

The ASA Conference "Good Faith in International Arbitration – Myth, Reality, Label... or All of the Above?"

This conference will explore the frequently employed notion of "good faith" in international arbitration. This notion will be examined from a Common law, Civil law as well as an International law perspective and the substantive and procedural "good faith" issues which arise in both international commercial and investment arbitrations will be discussed. This conference will question whether what is labelled "good faith" is actually an expression for principles that permeate international arbitration generally, or whether there truly are significant divides among legal cultures.

4 February 2022
Geneva
08.30 - 18:30 CET

Conference Co-Chairs
Elliott Geisinger and Christoph Müller

Programme

Time	Topic	Panelists
08:30 - 09:30	<i>Registration and Morning Coffee</i>	
09:30 - 09:35	Welcome Address	Felix Dasser
09:35 - 09:45	Introduction: Why this Topic?	Sabrina Pearson-Wenger
09:45 - 11:00	What is "Good faith"? A historical and comparative overview	Christoph Müller (Co-Chair)
	Civil Law	Philippe Stoffel-Munck
	Common Law	Neil Andrews
	International Law	Maurice Mendelson
11:00 - 11:30	<i>Coffee Break</i>	
11:30 - 12:45	"Good faith" as a substantive issue in international commercial arbitration <i>Short presentations by panelists on the following topics:</i>	Christoph Müller (Co-Chair)
	"Good faith" and the validity and scope of the arbitration agreement.	Maxi Scherer
	"Good faith" and the substantive interpretation of the contract.	Ingeborg Schwenzer
	"Good faith" (or violation thereof) as a negative defense against claims or as a positive basis for claims.	Céline Greenberg
12:45 - 14:00	<i>Lunch Break</i>	
14:00 - 15:15	"Good faith" in investor-state arbitration <i>Short presentations by panelists on the following topics:</i>	Elliott Geisinger (Co-Chair)
	"Good faith" as an instrument of treaty interpretation.	Andrea Bianchi
	"Good faith" as an element of "investment".	Emily Sipiorski
	"Good faith" (or violation thereof) as a positive basis for claims.	Mohamed S. Abdel Wahab
	"Good faith" as a negative defense (jurisdiction and substance).	Natalie Reid

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Programme (continued)

Time	Topic	Panelists
15:15 - 15:45	<i>Coffee Break</i>	
15:45 - 17:00	<p>"Good faith" as a procedural issue <i>Short presentations by panelists on the following topics:</i></p> <p>"Good faith" and pre-arbitral ADR requirements.</p> <p>Obligations of the parties to act in "good faith".</p> <p>Obligations of arbitrators (and of arbitral institutions?) to act in "good faith".</p> <p>Use and misuse of "good faith" as a ground for setting aside?</p>	<p>Elliott Geisinger (Co-Chair)</p> <p>Anya George</p> <p>Flavio Peter</p> <p>Duarte Henriques</p> <p>Philippe Pinsolle</p>
17:00 - 17:30	<p>Concluding remarks Is there a general principle of "good faith" in international arbitration, regardless of the label?</p>	Felix Dasser
17:30 - 18:30	<p><i>Cocktail</i></p> <p><i>Location: The Glow Bar</i></p>	

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