



Moscow, 9 November 2018

**Evidence before International Courts
and Tribunals: Distinct Fora,
Similar Approaches?**



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AND COMPARATIVE
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11,2 
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ABOUT THE CENTER

International and Comparative Law Research Center is a non-profit non-governmental organization conducting research on various issues of international and comparative law at the request of the Russian authorities and Russian companies.

The Center organizes the annual International Law in the XXI Century Award, holds workshops and conferences on relevant legal topics.

The Center's private library has more than 5.5 thousand publications on international public and private law and comparative law in different languages, and also provides access to the major electronic foreign legal bases. The library's database is continuously updated with due regard to the needs and recommendations from researchers and readers.

PROGRAMME

9:00 – 9:30 a.m. Registration

9:30 – 9:35 a.m. Welcome address:
Roman Kolodkin, Judge, International Tribunal for the Law of the Sea

9:35 – 10:00 a.m. Keynote statement:
Aniruddha Rajput, Member, UN International Law Commission

10:00 – 11:20 a.m. **Panel 1:**
Evidence in Inter-State Litigation

Moderator

Gudmundur Eiriksson, Judge / *Ad-hoc* Judge,
International Tribunal for the Law of the Sea
(1996-2002 / 2016-present)

Panellists:

Philippe Couvreur, Registrar, International
Court of Justice

James Devaney, Professor, University of Glasgow

Kate Parlett, Counsel, International Court of Justice,
London Court of International Arbitration,
International Chamber of Commerce

11:20 – 11:35 a.m. Coffee break

11:35 a.m. – 1:00 p.m. **Panel 2:**
Evidence before Regional Courts of Human Rights

Moderator

Anatoly Kovler, Judge, European Court of Human Rights (1999-2012)

Panellists:

Anna Austin, Deputy Jurisconsult, European Court of Human Rights

Khanlar Hajiyev, Judge, European Court of Human Rights (2003-2017)

Armen Harutyunyan, Judge, European Court of Human Rights

Angelo Matusse, Judge, African Court on Human and Peoples' Rights

Fredrik Sundberg, Head *ad interim* of the Department for the Execution of Judgments of the European Court of Human Rights, Council of Europe

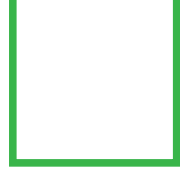
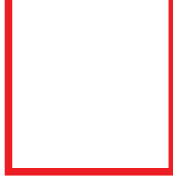
1:00 – 2:00 p.m. Lunch break

2:00 – 3:20 p.m. **Panel 3:**
Evidence in International Criminal Jurisdiction

Moderator

Bakhtiyar Tuzmukhamedov, Judge, International Criminal Tribunal for Rwanda, International Criminal Tribunal for the former Yugoslavia (2009-2015)





Panellists:

Lord Iain Bonomy, Judge, International Criminal Tribunal for the former Yugoslavia (2004-2009)

Ivana Hrdličková, President, Special Tribunal for Lebanon

Peter Kremer, QC, former Chief of Appeals and Acting Deputy Prosecutor (2005-2014), International Criminal Tribunal for the former Yugoslavia (2012-2014)

Kimberly Prost, Judge, International Criminal Court

3:20 – 3:35 p.m.

Coffee break

3:35 – 4:55 p.m.

Panel 4:
Evidence in International Investment, Commercial and Sport Arbitration

Moderator

Michael Swainston, QC, Barrister, Brick Court Chambers

Panellists:

Nayla Comair-Obeid, Professor, Lebanese University, Founding Partner, Obeid Law Firm, president of CIARb (2017), Arbitrator

