



MILAN  
CHAMBER OF  
ARBITRATION

# THE COLOR OF MONEY

## Economics in arbitration

*CAM Annual Conference – 14<sup>th</sup> edition*



Milan, 24 November 2023

Via Meravigli 9/b



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# THE COLOR OF MONEY

## ECONOMICS IN ARBITRATION

MILAN, 24 NOVEMBER 2023

9:00

### OPENING REMARKS

Stefano Azzali, Secretary General,  
Milan Chamber of Arbitration

9:10

### THE THEME OF THE CONFERENCE - INTRODUCTION

Michelangelo Cicogna, Partner, De Berti Jacchia Franchini  
Forlani

9:20

### A CHANGING LANDSCAPE: RECENT CASE LAW ON DAMAGES IN INTERNATIONAL ARBITRATION

Franz T. Schwarz, Vice-Chair International Arbitration Group,  
Wilmer Hale

9:50

### I SESSION

#### WHY COMMENCE AN ARBITRATION? HOW TO NAVIGATE THE ECONOMIC CONSIDERATIONS OF YOUR CLIENT

Joann Kahn, Group Head of Litigation, ArrowResources AG

#### WHAT DRIVES DAMAGES AWARDS IN INTERNATIONAL ARBITRATION AND WHAT IMPACT DO DAMAGES EXPERTS HAVE?

Dora Grunwald, Partner, Osborne Partners

11:00

### COFFEE BREAK



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## ECONOMICS IN ARBITRATION

11:30

### II SESSION

**COUNSEL'S ROLE IN THE QUANTUM PHASES  
EFFECTIVE ADVOCACY, HOW TO CLAIM, PROVE AND  
SUBSTANTIATE DAMAGES**

Patrick Taylor, Partner, Debevoise & Plimpton

**CONNECTING CAUSE AND EFFECT:  
THE VIEW OF THE ECONOMIST**

Meloria Meschi, Senior Managing Director, FTI Consulting

12:40

**Q&A WITH THE AUDIENCE**

13:15

**LUNCH BREAK**

14:30

### III SESSION

**TAXATION, CURRENCY, AND PRE-AWARD  
INTEREST IN DAMAGES AWARDS**

Roula Harfouche, Partner, HKA

**HOW TO GET THE MONEY: ENFORCEMENT FUNDING  
AND ASSET TRACING**

Jurriaan Braat, Managing Director, Omni Bridgeway

15:40

**IS ARBITRATION IN ITALY DIFFERENT? THE ECONOMICS OF  
"ITALIAN" ARBITRATIONS**

Rosanna Grosso, Senior Legal Counsel, Siemens AG  
Giovanni Foti, Partner, Accuracy

16:15

**Q&A WITH THE AUDIENCE**

16:45

**CLOSING REMARKS**



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**24 NOVEMBER**  
**MILAN**

# **THE COLOR OF MONEY**

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## **ECONOMICS IN ARBITRATION**

### **Why commence an arbitration? How to navigate the economic considerations of your client**

Before deciding whether to proceed with an arbitration, companies typically undertake a cost-benefit and risk analysis. This analysis covers the economics of the entire case, including – but not limited to – an estimate of the recoverable damages, compared to the potential costs of the proceedings. External lawyers can (and should) be of great support on such analysis, to ensure that the preliminary damages and the very choice to start the arbitration are not wildly off the mark and client expectations are properly managed.

### **What drives damages awards in international arbitration and what impact do damages experts have?**

Different types of breaches and damages require different valuation methodologies: the decision to involve a damages expert has a crucial impact on a party's case. The support that a damages expert can bring includes considering and overcoming the major criticisms that are regularly voiced by tribunals on damages issues. It is not possible for any expert to fulfil this task without the effective support of counsel as the interplay between legal and economic issues is key.

### **Counsel's role in the quantum phases – effective advocacy, how to claim, prove and substantiate damages**

Parties are frequently criticized by tribunals for their approach to quantifying loss. By far the most common complaint is a lack of evidence, followed by wrong or unconvincing underlying assumptions, disregard of the rules on the allocation of the burden of proof and speculative claims. Also advocacy is rarely convincing. Can counsel do better?

### **Connecting cause and effect: the view of the economist**

Causality is one of the core issues to be addressed when claiming damages. How to use techniques from economics, statistics and data science to assess factual causation and legal liability.

### **Taxation, currency, and pre-award interest in damages awards**

The treatment of tax and currency issues can have a significant effect (overcompensation and undercompensation) on the net amount of damages received. Similarly, pre-award interest can make up a significant part of the total damages awarded. However, these issues have been given limited attention by tribunals and parties in dispute.

### **How to get the money: enforcement funding and asset tracing**

Winning an arbitration without getting the awarded money is of little satisfaction. Being prepared to enforce, including tracing assets, is key. How a TPF can support.

### **Is arbitration in Italy different? The economics of "Italian" arbitrations**

Arbitrations seated in Italy (or governed by Italian law) often have some distinctive features when it goes to economics (type of damages, tax aspects, players involved etc.). A focus on the Italian practice and market.

# CAM ANNUAL CONFERENCE

# INFORMATION NOTE

## Venue and date

Milan, via Meravigli 9/b, 1<sup>st</sup> floor  
24 November 2023 - 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](http://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 3<sup>rd</sup> onwards)
- AIGI and ALGIUSMI members

## Payment methods

By credit card online at [www.camera-arbitrale.com](http://www.camera-arbitrale.com)

or by bank transfer to:

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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 has been accredited with 4 CFP by 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](mailto:annual.conference@mi.camcom.it)) before 17 November 2023. 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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