



Advanced Seminar on: Due Process in International Arbitration

- ◆ Balancing due process and the need for time and cost efficiency in arbitral proceedings
- ◆ Due process as a limiting factor for arbitral discretion
- ◆ Curing the due process paranoia
- ◆ How to combat the misuse of due process effectively
- ◆ Lack of due process as a ground for setting aside
- ◆ Lack of due process as ground for refusal of recognition and enforcement
- ◆ Introducing Global Guidelines for Due Process in International Arbitration
- ◆ From theory to practice: case studies on due process:
 - Examples where a violation of due process was upheld by the courts
 - Defining safe havens for arbitrators

06 + 07 May 2022

06 May: 9.00 am – 5.00 pm

07 May: 9.00 am – 2.00 pm

Hotel Triest

Wiedner Hauptstraße 12

1040 Vienna, Austria

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Target Group

- ◆ **General Counsel**
- ◆ **Attorneys at law**
- ◆ **Arbitrators and Counsel**
- ◆ **Financial and Economic Experts**
- ◆ **Project-, Contract- and Claim-Managers**

Background & Objective

Due process comprises one of the most fundamental guarantees of judicial procedure. It performs the dual function of safeguarding the legitimacy and ensuring the accuracy of the outcome of judicial proceedings.

What originally developed as a defensive right against the exercise of State authority, has equally become one of the core pillars of private justice in arbitration proceedings. Among others, Article V (1) (b) of the New York Convention recognizes this fundamental role of due process by allowing State courts to refuse recognition and enforcement.

As of today, no coherent body of case law on due process has developed. This has increasingly motivated recalcitrant parties to use due process as a strategic tool. By alluding to the Damocles sword of set-aside or refusal of recognition and enforcement, these recalcitrant parties attempt to nudge arbitral tribunals into directions that are strategically advantageous for the parties; in a worst-case scenario, this conduct may even be geared at undermining the enforceability of a future award.

Examples from practice in which parties have resorted to these techniques are regrettably abundant. It is not uncommon for parties to phrase simple procedural requests as matters of due process, capitalize on due process to file new evidence or misuse due process as a pretext to submit unsolicited submissions. Arbitral tribunals that are risk-adverse – critics speak of arbitral tribunals suffering from “due process paranoia” – may be open to giving in to such demands. They thereby put at risk the very hallmarks of international arbitration, i.e., the prospect of obtaining an enforceable award in expeditious proceedings.

The objective of this seminar is to explore how due process sets limits to arbitral discretion across jurisdictions, while also examining how to balance due process with the need for a time and cost efficient procedure. The seminar is based on a global study on due process in international arbitration conducted by the Speakers.

Partners



Speakers

Prof. Dr. Dietmar Czernich; CHG Czernich Rechtsanwälte, Vienna

Prof. Dr. h.c. Franco Ferrari, LL.M., Director Center for Transnational Litigation, Arbitration and Commercial Law New York University School of Law, New York, NY

Dr. Friedrich Rosenfeld, Hanefeld Rechtsanwälte, Hamburg

Prof. Giuditta Cordero-Moss, Faculty of Law, University of Oslo

Prof. Caroline Kleiner , Université de Strasbourg

Hattie R. Middleditch, Sullivan&Cromwell LLP, London

Prof. Francesca Ragno, Università die Verona

Programme*

DAY 1 – 06 May: 9.00 am – 5.00 pm

- The normative framework on due process and its interpretation
- The due process paranoia and its potential to undermine the efficiency of arbitration proceedings
- Due process and party autonomy (including waivers)
- The standard of review on due process issues (including threshold issues)
- Due process and the right to comment (including administration of deadlines)
- Due process and the taking of evidence
- Due process and surprising decisions/directions by the tribunal

DAY 2 – 07 May: 9.00 am – 2.00 pm

- Due process and case management decisions (language, costs decisions)
- Due process and non-participating parties/issues of proper notice
- Due process and arbitrators – when does procedural conduct give rise to concerns as to the independence and impartiality of arbitrators
- The project for “Guidelines on Due Process in International Arbitration”: creating a safe haven
- Concluding remarks

**Programme is subject to change*

Registration Form

Mail to:

Mrs. Katja Ludl

ICC Austria

@ mail: k.ludl@icc-austria.org

Tel.: +43-1-504 83 00-4306

responsible for the content: **Ass. iur. Eleonore Treu**

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Registration – closing date 22nd April 2022

	06 + 07 May 2022	06 May 2022
I want to register for:	Advanced Seminar on Due Process in International Arbitration <input type="checkbox"/>	Cocktail / Networking Event 5 – 7pm <input type="checkbox"/>
Regular Fee	EUR 990,-- (plus 20% VAT)	EUR 45,-- (plus 20% VAT)

After receiving the registration, we will send a confirmation with the invoice attached - please transfer the course fees - free of charges for ICC Austria - via banktransfer. **We do not accept payments by credit card.** In exceptional cases, a payment in cash is possible on site.

Once confirmed by ICC Austria, your registration is legally binding! The regular fee shall be paid within two weeks from receipt of invoice. In case of late registration verifiably before the Conference starts!

Conference documentation

All conference documentations will be provided electronically to registered participants three business days prior to the start of the conference.

electronic documentation included

In addition, I would like to order:

Printed documents in a folder for **EUR 15,-- incl. 20% VAT per conference day**
(only available for seminar participants!)

Please note that there is no computer or only limited connection options for the power supply at the conference location!

Participant Information

Mr. Mrs.

Family Name: First Name:

Organisation / Company:

Address:

City, Postal code: Country:

Participant E-Mail:

Telephone: Job Title / Position:

Invoice data *(if differ from above mentioned data)*

Organisation / Company:

VAT Number *(Obligatory for invoicing participants from EU member states)*:

Address:

City, Postal code: Country:

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Upon signature of this registration form the General Terms and Conditions of ICC Austria are deemed accepted; available with <https://www.icc-austria.org/en/About-us/General-terms-and-conditions/Seminars.htm>. A full refund will only be given for written cancellations received up to 14 working days before the event (7 days for ICC-Members). Should you be unable to attend, you can nominate a colleague as replacement. **I acknowledge that my data is stored electronically for registration purposes.** ICC Austria will not submit my data to third parties.

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