Mojtaba Kazazi, Vice-President, Institut de Droit International, Arbitrator

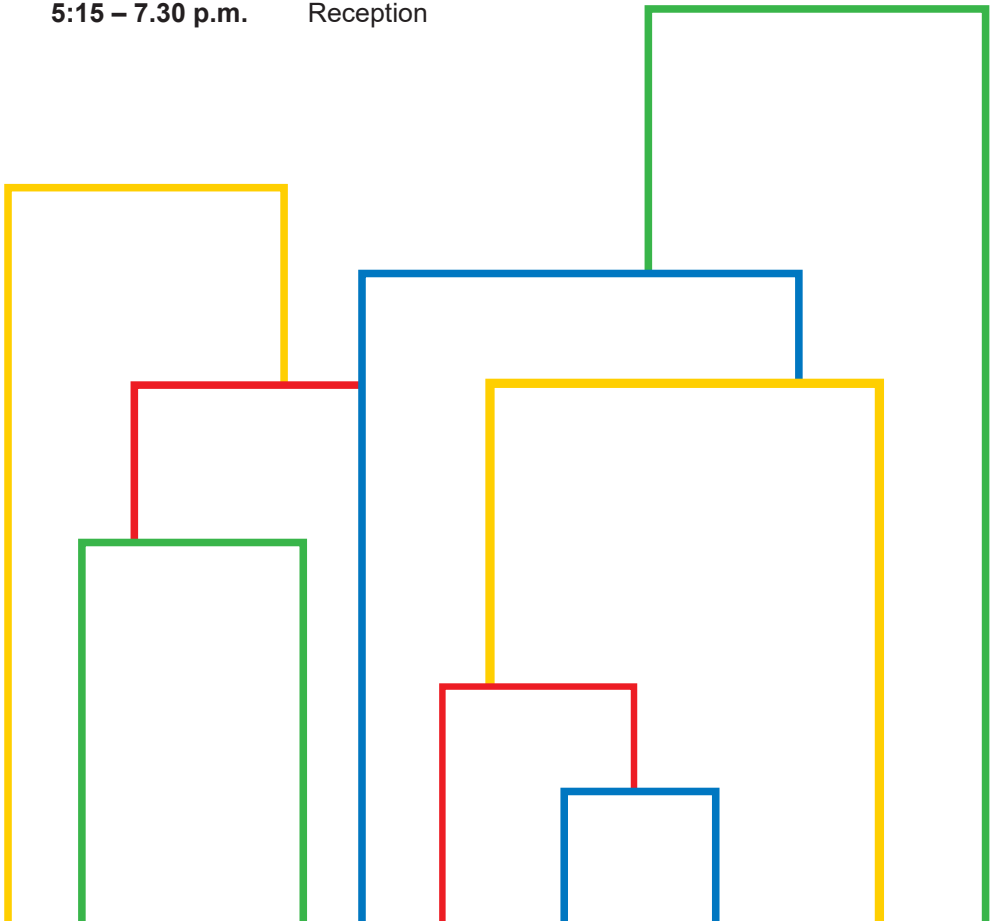
Roman Khodykin, Ph.D., Partner, Bryan Cave
Leighton Paisner, Visiting Professor, the Centre
for Commercial Law at Queen Mary University
of London

Dirk-Reiner Martens, Partner, Martens
Rechtsanwälte, founder of Basketball Arbitral
Tribunal (BAT), Arbitrator

4:55 – 5:10 p.m. Stocktaking:
Aniruddha Rajput

5:10 – 5:15 p.m. Closing remarks:
Roman Kolodkin

5:15 – 7.30 p.m. Reception



WELCOME ADDRESS



**Roman
Kolodkin**

Roman Kolodkin was elected judge of the International Tribunal for the Law of the Sea in October 2017. Before that, he served as Ambassador of the Russian Federation to the Netherlands and Permanent Representative to the Organization for the Prohibition of Chemical Weapons (2009-2015). He also was Director of the Legal Department in the Ministry of Foreign Affairs of the Russian Federation in 2001-2009 and 2015-2017. He was a Member of the UN International Law Commission in 2003-2011, 2015-2018.

