Co-Chairs of the Training:

Carmen Nunez-Lagos, Founding Partner & International Arbitrator, Nunez-Lagos Arbitration, France; Council Member, ICC Institute of World Business Law
Roland Ziadé, Partner, Linklaters, France

PROGRAMME

Sunday 16 February 2020

08.30 – 09.00 Welcome coffee

09.00 – 09.15 Welcoming address, presentation of the ICC Institute, introduction and presentation of the mock cases
- Carmen Nunez-Lagos
- Roland Ziadé

09.15 – 10.00 Strategic considerations and procedures: When, how and to whom to request interim measures?
- Concept: must be temporary
- Powers of the ICC arbitral tribunals
- Role of the *lex arbitri*
- When can/should request for interim measures be made?
- To whom can/should interim measures be requested: emergency arbitrator, arbitral tribunal, national courts (concurrent jurisdiction)
- ICC procedure and statistics: Art. 28 ICC Rules
- Specific measures: security for costs, escrow accounts, stop payment orders relating to first demand bank guarantees, and counter-guarantees

- Sara Koleilat-Aranjo, Senior Associate, Al Tamimi & Company, Dubai, United Arab Emirates
- Asli Yilmaz, Counsel, ICC International Court of Arbitration, Paris

10.00 – 10.45 Mock Case
10.45–11.00 Coffee break

11.00–11.45 Practical considerations: The counsel’s perspective
- Burden of proof
- Types of measures that can be requested: a very broad range, but with limitations
- Ex-parte requests
- Discovery requests before national courts in aid of international arbitration (e.g., 28 USC 1782 requests)
- Most common defenses against requests for interim measures
  - Luka Kristovic Blazevic, Partner, White & Case LLP, Saudi Arabia
  - Roland Ziadé

11.45–12.30 Mock Case

12.30–14.00 Lunch generously sponsored by Linklaters and Shahid Law

14.00–14.45 Practical considerations: The arbitrator’s perspective
- Asymmetric information with the parties (especially at the outset of the case)
- Urgency and due process (can an arbitrator award ex parte measures?)
- Risks: prejudgment, awarding or denying measures may have a permanent effect (e.g., where one of the parties risks liquidation, where assets may disappear, etc.)
- Can/should arbitrators take a more active role (e.g., escrow accounts managed by tribunals; order counter-security)
  - Richard Harding QC, Barrister and Arbitrator, Keating Chambers, United Kingdom
  - Carmen Nunez Lagos

14.45–15.30 Q&A

15.30–15.45 Coffee break kindly sponsored by Al Aidarous Advocates and Legal Consultants

15.45–16.30 Compliance, enforcement and other issues arising after interim measures are ordered/awarded
- “Order” v. “Award” of interim measures
- Enforcement considerations: what can the parties do?
- What can arbitrators do faced with a party’s refusal to comply with interim measures?
- Relevance of civil v. common law jurisdictions
  - Akram Abu El-Huda (MCIArb), General Counsel & Director of Compliance, CICON, Abu Dhabi, United Arab Emirates
  - Beata Gessel-Kalinowska vel Kalisz, Senior Partner, Kancelaria Gessel, Poland; Member, ICC International Court of Arbitration

16.30–17.15 Q&A

17.15–17.30 Concluding remarks
  - Carmen Nunez-Lagos
  - Roland Ziadé