

The Department of Law at the University of Cyprus kindly invites you to a research seminar on

‘The Sultan of Sulu Arbitration: Jurisdictional and Ethical Challenges in Spain’s Arbitration Landscape’

Wednesday, 13 November 2024 at 18:00-19:15

by Mr. Ignacio Fornaris Valls

Chair: Assistant Professor Dr. Alina Tryfonidou

Abstract

For arbitration to be effective, a secure and impartial environment is essential. The ethical conduct of arbitrators, which is vital to the process, can be compromised by security concerns. The case of the Heirs of the Sultan of Sulu v. the State of Malaysia illustrates how such issues can arise even in a rule-of-law country like Spain. Arbitration relies on cooperation between parties and minimal court oversight, which can lead to obstructive tactics known as ‘guerrilla tactics.’ These tactics are intended to delay proceedings or illegitimately challenge the arbitration award. This case originates from a 1878 contract between the Dent & Overbeck company, now succeeded by the State of Malaysia, and Sultan Mohammed Jamalul Alam of Sulu. The contract, which granted exploitation rights in Sabah, Malaysia, in exchange for annual payments to the Sultan, became contentious when Malaysia ceased payments in 2013. The resolution clause of the contract, designating the Consul General of Borneo (Brunei) as the arbitrator, was problematic due to the dissolution of this position and associated diplomatic issues. The claimants pursued arbitration through Spanish courts, invoking historical Spanish jurisdiction over Sabah. Despite Malaysia’s non-participation, the Madrid High Court appointed Mr. Stampa as the arbitrator. However, Malaysia’s ‘guerrilla tactics’ involved challenging jurisdictional awards and alleging procedural errors, leading to the annulment of Stampa’s appointment. Despite these challenges and some procedural mistakes, Stampa issued a \$14 billion award. The situation escalated to criminal proceedings against Stampa, who was accused of disobeying court orders. Although his qualifications were upheld, the non-compliance accusation was confirmed, and the case is now before the Spanish Supreme Court. This development could introduce new challenges to arbitration and potentially deter fair practices due to perceived risks, contributing to a decline in arbitration cases in Spain.

Speaker Bio

Born in Palma de Mallorca, Spain, Mr. Ignacio Fornaris Valls pursued a dual Bachelor’s degree in Law and Business Management at Complutense University of Madrid. Following a Master’s in Legal Practice from Carlos III University of Madrid, Mr. Fornaris began a distinguished career as a litigation lawyer, initially at Garrigues, Spain’s leading law firm, and subsequently at Deloitte Legal. After gaining valuable professional experience, he chose to return to academia. Currently, he holds a fellowship that enables him to teach EU Law while working on a PhD in International Law and Commercial Law at CEU San Pablo University and the University of Bologna.

Practical Details

Language: The seminar will be conducted in English

Registration: Please register for the Zoom meeting following [this link](#).