Roman Kolodkin is an Associate Member of the Institute of International Law. Since 2017, he also takes the position of Director of Public International Law Studies at the International and Comparative Law Research Center.

KEYNOTE STATEMENT



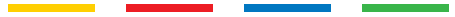
**Aniruddha
Rajput**

Dr. Aniruddha Rajput is a Member of the UN International Law Commission (ILC) (2017-2021). He was the Chairperson of the Drafting Committee at the 69th Session of the ILC. In 2017, the topic he proposed “Evidence before International Courts and Tribunals” was added to the Long Term Programme of Work by the ILC.

His areas of expertise include general international law, dispute resolution, law of the sea, boundary disputes, international investment law and international trade law. He has taught courses in international law at the Indian Law Institute, New Delhi, and National Law University, Delhi and currently sits on the Board of Studies of the South Asian University.

Dr. Aniruddha Rajput advises and appears on behalf of States and foreign investors in international disputes. He is Consultant, Public International Law and International Arbitration at Withers LLP and an advocate of the Supreme Court of India.

PANELLISTS



**Gudmundur
Eiriksson**

Gudmundur Eiriksson was a member of the UN International Law Commission from 1987 to 1996 and a Judge at the International Tribunal for the Law of the Sea from 1996 to 2002. He is currently a Judge *ad hoc* in the *M/V "Norstar"* case before the Tribunal. He is a member of the Panel of Conciliators and Panel of Arbitrators at the ICSID, the Panels of Conciliation and Arbitration under the UNCLOS, the International Council of Environmental Law and the IUCN World Commission on Environmental Law. From 1974 to 1976, he also served as a Law of the Sea Officer in the United Nations. From 1977 to 2014, he served in the Ministry for Foreign Affairs of Iceland, as Assistant Legal Adviser, Legal Adviser and Ambassador of Iceland in Ottawa, Pretoria and New Delhi.

Gudmundur Eiriksson is also Professor and Executive Director at the Centre for International Legal Studies, Jindal Global Law School. He is a Fellow of King's College London and Professor Emeritus at the University for Peace.



**Philippe
Couvreur**

H.E. Mr. Philippe Couvreur is serving his third term of seven years as Registrar of the International Court of Justice. He was Principal Legal Secretary at the Court from 1995 to 2000, after having served in the Court's Registry since 1982.

Mr. Couvreur has been senior guest lecturer for 20 years in public international law at the Law Faculty of the Université Catholique de Louvain, lectured in various foreign universities and academies and spoke at many symposia and conferences. He is the author of numerous publications on public international law.

Mr. Couvreur is also a Corresponding Member of the Royal Academy of Moral and Political Sciences of Spain.



**James
Devaney**

Dr. James Devaney is Lecturer in Law at the University of Glasgow and member of the research group on International Law, Conflict and Security. He has studied law at the European University Institute in Florence, Italy (Ph.D. 2015, LL.M 2012), the University of Glasgow (LL.M (distinction) 2010) and the University of Strathclyde (LL.B (Hons) 2009).

Whilst his primary area of research is the procedure of international courts and tribunals, he has published on a range of areas of international law, including State immunity, genocide, self-defence and the use of force, the law of the sea and State succession to treaties. His monograph, "*Fact-Finding before the International Court of Justice*", which focusses on the use of evidence before international courts and tribunals including the adjudicative bodies of the WTO and inter-State arbitration, was published by Cambridge University Press in 2016. He is a member of the International Law Association Committee on the Procedure of International Courts and Tribunals.



**Kate
Parlett**

Dr. Kate Parlett is a barrister at 20 Essex Street specialising in public international law and international arbitration. She acts for States and private entities on issues including land and maritime boundaries, transboundary environmental harm, investment treaty and contract disputes, human rights, law of the sea, State responsibility, treaty obligations, immunities, environmental law, sanctions and international crimes. She also acts as counsel and arbitrator in international commercial disputes.

