



Association Suisse de l'Arbitrage
Schweiz. Vereinigung für Schiedsgerichtsbarkeit
Associazione Svizzera per l'Arbitrato
Swiss Arbitration Association



Arbitration Practice Seminar

16-18 January 2015

Panacée GrandHotel Römerbad
Badenweiler, Black Forest, Germany

Organised with

DEUTSCHE INSTITUTION FÜR SCHIEDSGERICHTSBARKEIT E.V.

DIS



www.dis-arb.de

About the format

A unique interactive and comparative format

The ASA **Arbitration Practice Seminar** follows a format developed in 1997 by ASA, and very successfully applied every year since, in cooperation with other arbitration associations and institutions around Europe, including every two years in Badenweiler with DIS.

The **discussion leaders** are all very experienced international arbitration practitioners. During the course of two days, they will raise and discuss with the participants key legal and practical questions, as they arise in the successive stages of an international arbitration, illustrating them with examples from real cases.

All sessions are led jointly by two practitioners: one with a **common law** background, and the other with a **civil law** background. This brings to bear, in a lively **debate**, the **diversity of experiences** in international arbitration and encourages the development of **cross-cultural sensitivity**.

The **language** of the Arbitration Practice Seminar is English.

Discussion Leaders

Pr. Klaus-Peter BERGER, University of Cologne; President,
DIS Executive Board

David BRYNMOR THOMAS, Thirty Nine Essex Street, London
Hamid GHARAVI, Derains & Gharavi, Paris

Dr. Dorothee RUCKTESCHLER, CMS Hasche Sigle, Stuttgart
Audley SHEPPARD, Clifford Chance, London

Pr. Pierre TERCIER, Emer. Prof. University of Fribourg

John M. TOWNSEND, Hughes Hubbard & Reed LLP,
Washington D.C.

Pr. Janet WALKER, Osgoode Hall Law School, Toronto

Who should attend?

This is not a seminar for true beginners. It is designed for those who wish to continue building on their international arbitration knowledge and practice and to benefit from the discussion leaders' combined experience and expertise, acquired in a great variety of arbitration proceedings in different jurisdictions. Participants themselves contribute to the debate with their own experience, questions and ideas.

About the organizers

ASA – Swiss Arbitration Association

The **Swiss Arbitration Association (ASA)**, together with ASA Below 40, has over 1'300 members, practitioners and academics engaged and/or interested in domestic and international arbitration, from Switzerland and abroad. ASA contributes to the development of arbitration law and practice through regular conferences and workshops, including this unique annual Arbitration Practice Seminar; ASA Local Group meetings; ASA below 40 events for young practitioners, and the publication of the *ASA Bulletin*, a renowned arbitration quarterly, and of the *ASA Special Series*. For more information, see www.arbitration-ch.org.

Deutsche Institution für Schiedsgerichtsbarkeit e.V.

The **DIS (German Institution of Arbitration)** is one of the world's leading international arbitration institutions. It offers a wide range of dispute resolution services for commercial disputes (arbitration, mediation, conflict management, adjudication, expert determination, expertise, conciliation). The DIS Secretariat has a multi-national and multi-lingual staff, whose commitment, professionalism and efficiency are highly valued by its users. The DIS, together with DIS40, has around 2'000 members, including practitioners and academics engaged in domestic and international arbitration, major trade organizations and chambers of commerce, leading German and foreign companies, judges and other people or entities with an interest in dispute resolution. DIS publishes the bi-monthly German Arbitration Journal *SchiedsVZ* (Publisher C.H. Beck). DIS and DIS 40 host annual conferences on arbitration-related issues and training seminars in the field of arbitration for legal practitioners. For more information, see www.dis-arb.de.

Seminar Organisation

Concept:

Michael E. SCHNEIDER (LALIVE)

Organisation:

Domitille BAIZEAU (LALIVE), Sébastien BESSON (Python & Peter), Francesca MAZZA (DIS), Alex McLIN (ASA)

Registration and Logistics:

Nancy HASSELBACH (DIS)

Practical information

Register early

The registration fee is € 1'475, incl. VAT, until 19 December 2014, and € 1'600, incl. VAT, thereafter.

The fee includes meals and accommodation at the Seminar venue. There are no hidden extras.

Attendance is limited. Applications are accepted on a first come, first served basis. There will be no refund for cancellations but substitutions are accepted.

Accompanying persons: € 175 incl. VAT for the double room surcharge for two nights, breakfast, and dinner on 16 and 17 January 2015.

When?

Starting: **Friday 16 January 2015**, at noon (incl. lunch)

Ending: **Sunday 18 January 2015**, at 2 p.m. (incl. lunch)

Where?

Panacée Grandhotel Römerbad
 Badenweiler/Black Forest, Germany
www.hotel-roemerbad.de

About the venue and how to get there

Panacée Grandhotel Römerbad is situated in the "three-country-corner" of the southern Black Forest, where Germany, Switzerland and France come together. The hotel is right next to the very nice Cassiopeia Spa Complex, with several indoor and outdoor basins at different temperatures and saunas a water surface of 1000 square metres.

Badenweiler is easy to reach:

By car

A half hour's drive from Freiburg, Basel and Colmar. E4/A5 Frankfurt-Basel, take exit "Neuenburg, Badenweiler", then follow signs "Müllheim", "Badenweiler", «Badenweiler West»

By train

IC/ICE to Freiburg or Basel Badischer Bahnhof; change to D-Train to Müllheim; then 7 km by taxi to Badenweiler.

