

IS ARBITRATION LOSING ITS LUSTER ?

Dr François Kaiser

Partner

SCG Legal, 2016 International Meeting, Zürich, Switzerland

I ARBITRATION INSTITUTIONS – STATISTICS ¹

	Number of requests for arbitration			
	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>
•London Court of International Arbitration (LCIA)	277	301	300	326
•ICC – Paris	759	767	791	801
•Swiss Chambers' Arbitration Institution	92	68	105	
•Stockholm Chamber of Commerce Arbitration Institute	177	203	183	181
•Singapore International Arbitration Center	235	259	222	
•ICDR	996	1'165	1'052	

1. Some of the figures include also domestic arbitrations

II COMPETITION BETWEEN PLACES OF ARBITRATION

- « New York surges ahead as international arbitration center»
- «New York City also displaced Zurich to rank as the fifth most popular city for international arbitration, after Paris, London, Geneva and Singapore».

(Source : the Global Legal Post, 05/05/2016)

III ARE ORDINARY COURTS AND OTHER FORMS OF ADR CONTRIBUTING IN ARBITRATION LOSING ITS LUSTER ?

- Ordinary State Courts' activism
- Attraction of Commercial State Courts
- Dispute Boards and Adjudication Boards

IV COMMONLY HEARD CRITICISM/RUMORS FROM PARTIES/LAWYERS AGAINST ARBITRATION

- Long delays before reaching final arbitration award
- High costs of arbitration proceedings
- Multiplication of arbitration rules/laws
- Lack of independence of arbitrators/unforeseeable personality of arbitrators
- Lack of efficiency if a Party wants to paralyse an arbitration proceeding
- Difficulty to enforce interim measure (in particular against third Party)
- Arbitrators not properly equipped to master technological innovations
- Arbitration tourism: fashion – vs – service to the Parties



Kellerhals
Carrard

François Kaiser

Attorney-at-law
Partner

Kellerhals Carrard
Place Saint-François 1
P.O. Box 7191
CH - 1002 Lausanne

Direct number +41 58 200 33 03
francois.kaiser@kellerhals-carrard.ch

Basel

Hirschgässlein 11
Postfach 257
CH-4010 Basel
Tel. +41 58 200 30 00
Fax +41 58 200 30 11

Bern

Effingerstrasse 1
Postfach
CH-3001 Bern
Tel. +41 58 200 35 00
Fax +41 58 200 35 11

Lausanne

Place Saint-François 1
Postfach 7191
CH-1002 Lausanne
Tel. +41 58 200 33 00
Fax +41 58 200 33 11

Sion

Rue du Scex 4
Postfach 317
CH-1951 Sion
Tel. +41 58 200 34 00
Fax +41 58 200 34 11

Zürich

Rämistrasse 5
Postfach
CH-8024 Zürich
Tel. +41 58 200 39 00
Fax +41 58 200 39 11