

YEAR 8 | Ed. 32



# YAR

YOUNG ARBITRATION REVIEW

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The First Independent International Arbitration Review

8<sup>TH</sup> ANNIVERSARY EDITION

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London | Marcin Jucha

# TACKLING CORRUPTION IN INTERNATIONAL ARBITRATION – KEY ISSUES AND CHALLENGES

By Yoanna Schuch

Despite continuing efforts at both national and international levels, corruption remains a serious problem in international business. According to Transparency International’s latest Corruption Perceptions Index, on a scale from zero (highly corrupt) to one hundred (very clean), over two-thirds of the 180 assessed countries scored below 50.<sup>1</sup> This means that over six billion people live in countries that are corrupt. The economic, social, political, environmental costs of widespread corruption are dramatic.

The result has been the creation of a complex international and national legal framework condemning corruption. At the same time, allegations of corruption have more and more frequently arisen in the context of international arbitration. Unlike in the domestic context, however, the rules and instruments relevant to international arbitration are typically silent on how tribunals should deal with issues of corruption.

This article examines the different approaches that tribunals have taken when they were confronted with corruption claims and identifies key issues and challenges with respect

to the definition and scope of corruption; the jurisdiction of tribunals; the burden of proving corruption and the requisite standard of proof; the question whether tribunals should investigate corruption on their own motion; and, finally, the legal effects of a positive finding of corruption.

## *A. The Meaning and Scope of Corruption*

Corruption is a complex social, political and economic phenomenon that affects all countries. Although there is a worldwide unanimity that corruption constitutes a crime, there is no uniform understanding about what the term corruption really means. Transparency International, the leading NGO in the field of combatting corruption, defines it as “the abuse of entrusted power for private gain.”<sup>2</sup> It distinguishes grand, petty and political corruption which it describes as follows:

“Grand corruption consists of acts committed at a high level of government that distort policies or the central functioning of the state, enabling leaders to benefit at the expense of the public good.

Petty corruption refers to everyday abuse of entrusted power by low- and mid-level public officials in their interactions with ordinary citizens, who often are trying to access basic goods or services in places like hospitals, schools, police departments and other agencies.

Political corruption is a manipulation of policies, institutions and rules of procedure in the allocation of resources and financing by political decision makers, who abuse their position to sustain their power, status and wealth.”<sup>3</sup>

The OECD Anti-Bribery Convention, one of the main anti-corruption treaties, does not include a general definition of corruption but instead focuses on the bribing of public officials which it defines in the following terms:

“to offer, promise or give any undue pecuniary or other advantage, whether directly or through intermediaries, to a foreign public official, for that official or for a third party, in order that the official act or refrain from acting in relation to the performance of official duties, in order to obtain or retain business or other improper advantage...”<sup>4</sup>

The UN Office on Drugs and Crime maintains that a universally applicable definition of corruption would “invariably encounter legal, criminological and, in many countries, political problems.”<sup>5</sup> It has therefore limited itself to identifying the particular forms of corruptions, including “bribery, embezzlement, theft and fraud, extortion, abuse of discretion, favouritism, nepotism and clientelism, conduct creating or exploiting conflicting interests, and improper political contributions.”<sup>6</sup>

Fact is that there remains a broad diversity in definitions of corruption across jurisdictions, and actions that qualify as ‘corrupt’ may have entirely different legal consequences in different areas of the world. Therefore, the starting point for tribunals in international arbitration when assessing the validity of corruption claims is always to determine what qualifies as illicit action under the applicable law.

Despite these divergencies between national legislations, however, there is a worldwide consensus that corruption has a harmful effect on economic development, political stability, and the rule of law. This has led to a global convergence of international and national legal rules condemning corruption which supports the general understanding that there is an international, or even transnational, public policy against corruption.<sup>7</sup> Against this background, the tribunal in *World Duty Free v Kenya* held that:

“[i]n light of domestic laws and international conventions relating to corruption, and in light of the decisions taken in this matter by courts and arbitral tribunals, this Tribunal is convinced that bribery is contrary to the international public policy of most, if not all, States or, to use another formula, to transnational public policy.”<sup>8</sup>

