Developments in Standard Forms

**Australia-Africa Minerals & Energy Group (AAMEG)**

Miner's Legal Toolbox for Dealing with Impacts of COVID-19

7 May 2020

Speaker

## **YConstruction**

How lessons learned from construction disputes can help improve contract drafting (and project management)

Seoul, London, Zurich, 25 September 2019

Organiser

## **YConstruction**

Help! My case deals with engineering defects: Working with technical experts

Paris, Dubai, Singapore, 3 April 2019

Organiser

## **YConstruction**

The new FIDIC Rainbow: What does it mean for construction arbitration?

Singapore, London, Dubai, 18 October 2019

Organiser

## **YConstruction**

The Digitalization of Construction Projects: what does it mean for construction arbitration?

Dubai, London, Geneva, 7 June 2019

Organiser

## **International Bar Association (IBA)**

6th Construction Projects from Conception to Completion Conference

Brussels, 15 September 2017

Speaker: Drafting Extension of Time Clauses: The Civil Law Perspective

## **Young Canadian Arbitration Practitioners/ICC YAF**

Fall Symposium: A World Tour of Recent Legislative and Judicial Developments

Toronto, 13 October 2016

Speaker: Don't hold your breath, and other lessons from Europe

## **ICC Lex Mercatoria**

4th International Conference on International Sales Law and International Commercial Arbitration

Minsk, Belarus, 27 November 2015

Speaker: The FIDIC Conditions in the light of the laws of civilian jurisdictions

## **ICDR Young & International**

The Role of Counsel in Document Production: How Far Should the Duties Go? What Are the Sanctions?

Geneva, 16 April 2015

Speaker: A critical view of the IBA Guidelines on Party Representation in International Arbitration

## **Young ICCA (International Council for Commercial Arbitration)**

Interim Measures in International Commercial Arbitration

Brussels, 30 January 2015

Speaker: Effective advocacy in defending against applications for interim measures

## **International Bar Association Annual Conference**

International Construction Projects Committee – Say What? The Rules of Interpretation at Civil and Common Law

Tokyo, 21 October 2014

Speaker: The Swiss approach to contract interpretation – Better suited to the realities of international construction contracts?

## **ICC Young Arbitrators Forum (YAF)**

IBA Guidelines on Party Representation

Paris, 22 July 2014

Speaker: Remedies for Misconduct

## **ASA Below 40**

Court assistance in international arbitration – how to use it wisely and efficiently

Geneva, 23 May 2014

Speaker: Protecting your client's interests by means of court-ordered interim relief: typical situations and most effective remedies

## **University of Bucharest**

International Conference "Modern Trends in International Commercial Arbitration"

Bucharest, 6-7 September 2012

Speaker: Special Forms of Arbitration - Construction Arbitration

---

## ACADEMIC POSITIONS

### **Lecturer**

Fribourg University School of Law

Master of Laws (LL.M.) in Cross-Cultural Business Practice International Construction Contracts  
(including dispute resolution)

2018- 2019

### **Lecturer: Substantive protections**

UNITAR E-learning Course

Introduction to Investment Arbitration. A joint LALIVE/UNITAR e-learning initiative

March-April 2011, May-June 2012, April-May 2014

---