Dr. Kate Parlett has a doctorate and a master's degree in public international law from the University of Cambridge, having completed her undergraduate studies at the University of Queensland, Australia. She is widely published, particularly in international dispute settlement. Dr. Parlett has lectured in public international law, international investment and commercial arbitration and international human rights law, at the universities of Cambridge, Geneva, Paris-II (Panthéon-Assas), Queen Mary (University of London), Queen's University (Canada), and Queensland.



**Anatoly
Kovler**

Professor Anatoly Kovler is the holder of Ph.D. and Honored Lawyer of the Russian Federation. Professor Kovler is now serving as Head of the Foreign Law and Comparative Law Center at the Institute of Legislation and Comparative Law under the Government of the Russian Federation. He worked as Head of Comparative Law Center at the Institute of State and Law of the Russian Academy of Sciences in 1979-1999.

Professor Kovler was elected judge of the European Court of Human Rights in 1999 and served until 2012. Professor Kovler also has a broad teaching experience. He is the author of 8 monographs and about 150 scientific publications on the theory of law, anthropology, human rights, comparative constitutional law.



**Anna
Austin**

Anna Austin qualified as a Solicitor (Law Society of Ireland) in 1991. Having worked for 6 years with A&L Goodbody in Dublin, she joined the European Commission for Human rights in 1994 and, subsequently, the European Court of Human Rights in 1998. Having worked as a Head of Division in the Registry of the Court for 10 years, she was appointed in 2015 the Court's Deputy Jurisconsult, a position she holds to date. She has also been seconded from those institutions on a number of occasions. She was the Deputy Ombudsperson for Bosnia and Herzegovina in 1997. She headed the Office of the Investigating Judges of the Khmer Rouge Tribunal in Cambodia 2008-2009. Anna Austin was also in charge of human rights issues in the Secretariat of the Committee of Ministers of the Council of Europe in 2014-2015. In 2013-2015, she acted as the Legal Advisor of the International Advisory Panel on Ukraine.



**Khanlar
Hajiyev**

Dr. Khanlar Hajiyev is the Head of the Department of Court Practice and Law Enforcement of the Institute of Legislation and Comparative Law under the Government of the Russian Federation. He served as judge of the European Court of Human Rights for more than 13 years. Dr Hajiyev was also the Chairman of the Constitutional Court of Azerbaijan in 1998-2003. He was a member of the European Commission “For Democracy Through Law” (Venice Commission). In 1998, Dr Hajiyev led a delegation at an international conference on the establishment of the Statute of the International Criminal Court. He also taught criminal law at Moscow State University and international criminal law at Baku State University. Dr Hajiyev is the author of a monograph and numerous publications.



**Armen
Harutyunyan**

Armen Harutyunyan was elected judge of the European Court of Human Rights in September 2015. Before his election, he served as the Head of the UN Human Rights Monitoring Mission in Ukraine (2014-2015). He also was Regional Representative of the Office of the UN High Commissioner for Human Rights in Central Asia (2011-2014). In 2006-2011, Armen Harutyunyan was the Human Rights Defender of Armenia. He also was the Honorary Member of the French Association of Armenian Advocates and Lawyers, Paris (2008-2011), and Member of the Council of Justice of Armenia (2004-2005).

Judge Harutyunyan has a doctorate degree in law from the Academy of Public Administration of the Russian Federation in Moscow. He was Rector of the Public Administration Academy of Armenia (2002-2006).



**Angelo
Matusse**

Justice Angelo Matusse was elected judge of the African Court on Human and Peoples' Rights in June 2014, for a term of six years. As Deputy Attorney-General of Mozambique, he has served as State Advocate at the Supreme Court since 2007. He was Senior Advisor to the Attorney-General from 1998 to 2007 and, before that, he was in private practice.

He lectures on public international law, human rights and transport law at Eduardo Mondlane University, as from 1992, and is a resource person at seminars and conferences, having written and presented different papers. From 1998 to 2007, he also served as Resident Representative of the Association of European Parliamentarians for Africa.