By plane:

Euro-Airport, Basel-Mulhouse: (direct connections to most major destinations in Europe): 30 minute drive by taxi - departing from the French exit of the airport.

Frankfurt Airport: 2 ½ hour drive.

Zurich Airport: 1 ½ hour drive.

Distances

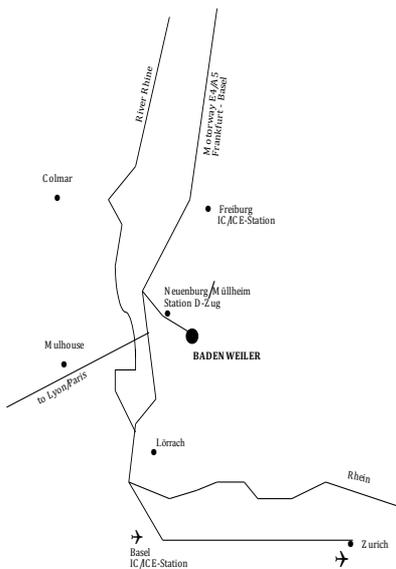
Freiburg: 47 km by motorway, 34 km by highway;

Müllheim railroad station: 7 km;

Basel: 40 km;

Basel/Mulhouse airport: 45 km;

Mulhouse: 27 km.



Arbitration Practice Seminar

Badenweiler, 16-18 January 2015

Programme

FRIDAY 16 JANUARY 2015

12.00 – 14.00: *Lunch*

14.00 – 14.30: **Introduction**

Welcome address

Swiss Arbitration Association (ASA): **Elliott Geisinger**

Deutsche Institution für Schiedsgerichtsbarkeit e.V. (DIS): **Francesca Mazza**

Presentation of the seminar and introduction to the materials

Domitille Baizeau, Sébastien Besson, Alex McLin

14.30-16.00: **Session A**

Klaus Peter Berger & Janet Walker

The **regulatory and institutional framework**: relevance of the place of arbitration on the conduct of the proceedings, role of the Courts, ad hoc vs. institutional arbitration the applicable law; the **arbitration clause**: standard clauses, pathological clauses, necessary and desirable content.

Coffee break

16.30-18.00: **Session B**

Hamid Gharavi & Audley Sheppard

Commencement of the arbitration: request for arbitration (scope and level of detail), multi-tier clauses; **appointment of the arbitral tribunal**: choice of party appointed arbitrators, presidents of the arbitral tribunal and sole arbitrators, required and desirable qualifications, appointment by institutions; **the Parties** to the arbitration: identification, change in identity, merger, split; **multi-party** and multi-party proceedings: appointment of arbitral tribunal, consolidation and joinder.

19.00: *Drinks followed by dinner*

SATURDAY 17 JANUARY 2015

09.00-10.30: Session C

Pierre Tercier & John M. Townsend

Terms of Reference or constitution orders: function, desirability, content, list of issues, claims/relief sought; **financing the procedure**: advances; security for costs; arbitrators' fees; third party funders; **organization of the procedure**: procedural calendar; "PO No 1"; **communications** between the arbitral tribunal and the parties (form and content); the arbitrator's role as **settlement facilitator**; counsel **ethics**; use of **secretary to the arbitral tribunal**.

Coffee break

11.00-12.30: Session D

David Brynmor Thomas & Dorothee Ruckteschler

Main written submissions: function, scope, form, number, sequence, with or without documentary / testimony evidence, involvement of arbitral tribunal between rounds; **documentary evidence**: relative importance, form of production, organization and referencing; **disclosure**: relevance/materiality, burden, requests by the arbitral tribunal, illegally obtained evidence, privilege; **information technology** in arbitration proceedings: submissions, document management, security.

Lunch

13.45-14.45: Session E

Klaus Peter Berger & John M. Townsend

Interim measures of protection by the arbitral tribunal: types, criteria, anti-suit injunctions; **emergency arbitrators**; **assistance from the courts**: type and criteria.

Coffee break

15.00-16.30: Session F

Dorothee Ruckteschler & Audley Sheppard

Experts retained by the parties or by the arbitral tribunal, communication, reports, oral presentations, questioning and confrontation; terms of reference and conduct of the enquiry by tribunal appointed experts, site visits; **issues of confidentiality** scope of the obligation; methods of protecting of confidential or sensitive (use of "confidentiality experts").

Free time followed by dinner at 20.00

SUNDAY 18 JANUARY 2015

09.00-10.30: Session G

Hamid Gharavi & Janet Walker

Witnesses: drafting witness statements, scope of witness statements, relative importance as evidence, prior contacts and "preparation"; "oath"; methods and scope of examination); **the hearing(s):** purpose, duration, organisation, splitting of hearings, records/transcript.

Coffee break

11.00-12.30: Session H

David Brynmor Thomas & Pierre Tercier

Oral opening argument: time, duration, forms, "skeleton argument" and "*notes de plaidoirie*", demonstrative exhibits; **oral closing argument; post-hearing briefs; the arbitral tribunal's decisions:** procedural orders and awards, deliberations, form of the award, reasons, right to be heard and need to reopen proceedings, finding of fact, dispositive part of the award, decision on cost, considerations concerning enforcement, dissenting opinions, award by consent.

12.30: *Lunch*