Joint UNCITRAL-LAC Conference on Dispute Settlement

Ljubljana, 15 March 2016

United Nations
UNCITRAL

LJUBLJANA
ARBITRATION CENTRE
AT THE CHAMBER OF COMMERCE
AND INDUSTRY OF SLOVENIA

Joint UNCITRAL-LAC Conference on Dispute Settlement

The conference is organized jointly by UNCITRAL and the Ljubljana Arbitration Centre (LAC) and will take place at the Slovenian Chamber of Commerce and Industry on Tuesday, 15 March 2016.

The conference will focus on:

- the needs and expectations of the users of international arbitration and mediation,
- the dos and don'ts of party representation,
- enforceability of settlement agreements,
- control and optimization of costs.

We are looking forward to welcoming some of the most renowned speakers from the field as well as connecting participants from around the world in particular arbitrators, lawyers representing parties in arbitrations, in-house counsels, state officials and globally operating businesses.

On the day following the conference (16 March 2016), the Ljubljana Willem C. Vis Pre-Moot will take place, which will be a good opportunity for the teams for one final practice before the Moot in Vienna.

We are looking forward to welcoming you to Ljubljana.

WHEN:
15 March 2016

WHERE:
Chamber of Commerce and Industry of Slovenia,
Dimičeva 13, Ljubljana, Slovenia

WHO:
Arbitrators, lawyers representing parties in arbitrations, state officials dealing with investor-state arbitration, in-house counsel and globally operating businesses

CONFERENCE PROGRAMME

9.30-10.00	Registration
10.00-10.10	Welcome address by the LAC Chairman
10.10-10.40	**Keynote speech:** Improvements and innovations in international arbitration *Loukas Mistelis (Queen Mary University of London)*

MORNING SESSION – Solving the dispute through mediation

10.30-11.45	**Mediation: What do users want?** *moderator: Fabien Gélinas (McGill University, Montreal)* What do businesses expect from mediation? What do they consider when choosing mediators and the institution? Should the role of mediators be purely facilitative or should they take a more proactive approach? What are the various sources of mediation? Is there a place for mediation during arbitral proceedings and what is its role? Roundtable: *Christian Aschauer (University of Graz)* *Emmanuelle Cabrol (Herbert Smith Freehills, Paris)* *Isabelle Hautot (Orange, Paris)* *Judith Knieper (Vienna)* *Nina Betetto (Supreme Court of the Republic of Slovenia, Ljubljana)*
11.45-12.15	Coffee/Tea Break
12.15-13.30	**Settlement agreement and its enforceability** *moderator: Emmanuelle Cabrol (Herbert Smith Freehills, Paris)* What is the nature of a settlement agreement: a mere contract or the result of a dispute resolution mechanism? *Aleš Galič (University of Ljubljana)* *Judith Freedberg (Miami International Arbitration Society)* Issues pertaining to enforcement of settlement agreements *Corinne Montineri (UNCITRAL)* *James E. Castello (King & Spalding, Paris)*
13.30-14.30	Lunch buffet *(hosted by TLA Top-Tier Legal Adriatic)*

AFTERNOON SESSION – Solving your dispute through arbitration

14.30-14.50	**Parties' needs from the point of view of a party** *Isabelle Hautot (Orange, Paris)*
14.50-16.20	**Dos and don'ts of party representation** *moderator: Rémy Gerbay (Enyo Law, London)* Cooperation between opposing counsels to ensure efficient proceedings *Rémy Gerbay (Enyo Law, London)* Settlement during the arbitration proceedings *David Premelč (RPPP, member of TLA Top-Tier Legal Adriatic, Ljubljana)* Attorney-client privilege *Phillip Landolt (Landolt & Koch, Geneva)* Tackling guerrilla tactics *Matjaž Ulčar (Ulčar & Partners, Ljubljana)* Remedies for the misconduct of party representatives *Jonathan Barnett (Konrad & Partners, Vienna)*
16.20-16.50	Coffee/Tea Break
16.50-18.00	**Cost control in international arbitration** *moderator: Peter Rižnik (Ljubljana Arbitration Centre)* It is the parties' case – What can the parties do to optimize the costs? *David Brown (Clyde & Co, Paris)* Authority, (inherent) powers, and role of the arbitral tribunal in controlling costs *Fabien Gélinas (McGill University, Montreal)* Recovery of attorneys' fees – a case of reasonableness *Stefan Riegler (Baker & McKenzie, Vienna)* Third party funding and issues of costs *Jose Rosell (Hughes Hubbard, Paris)*
18.00	Cocktail reception

