

11th Annual PPJ Course and Conference, IUC Dubrovnik

**Arbitration and Court Litigation:
Cross-Fertilization or Complementarity?
23 – 27 May 2016**

Conference outline

The Public and Private Justice Course and Conference has since its inception focused on the relationship between public and private dispute resolution methods. This year, we are concentrating on the interplay between arbitration and litigation. Unlike most customary approaches, in PPJ 2016 we have no wish to explore (only) the way in which public and private justice collaborate in concrete cases (i.e. how arbitration replaces court jurisdiction, or how courts assist in the recognition and enforcement of arbitral awards). What we wish to discuss is whether practices and routines developed in an autonomously designed and agreed dispute resolution procedure like arbitration may have a positive impact on changes in litigation practices, and whether such practices already inspire changes in the public culture of dispute resolution. On the other hand, we also wish to study whether such rapprochement of public and private justice has its limits, and whether it can trigger concerns.

The flexibility of the arbitration proceedings offers an ideal laboratory for the continuing efforts to adjust procedural techniques to the requirements of each dispute, but also to modern life and the parties' expectations. Adding an international element, which is often present in arbitrated disputes, enables further adjustments in pursuit of procedural rules that offer an acceptable compromise for participants from different legal backgrounds and traditions. Can an evolving *de facto* harmonization of some elements of proceedings in international arbitration serve as guidance for reforms of procedural rules in national (and international) litigations?

A major goal of contemporary civil justice systems is to provide useful, user-friendly services to their users. This is a challenge both to public and to private justice. However, in the context of arbitration, which is driven by market forces, highly customizable and guided by ideas of party autonomy, the adjustments to the needs of the parties can happen faster and may produce deeper changes. On the other side, litigation practices usually evolve slowly, burdened by the difficulties of dealing with a massive and complex apparatus and the vested interests of many of those who take part in its functioning. In civil litigation, there are also other, legitimate concerns different from the concerns of arbitration proceedings. Uniformity in dealing with repetitive cases and legal issues, publicity of proceedings and the desire to safeguard the protection of public interests are the postulates which are inherent to public dispute resolution methods. These and other specifics of civil litigation may set ultimate limits to imports and borrowings from arbitral experience. Still, a space for the transformation of civil justice under the influence of successful experiences from the arbitral world may be significant. Some international rules and practices developed in the context of arbitration may be a factor, and a source of orientation, in attempts to harmonize regional, European or global rules and practices of civil procedure.

The speakers at the PPJ 2016 Conference are invited to reflect on the situation regarding this relationship between arbitration and court litigation in their countries, and/or at the regional and global level. Cross-fertilization and the relationship of the complementarity (or opposition) of litigation

and arbitration can be studied regarding all stages, types and aspects of the dispute resolution process. Some of the possible areas of study are: development of effective case-management practices; evolution of communication methods and methods of serving documents; party autonomy in arbitration and litigation proceedings – more choice for parties in court proceedings, less in arbitration?; taking of evidence – production of documents, use of experts and presentation of witness testimony; quality control systems – legal remedies and means of recourse; hybrid practices – state-investor arbitrations; powers of courts and arbitrators to issue provisional measures; and any other relevant topic.

The draft programme of PPJ 2016 will be published at <http://alanuzelac.from.hr/text/iuc-course>.

We warmly welcome you to join us for a discussion of the above matters.

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