



THE ARBITRATOR'S DUTY TO DISCLOSE POTENTIAL CONFLICTS

Zurich, 8 December 2017

Venue

Homburger AG
Hardstrasse 201
Prime Tower
8005 Zurich

Objective

One of the first challenges young practitioners face when they receive their first arbitral appointment is the written disclosure statement. The ICC Rules require that the prospective arbitrator disclose to the Secretariat any facts or circumstances which might be of such nature as to call into question the arbitrator's independence in the eyes of the parties, as well as any circumstances that could give rise to reasonable doubts as to the arbitrator's impartiality.

Yet many issues relating to arbitrator disclosures are unresolved. Such issues include what precisely must be disclosed, when, and by whom. The International Bar Association has issued the IBA Guidelines on Conflicts of Interest in International Arbitration that also address arbitrator disclosures. But these Guidelines are neither complete nor uniformly applied. In 2016, the ICC issued a "guidance note" to help clarify the disclosure requirements for arbitrators, which is now included in the ICC Note to the Parties and Arbitral Tribunals on the Conduct of the Arbitration under the ICC Rules of Arbitration dated 1 March 2017. Still, many grey areas remain and have given rise to diverse case law in various jurisdictions.

A first panel will explore the disclosure framework and the scope of the arbitrator's duties in light of the existing guidelines and recent case law. A second panel will focus on the consequences of a failure to disclose a potential conflict, including what should be the appropriate sanction, if any, for an arbitrator's failure to disclose a potential conflict. Does it justify the annulment of the arbitral award? What recourse is available against successful or unsuccessful challenges? What consequences does a successfully challenged arbitrator face? What obligations, if any, do the parties and their counsel have and what are the consequences of a breach thereof.

Who should attend

Young international arbitration practitioners, in-house counsel, academics, students.

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PROGRAMME

- 15:30-16:00** **Registration**
- 16:00-16:15** **Welcome Remarks**
- 16:15-17:15** **1st Panel – Arbitrator Disclosures: Who, What, When and How to Disclose**
- 17:15-18:15** **2nd Panel – Non-Disclosure and its Consequences**
- 18:15-18:30** **Closing Remarks**
- 18:30-20:00** **Reception**

SPEAKERS

Liliane Djahangir

Associate, Hengeler Mueller
Frankfurt

Dániel Dózsa

Associate, Dechert
London

Eva Kalnina

Counsel, Lévy Kaufmann-Kohler
Geneva

Melissa Magliana

Counsel, Homburger
Zurich

Simon Manner

Partner, Manner Spangenberg
Hamburg

Esra Ogut

Associate, Peter & Partners
Geneva

Gabriele Ruscalla

ICC Counsel
Paris

Mladen Stojiljković

Associate, Homburger
Zurich