**Fredrik
Sundberg**

Fredrik Sundberg is the Head *ad interim* of the Department for the Execution of Judgments of the European Court of Human Rights. Earlier in his career, he was captain in the Swedish naval reserve. Fredrik Sundberg was assistant judge in Stockholm (1982-1985). In 1985, he joined the Registry of the European Court of Human Rights, after that, in 1991, the European Commission of Human Rights and the Directorate of Human Rights in 1993.

He was also professor at the College of Europe, Natolin, Poland responsible for "Human Rights and Minority Rights" (1998-2001).



**Bakhtiyar
Tuzmukhamedov**

Professor Bakhtiyar Tuzmukhamedov is the Honored Lawyer of the Russian Federation. In 1992-2016, he was a senior staff member of the Constitutional Court of the Russian Federation. From 2009 to 2015, Professor Tuzmukhamedov was a judge at the UN International Criminal Tribunal for Rwanda and a judge at the Appeals Chamber of the UN International Criminal Tribunals for Rwanda and for the former Yugoslavia. He is a member of the Committee against Torture since 2018.

Professor Tuzmukhamedov also has a wide teaching experience. He has taught in the Diplomatic Academy of the Ministry of Foreign Affairs of the Russian Federation, The Hague Academy of International Law, University of Virginia School of Law, and other Russian and foreign institutions. He is the member of American and European International Law Associations, the International Institute of Humanitarian Law, and other professional associations.



**Lord Iain
Bonomy**

The Right Hon Lord Bonomy has been engaged in the practice of law since 1968, first as a lawyer in private practice, then as Scotland's senior prosecuting counsel, and thereafter as a judge.

As a judge in Scotland and the International Criminal Tribunal for the former Yugoslavia (ICTY) in The Hague, he presided over trials in many serious, and some prominent, criminal cases. In Scotland, he also sat in civil cases. Latterly as a member of the Court of Appeal, he sat in civil and criminal appeals. In retirement, he continues to sit occasionally.

In Scotland and at the ICTY he chaired Working Groups that produced recommendations for improvements in the practice and procedure for serious and international criminal proceedings, which were largely implemented.



**Ivana
Hrdličková**

Professor Ivana Hrdličková is the Presiding Judge of the Appeals Chamber and President of the Special Tribunal for Lebanon. She began her career as a Judge in 1990 and has been presiding over both civil and criminal cases. Judge Hrdličková also specializes in Islamic Shari'a, with a focus on human rights and Islamic finance in international and Islamic law. She is further specialized in the development of the rule of law in post-revolution societies. Judge Hrdličková is also a member of international teams to train judges and lawyers in international public law, international criminal law, rule of law and independence of the judiciary.



Peter Michael Kremer

Peter Michael Kremer, QC, was Chief of Appeals (2005-2014) and Acting Deputy Prosecutor (2012-2014) of the Office of the Prosecutor of the International Criminal Tribunal for the former Yugoslavia (ICTY).

Before his posts with the ICTY, from 1977 until 2005, Mr. Kremer held various positions with the Department of Justice of Canada, including General Counsel in Litigation (1996-2005), Director and General Counsel at the Crimes against Humanity and War Crimes Section (1990-1996) in Ottawa, Chief of Prosecutions and Senior Counsel (1982-1990) and Prosecutor (1977-1982) with the Winnipeg Regional Office. Mr. Kremer was appointed Queen's Counsel (Canada) in 1990. He retired from public service in 2014.



Kimberly Prost

Kimberly Prost was elected judge of the International Criminal Court in March 2018, for a term of nine years. Prior to her election as the judge, she served as Chef de Cabinet for the President of the International Criminal Court for a two-year term. Before joining the Court, she was appointed in 2010 as the first Ombudsperson for the Security Council Al Qaida Sanctions Committee. In July 2006, after election by the United Nations General Assembly, Judge Prost was appointed to sit as an *ad litem* judge of the International Criminal Tribunal for the former Yugoslavia (ICTY) on a multi-accused trial (*Popovic et al*) related to events at Srebrenica and Zepa.