It is widely accepted that the existence of an international or transnational public policy against corruption requires

tribunals to consider and apply these (transnational) anti-corruption principles when they are confronted with allegations and suspicions of corruption.<sup>9</sup> If the applicable law were to conflict with transnational public policy, tribunals should favour transnational norms in order to render an enforceable award.<sup>10</sup>

### ***B. The Tribunal’s Jurisdiction and the Arbitrability of Issues of Corruption***

The first question that arises is, of course, whether arbitration is the right forum for deciding corruption claims. The tribunal’s jurisdiction over corruption issues was debated following a landmark decision of the sole arbitrator Judge Lagergren in an ICC arbitration in 1963.<sup>11</sup> In this case, an English company instructed an Argentinian agent to exert influence over public officials so that the company would win a bid for public works contracts. The company agreed to pay the agent a 5% commission on every contract that it was awarded. A substantial portion of the commission would be used to bribe members of the Argentinian government. This agreement was recorded in several letters. The parties subsequently agreed to submit their dispute to ICC arbitration.

After hearing the witnesses and reviewing the evidence, Judge Lagergren decided to inquire *ex officio* into the validity of the agreement between the company and the agent and held that he did not have jurisdiction to decide the merits of the case. In his words, by entering into an agreement that enabled a bribe, the parties “have forfeited any right to ask for assistance of the machinery of justice (national courts or arbitral tribunal) in settling their disputes.”<sup>12</sup>

The decision of Judge Lagergren has been criticized for ignoring the principle of separability under which arbitration clauses are deemed to have a separate legal existence from the contract in which they are contained.<sup>13</sup> Tribunals have taken a different approach ever since and have consistently recognized the arbitrability of allegations of corruption and their power to examine the merits of such allegations.<sup>14</sup> Indeed, today it is mostly undisputed that tribunals in commercial arbitration have jurisdiction over disputes that involve claims of corruption.

The approach to corruption is different in investment arbitration where the tribunal’s jurisdiction does not derive from a contract, but rather from an investment treaty. In these cases, the issue is whether an investor who has engaged in corrupt practices when making or performing the investment can still enjoy protection under the relevant investment treaty. Many treaties include a specific requirement that the investment be implemented in accordance with domestic legislation.<sup>15</sup> Since corruption is an illicit activity under all legislations, investments procured or performed with corruption do not meet this requirement and, as a result, the tribunal is deprived of jurisdiction. Corruption has therefore been primarily used as a ‘shield’ by respondents to challenge the tribunal’s jurisdiction.<sup>16</sup>

### ***C. The Burden of Proving Corruption and the Requisite Standard of Proof***

Once the tribunal has accepted that it has jurisdiction

to examine the allegations of corruption, the next step is to determine how these allegations should be presented. Most institutional arbitration rules do not provide any guidance on how to determine the applicable burden and standard of proof and tribunals are therefore required to rely on the applicable law.

It is disputed whether the burden and standard of proof are procedural issues (and thus subject to the procedural law of the arbitral seat), substantive issues (and thus subject to the law governing the merits), or subject to some international standard. Tribunals dealing with issues of corruption have issued conflicting decisions on this point.<sup>17</sup> The prevailing view, however, seems to be that the rules relating to the burden and standard of proof are “intertwined with substantive legal rules”<sup>18</sup> which suggests that the law governing the merits of the dispute should also govern the burden and standard of proof.<sup>19</sup>

Regardless of the applicable law, almost all tribunals have held, with respect to the burden of proof, that each party bears the burden of proving the facts on which it relies to support its claims or defences, including corruption.<sup>20</sup> This rule applies equally in investment treaty arbitrations. The tribunal in *Metal-Tech v Uzbekistan* even noted that “[t]he principle that each party has the burden of proving the facts on which it relies is widely recognized and applied by international courts and tribunals,” and “[t]he International Court of Justice as well as arbitral tribunals constituted under the ICSID Convention and under the NAFTA have characterized this rule as a general principle of law.”<sup>21</sup>

Notwithstanding the wide acceptance of this principle, in a few exceptional cases, the burden of proof was shifted to the accused party when there was a *prima facie* evidence of corruption. The tribunal in ICC Case No. 6497, which related to the provision of consultancy services in the Middle East, has explained the circumstances in which the burden of proof may be shifted as follows:

