



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



ASA Conference

Confidential and Restricted Information in International Arbitration: Questions of Principle, Answers in Practice

4 October 2013

**Bellevue Palace Hotel
Kochergasse 3-5, Bern, Switzerland**

Schedule at a glance

11:00	ASA GENERAL MEETING
12:15	LUNCH
13:30	CONFERENCE
17:30	COCKTAIL

Conference topic

The confidential nature of certain documents and information has become a frequent issue in international arbitration – both for parties wishing to rely on such confidential information to prove their case and for those resisting requests for the production of confidential documents. Similar issues arise when the revelation of certain data is restricted by regulations in fields such as data protection, anti-trust law or defence secrets. This conference will address the manifold and complex questions raised by these issues. The **first panel** will deal with matters of principle, considering the reasons why certain data may be confidential or restricted, and then moving to the questions of due process and burden of proof that can arise when a party is prevented from producing or accessing data in arbitral proceedings. The **second panel** will explore how arbitral practice deals with these issues, be it in the course of the proceedings or in the award itself. Finally, the **third panel** will broaden the debate, by exploring possible differences in the treatment of confidential and restricted information between (confidential) commercial arbitration and (potentially transparent) investment treaty arbitration. The speakers are all seasoned arbitration practitioners, whose wealth of experience will be of great value for the conference participants.

Programme

13:30 – 13:40	WELCOME ADDRESS AND INTRODUCTION TO THE CONFERENCE TOPIC	Michael E. Schneider President of the Swiss Arbitration Association, Partner, LALIVE
13:40 – 15:10	PANEL 1 WHY ARE DATA "CONFIDENTIAL" OR "RESTRICTED" – WHAT DIFFERENCES DOES IT MAKE? The grounds for confidentiality and restricted access to data: private and public concerns. What can be waived? What cannot? What requires third party consent or governmental authorizations?	Session Chair : Prof. François Dessemontet Of Counsel, Dessemontet & Ghosn Prof. Luca Radicati di Brozolo Partner, Bonelli Erede Pappalardo

	<p>Confidential and restricted data and fundamental rights of due process and access to the file – a comparative overview</p> <p>Confidential and restricted data: impact on burden of proof?</p> <p>Discussion (Panel and Floor)</p>	<p>Karl Poernbacher Partner, Hogan Lovells</p> <p>Dr. Sébastien Besson, LL.M Partner Python Peter</p>
15:10 – 15:30	COFFEE BREAK	
15:30 – 16:35	<p>PANEL 2 CONFIDENTIAL AND RESTRICTED DATA IN THE PROCEEDINGS AND IN THE AWARD – HOW IS THIS DEALT WITH IN PRACTICE?</p> <p>Confidentiality and restricted access to data in the course of proceedings: how does the issue arise and how can it be dealt with?</p> <p>Confidential and restricted data in the award: how do arbitrators draft reasoned awards without breaching confidentiality or restrictions?</p> <p>Discussion (Panel and Floor)</p>	<p>Session Chair: Prof. Mario Franzosi Partner, Franzosi Dal Negro Pensato Setti</p> <p>Domitille Baizeau Partner, LALIVE</p> <p>Dr. Martin Bernet Partner, Schellenberg Wittmer</p>
16:35 – 17:15	<p>PANEL 3 BROADENING THE PERSPECTIVE</p> <p>Confidential and restricted data in commercial arbitration and in treaty arbitration: are there differences in approach?</p> <p>Discussion (Panel and Floor)</p>	<p>Session Chair: Barton Legum Partner, Dentons</p> <p>Andrea J. Menaker Partner, White & Case</p>
	CLOSING REMARKS	<p>Elliott Geisinger, Vice-President of the Swiss Arbitration Association, Partner, Schellenberg Wittmer</p>
17:30	COCKTAIL	

Who should attend? All professionals involved in dispute resolution: lawyers, arbitrators, corporate counsel, and academics.

Sponsorship opportunities The ASA Conference provides a meaningful opportunity to gain visibility and build partnerships within the global arbitration business network. For further information, please contact alex.mclin@arbitration-ch.org

CPD/CLE Credits The ASA Conference is submitted for CNB (France) and CPD (England and Wales) approval. New York CLE and California MCLE credit may also be available. If applicable, please enquire at info@arbitration-ch.org

About the organisers

ASA – Swiss Arbitration Association The **Swiss Arbitration Association (ASA)** has over 1200 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 Annual Conference; the 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 and membership enquiries, see www.arbitration-ch.org.

Conference Organisation Elliott GEISINGER (ASA Vice-President)

Practical information

Registration and fee ASA members: CHF 350 Non-members: CHF 400

The fee includes lunch, coffee break, and farewell reception. There are no hidden extras. Attendance is limited. Applications are accepted on a first come, first served basis. 50% of the registration fee will be refunded if notice of cancellation is received in writing before **15 September 2013**. Thereafter, there will be no refunds for cancellations, but substitutions are accepted. Please note that ASA reserves the right to make minor alterations to the programme or to the identity of the speakers at any time.



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- When?** **Friday 4 October 2013**
11:00 ASA General Meeting (for ASA members)
12:15 Welcome lunch
13:30 Conference
17:30 Farewell cocktail reception
- Where?** **Bellevue Palace Hotel**
Kochergasse 3-5, Bern
www.bellevue-palace.ch
- How to get there** Train: From Bern's main railway station, a 5-minute walk or take tram No. 7 or 8 to the Zytglogge stop.
- Car: Coming from Basel/Zurich follow Interlaken/Thun directions, then take the Bern Ostring exit. Continue towards city centre (Zentrum). Follow the signs towards Casino and turn into Jungfraustrasse. Cross the Kirchenfeld bridge in the direction of Casinoplatz. Turn into Amthausgasse. Drive around Bundesplatz into Kochergasse, which will take you right up to the hotel.
- Air: Bern-Belp Airport: 20min
Zurich Airport: 90 min
Basel Airport: 1h
Geneva Airport: 90 min
- Accommodation** Please enquire with the Bellevue Palace Hotel for preferential conference rates, at +41 (0)31 320 45 45.



Registration Form

PLEASE RETURN TO:

ASA

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CH-1211 Genève 11

Fax: +41 22 310 37 31

Email : info@arbitration-ch.org

Name

First Name

Position

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Conference Fee

ASA members: CHF 350 Non-members: CHF 400

Conference Materials

Please select: Binder Softcopy (PDF)

Method of Payment

By **bank transfer** to ASA account, ref. "name/Oct. 2013"
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For payment by **credit card** solely for participants outside Switzerland
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Disclaimer

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Date

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