

# COUNTERCLAIMS IN INVESTOR-STATE ARBITRATION: LESSONS LEARNED AND A LOOK AHEAD

DATE

**6  
SEPT**

TIME

**6.00–  
7.30PM**

 Registration starts  
at 5.30pm

VENUE

**SEMINAR ROOM 1  
KUALA LUMPUR REGIONAL  
CENTRE FOR ARBITRATION**

 Bangunan Sulaiman, Jalan Sultan Hishamuddin,  
50000 Kuala Lumpur, Malaysia

PROGRAMME

5.30pm	Registration
6.00pm	Counterclaims in Investor-State Arbitration: Lessons Learned and a Look Ahead by Olga Puigdemont Sola
7.00pm	Q&A Session moderated by Eleonora Szulc
7.30pm	End of programme

Some argue that the investor-State arbitration system is mainly aimed at promoting foreign investment and protecting foreign investors from the unreasonable exercise of power of the State. In fact, most bilateral investment treaties appear to confer few – if any – obligations upon investors. Criticism of this apparent asymmetry has recently come to the fore, further exacerbating the legitimacy crisis of the investor-State arbitration system. Despite an increasing number of counterclaims brought by States against investors in recent years, most of them have failed, and many at the jurisdictional stage. The main hurdle to such counterclaims has been the terms of the underlying investment treaty, not the terms of the relevant applicable rules (e.g. ICSID Convention or UNCITRAL Rules) which allow for such counterclaims. We will explore recent decisions on this issue which – at a time where many bilateral and multilateral investment treaties are being negotiated or renegotiated – has great potential as an element that may help reshape the system's perceived substantive asymmetry and increase procedural efficiency. We will also identify opportunities and challenges for the way ahead.



**Olga Puigdemont Sola** is an Associate in the Litigation, International Arbitration and Public Law Team at Uría Menéndez in Madrid, Spain. Previously she was an Associate in the International Arbitration Group of Freshfields Bruckhaus Deringer in Rome, Italy, where she acted on behalf of investors and States in commercial and investment arbitrations, institutional and *ad hoc*, in the energy, telecommunications and import and distribution of food products sectors. She has also worked in the Anti-Corruption Division of the Organization for Economic Cooperation and Development (Paris, France) and the Commission for Environmental Cooperation (Montreal, Canada). Olga studied at Cornell University (B. S.; Ithaca, NY) and McGill University (B.C.L., LL.B.; Montreal, Canada). She is fluent in Spanish, Catalan, English, French and Italian.



**Eleonora Szulc** is a solicitor admitted to practise law in Spain. She is trained in international commercial arbitration and dispute resolution. Eleo holds degrees in Spanish Law and in Polish Law, having completed a year of studies at the La Trobe University in Melbourne and at the University of Zurich, Switzerland. She is able to research, draft and negotiate in English, Spanish, German, French and Polish and possesses working knowledge of Mandarin.

Eleo's experience in international arbitration encompasses work from all perspectives: that of a counsel, of the arbitral tribunal and of an administrator. As an associate with Wolf Theiss (Vienna), she acted as a counsel in both investment & commercial arbitrations, under ICSID, ICC, VIAC and Swiss Rules. In addition to having drafted arbitration agreements, she was involved in securing interim measures as well as took part in annulment and enforcement proceedings. Over the course of her engagement with Schellenberg Wittmer (Zurich), Eleo also assisted arbitral tribunals with the conduct of the proceedings, research and drafting of procedural orders and awards. As an international legal counsel at the KLRCA, Eleo administers international and domestic arbitrations and adjudications. She is also involved in diverse policy projects, such as the revision to the Malaysian Arbitration Act.

For more information, please contact :

 Phone: **+603 2271 1000** Email: **events@klrca.org**
**ADMISSION IS FREE. LIMITED SEATS AVAILABLE.**

 For registration, please email your details below to **events@klrca.org** or fax to **+603-2271 1010** by **5 Sept 2017**

Full Name: \_\_\_\_\_

Company/Organisation: \_\_\_\_\_

Designation: \_\_\_\_\_

Address: \_\_\_\_\_

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