



MILAN
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Criminal Law in Arbitration

Milan, 29 November 2024

via Meravigli 9/b

15th CAM Annual conference



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PROGRAM

9:00

Registration

9:30

Opening Remarks

Stefano Azzali,
General Director, Milan Chamber of Arbitration

9:40

Introduction

Paolo Marzolini
Founding Partner of Patocchi & Marzolini

10:00

Panel 1

**The Interplay between Criminal Law
and International Arbitration**

Michele Potestà
Partner, Lévy Kaufmann-Kohler

Mark Pieth
Former Professor of Criminal Law, University of Basel

11:00

Coffee Break



- 11:30** ***Panel 2***
Arbitrating Pleas of Illegality: Corruption and Beyond
- Mohamed Shelbaya
Partner at Gaillard Banifatemi Shelbaya Disputes
- Loukas Mistelis
Partner, International Arbitration, Clyde & Co LLP
Professor of Transnational Law and Arbitration,
Queen Mary University of London
- 12:30** **Q&A with the Audience**
- 13:10** **Lunch Break**
- 14:30** **Case Study (the *Enrica Lexie* Case)**
- Attila Tanzi
Professor of International Law, University of Bologna
Associate Member - 3VB Chambers, London
- 14:50** ***Panel 3***
Focus on Evidence
- Kathrin Betz
Attorney at Law at Betz Law
- Kamalia Mehtiyeva
Professor of Law, University Paris-Est Créteil
- 15:50** **Q&A with the Audience**
- 16:10** **Closing Remarks**



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The fight against crime takes place on many fronts. Arbitration has its very own part to play in this fight. The success of arbitration as preferred mechanism for the settlement of high-stake international commercial and investment disputes brings with it as a downside the possibility that illicit conducts may materialise — be it in the nature of fraud, bribery, corruption, money laundering, influence peddling, trading in influence, to name but a few examples.

Interplay Between Criminal Law and International Arbitration

As much a common occurrence as allegations or suspicions of criminal conduct have come to be in the realm of international commerce, they almost invariably tend to unnerve and disquiet even the most frequent arbitration users — both counsel and arbitrators alike.

How are counsel and arbitrators expected to react in the face of suspicions or allegations of criminal conduct? What are the red flags which one may look out for and how are such red flags to be dealt with the proceedings? Is the arbitrator expected to put on the cape of the inquisitor? Do the competent (criminal) authorities need to be involved when suspicions or allegations arise and, if so, what are the potential effects on the arbitration proceedings? These amongst other burning questions will be addressed by the first panel.

Arbitrating Pleas of Illegality: Corruption and Beyond

The second panel will shift the spotlight on the sizzling topic of corruption which is often regarded as the bane of foreign direct investment. Where administration of justice singularly falls into the





hands of private individuals who in principle pay no allegiance to a constitution, the handling by arbitrators of disputes tainted with corruption has come under close scrutiny in the eyes of the judiciary, as evidenced by the recent decisions rendered by English and French courts.

Focus on Evidence

While criminal conduct may have its fair toll on issues of substance upon which an arbitrator may be called to decide in the course of a dispute, it may also raise issues of procedure; particularly, in the light of evidence obtained by unlawful or illicit means. Does an evidentiary filter to exclude all illegally obtained evidence exist from the outset of an international arbitration? If a piece of evidence is obtained as a result of mass online leaking, email hacking, unauthorised wiretapping or large-scale national security breach, can it ever be relied upon in an international arbitration? The third panel will offer guidance and clarity on this timely yet highly controversial topic.

Case Study (The *Enrica Lexi Case*)

The audience will be taken aboard a case study explored from the standpoint of one of the counsel involved in The “Enrica Lexie” Incident (Italy v. India), an inter-State arbitration which attracted global media and political attention and touched upon issues of criminal law and international security.



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CAM Annual Conference

Information note



MILAN
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Venue and date

Milan, via Meravigli 9/b, 1st floor
29 November 2024 - h.9.00 - 17.00

Working language

The conference will be conducted in English without translation.

Registration fees

Registration online at www.camera-arbitrale.com

STANDARD FEE €495 (VAT incl.)

REDUCED FEE €445 (VAT incl.) only for:

- Participants under 35 years old
- Firms that register the third paying participant (valid from the 3rd onwards)

STUDENTS FEE €120 (VAT incl.): students will be seated in the side conference room (connected through video conferencing to the main room) and will be able to intervene during the Q&A session and to attend the networking moments (lunch and coffee break) with the rest of the audience.

Payment methods

By credit card online at www.camera-arbitrale.com

or by bank transfer to:

IBAN: IT53W0569601600000061000X20

SWIFT: POSOIT22

Regular invoice will be issued by the Milan Chamber of Arbitration via email.

The payment shall be made within 3 days from the registration date.

Credits - for Italian professionals only

The conference is in the process of accreditation with the *Ordine degli Avvocati di Milano*.

Cancellation

50% of the registration fee will be refunded if notice of cancellation is received by email (mail to: annual.conference@mi.camcom.it) before 15 November 2024. Cancellations after this date are not refundable. In case of refund the bank transfer costs will be borne by the participant. The Milan Chamber of Arbitration reserves the right to cancel the event or to make alterations to its content, timing and program. In case of cancellation of the event, participants will be offered a full refund.

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