Earlier in her career, she worked for the Canadian Department of Justice for 18 years appearing before all levels of the Canadian courts, including the Supreme Court. For 7 years she served as Director of the International Assistance Group which is responsible for extradition and mutual legal assistance matters for Canada. She was a member of the Canadian delegation for negotiating the *Rome Statute of the International Criminal Court* and related documents, as well as the *UN Conventions against Transnational Organized Crime and Corruption*.



**Michael
Swainston**

Michael Swainston, QC, is a Barrister at Brick Court Chambers. He has a broad litigation and advisory practice in England and overseas in areas including commercial and corporate litigation, international commercial and investment arbitration, human rights, humanitarian law and related public international law. He has particular experience in litigation connected with Russia and CIS countries.

Aside from his work in London, Michael Swainston is admitted and practices in the BVI, Cayman Islands, Qatar, Hong Kong and Dubai, and has extensive experience in international arbitration, including LCIA, ICC, Bermuda Form and bilateral investment treaties cases. He is also Bencher of Lincoln's Inn and a member of the international panel of the St. Petersburg International Legal Forum.



**Nayla
Comair-Obeid**

Dr Nayla Comair-Obeid is a founding partner of Obeid Law Firm, where she heads the dispute resolution practice. Dr Comair-Obeid regularly serves in arbitral proceedings as counsel, arbitrator or legal expert on various aspects of Lebanese law and Middle Eastern legislations.

Dr Nayla Comair-Obeid is a professor of international commercial arbitration at the Lebanese University and the author of numerous publications in Arabic, French and English, and, particularly, of the monography "The Law of Business Contracts in the Middle East".

In addition to her experience in academia and practice, Dr Comair-Obeid sits on the ICSID panel of arbitrators; is a member of the Council of the Institute of World Business Law of the International Chamber of Commerce (ICC); member of the LCIA Court; trustee of the Cairo Regional Centre for International Commercial Arbitration board of trustees; former Commissioner of the United Nations Compensation Commission in Geneva; and former Vice Chair of the Arbitration Committee of International Bar Association. Prof Comair-Obeid has acted as the President of the Chartered Institute of Arbitrators (CI Arb) for 2017 and is the former Chair of the CI Arb Board of Trustees.



**Mojtaba
Kazazi**

Dr. Mojtaba Kazazi is a former judge of the courts of Tehran and has a long experience in international arbitration. Currently he is serving as a Vice-président of the Institut de Droit International and acting as arbitrator in different disputes. He is also a board member of Tehran Regional Arbitration Centre. Dr. Kazazi worked extensively on the arbitration and settlement of claims before the Iran-United States Claims Tribunal at The Hague. He also served for many years as the Executive Head of the United Nations Compensation Commission (UNCC), and as the Secretary of its Governing Council, in Geneva, where he was instrumental in setting up the UNCC and in resolving 2.7 million claims from over 100 countries. More recently, Dr. Kazazi was the Executive Commissioner of two international mass claims programs for payment of compensation to workers.

Dr. Mojtaba Kazazi is a graduate of Tehran University (LLB and LL.M) and UCL Louvain (PhD) and has a wide teaching experience. He lectured at The Hague Academy of International Law in 2017 and is currently a visiting scholar at the Graduate Institute, in Geneva. His publications include the book "*Burden of Proof and Related Issues: A Study on Evidence before International Tribunals*" (Kluwer 1996).