Corinne Montineri

"Conflict resolution is more satisfactory where parties negotiate their own settlement with the facilitation of a neutral. Mediation is used in many different contexts, and is part of larger efforts to transform conflicts. There are huge opportunities for its development, if the current challenges are tackled: efforts should be deployed to develop an international community of mediation practitioners and to build networks of mediators, tools could be made available to better monitor and evaluate the benefits of mediation, best practices and standards in mediation should be more widely shared, and last but not least, the framework for enforcement of settlement agreements should be improved while the flexible nature of mediation should be preserved. Initiatives have developed in various parts of the world over the last decade in relation to mediation, and they should be promoted. Likewise, UNCITRAL standards in the field of mediation should be more widely adopted."

Isabelle Hautot

"Arbitration is a most powerful tool designed to get an enforceable award within a reasonable time. Or may be so in spite of its growing complexity – under some conditions: that Parties (Users) master their dispute and the way they want to solve it; that they play their part ahead of the arbitration then endorse their own role during the proceedings and at their outset, specifically; that they commit themselves in order for the procedural rules to be kept strictly consistent with and proportionate to their goal. "

Loukas Mistelis

"The more international arbitration gains in popularity, the more the criticisms about the process increase. Some of these criticisms goes as far as challenging the compatibility of international arbitration with rule of law. At the same time the arbitration community, arbitration institutions and associations of arbitrators as well as more importantly international organisations have introduced a number of innovations and improvement in international arbitration procedure."

Christian Aschauer

"If, during mediation, both parties know that their claims may be submitted to an arbitral tribunal which will decide the dispute once and for all and within a short period of time, this is the most effective incentive to settle the case."

José Rosell

"Third Party Funding may have several impacts on the arbitration proceedings. As to the arbitration costs, the involvement of a third party funder may lead the arbitral tribunal to order security for costs in order to ensure that the respondent, if it prevails, will be able to recover the costs awarded by the tribunal. Another debatable issue is whether it is appropriate for an arbitral tribunal to award any funding costs."
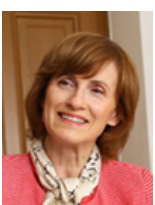
James E. Castello

"The 1958 New York Convention transformed international arbitration by making arbitral awards internationally enforceable. Almost 60 years later, UNCITRAL is considering a legal instrument that might similarly support conciliation of international commercial disputes. The instrument now under debate would foster international enforcement of conciliated settlement agreements."

Stefan Riegler

"Having been a member of the ICC task force on this broader topic, the following questions might be worth discussing: How should one interpret "reasonableness"? In particular: in how far should the fees of the opposing party, the fees under a statutory tariff, the amount in dispute, etc. play a role?"

Nina Betetto

"In the case of a referral, a judge must make sure that the case in question is suitable for mediation. Parties should be informed about what mediation is and what benefits they could derive for their case. The judge should choose his own referral style, yet certain principles should be obeyed."

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Ljubljana Arbitration Centre at the Chamber of Commerce and Industry of Slovenia
Dimičeva ulica 13
1000 Ljubljana
Slovenia

T: +386 1 5898 180
F: +386 1 5898 400
E: arbitraza.lj@gzs.si