**Roman
Khodykin**

Mr Roman Khodykin is Partner at Bryan Cave Leighton Paisner LLP and an arbitration specialist with extensive experience in national and cross-border matters, with particular emphasis on shareholder and energy disputes. He holds a Ph.D. in Conflict of Laws, and is a dual qualified solicitor of the Senior Courts of England and Wales, and a Russian advocate. He has acted as counsel and arbitrator in the International Center for Settlement of Investment Disputes (ICSID), London Court of International Arbitration, International Court of Arbitration at International Chamber of Commerce, American Arbitration Association and the International Commercial Arbitration Court (Moscow) arbitrations. He also represented athletes before the Ad Hoc Division of the Court of Arbitration for Sport.

Mr. Khodykin is a Visiting Professor in the Centre for Commercial Law at Queen Mary University of London. He also lectured at Clare College, Cambridge University, l'Université Paris-Saclay (Université de Versailles Saint-Quentin) and Exeter University. In 2015-2018, he was an alternative member of the ICC Court of International Arbitration in Paris.

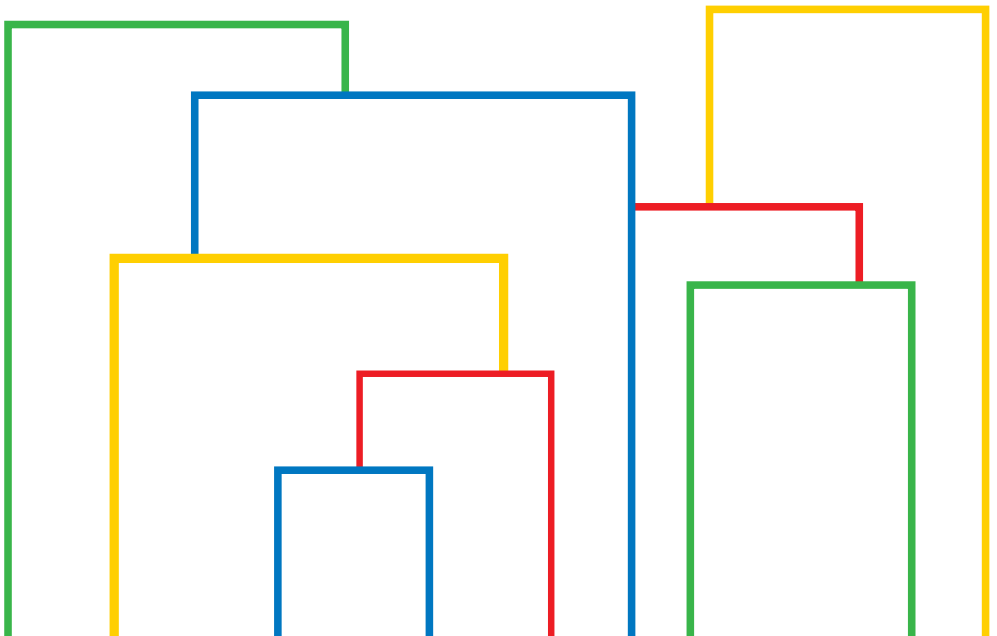


**Dirk-Reiner
Martens**

Dr Dirk-Reiner Martens is Partner at Martens Rechtsanwälte. Since 2000, he has acted in more than 170 proceedings relating to commercial law or sports law, as either a party-appointed arbitrator or President of the tribunal. In 2007, he established the Basketball Arbitral Tribunal (BAT). Since the BAT foundation, more than 1 100 cases have been brought before it.

Dr Martens is included in the list of arbitrators of the Cairo Regional Centre for International Commercial Arbitration (CRCICA), the Court of Arbitration for Sport (CAS), the Arbitration Tribunal of the International Automobile Federation (FIA, Formula 1), American Arbitration Association (AAA) and International Centre for Dispute Resolution (ICDR).

He has also lectured at the University of Neuchâtel for the Master in Management, Law and Humanities of Sport (FIFA Master), as well as in International Commercial Arbitration at Bucerius Law School and in International Sports Law at the Higher Institute of Law and Economics (ISDE).







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