“The “alleging Party” may bring some relevant evidence for its allegations, without these elements being really conclusive. In such case, the arbitral tribunal may exceptionally request the other party to bring some counter-evidence, if such task is possible and not too burdensome. If the other party does not bring such counter-evidence, the arbitral tribunal may conclude that the facts alleged are proven... such change in the burden of proof is only to be made in special circumstances and for very good reasons.”<sup>22</sup>

Some tribunals have criticized the concept of burden shifting as being incompatible with principles of due process. For example, the tribunal in *Siag v Egypt*, an ICSID case that arose under the Italy-Egypt BIT, rejected Egypt’s contention that the burden of proof should be shifted to the claimant to disprove the fraud, and stated that “the reversal of the burden of proof may make it almost impossible for the allegedly fraudulent party to defend itself, thus violating due process standards.”<sup>23</sup>

When it comes to the standard of proof for allegations

of corruption, there is no uniform approach that is universally followed by tribunals. Many tribunals have applied a higher standard of proof in cases involving allegations of corruption while others have argued that a lower standard of proof should be applied in order to facilitate a positive finding of corruption in situations where there are sufficient signs of the unlawful nature of the act.

For example, the tribunal in ICC Case No. 13914 held that cases involving allegations of corruption require “clear and convincing evidence” and that the standard of proof should therefore be higher.<sup>24</sup> The tribunal explained that this approach is based on a presumption in favour of the validity of the contract, the seriousness of the allegation, and the severe consequences that a positive finding of corruption entails. There is a number of other ICC tribunals that have followed the same direction and have also applied a higher standard of proof.<sup>25</sup> Tribunals in ICSID cases arising under various investment treaties have, in many cases, come to similar conclusions regarding the need for a high standard of proof.<sup>26</sup> The tribunal in *EDF v Romania*, an ICSID case that arose under the UK-Romania BIT, even noted that “[t]here is general consensus among international tribunals and commentators regarding the need for a high standard of proof of corruption.”<sup>27</sup>

When tribunals have applied a lower standard of proof, they have usually relied on circumstantial evidence.<sup>28</sup> Such circumstantial evidence is frequently referred to as the ‘red flags’ of corruption. The ICC has published a list of red flags that is supposed to assist tribunals with identifying corruption (for example, tribunals should be alarmed if the third party has a “flawed background or reputation;” operates “in a country known for corrupt payments”; or is “suggested by a public official, particularly one with discretionary authority over the business at issue”).<sup>29</sup> The tribunal in ICC Case No. 12990, for instance, stated that it is often extremely challenging, if not impossible, to prove the existence of a corrupt scheme behind a contract.<sup>30</sup> As a result, the tribunal considered various (on their own, inconclusive) circumstances, including the relevant country’s high level of corruption.

#### ***D. The Tribunal’s Power to Investigate Corruption on Its Own Motion***

In most cases, allegations of corruption are raised by the parties. In these cases, there is no doubt that tribunals are obliged to address issues of corruption as part of their decision-making duty, particularly when corruption can potentially affect the outcome of the case.

A different question arises, however, when a tribunal suspects the existence of corruption based on the evidence on record, but neither party has raised an allegation of corruption. In this situation, tribunals are confronted with two conflicting issues. On the one hand, if a tribunal raises the existence of corruption on its own motion, its award may be set aside by a court of the seat of arbitration, or the award may be denied recognition and enforcement by a foreign court, on the basis that the tribunal acted *ultra petita* by dealing with a dispute outside



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its mandate.<sup>31</sup> On the other hand, if a tribunal disregards the potential existence of corruption and renders an award without investigating *ex officio* the existence of corruption, the award risks being set aside by the court of the seat of arbitration or by a foreign court on public policy grounds.<sup>32</sup>

An example that shows the confrontation of these two issues is the tribunal's decision in ICC Case No. 14920.<sup>33</sup> In this case, the respondent admitted in the course of the proceedings that it bribed state officials so that the state would award it a contract. The claimant in this case sought damages based on the basis of the contract that was tainted by corruption. After the tribunal learnt about the bribery, it gave the parties several opportunities to comment on the effect of corruption on the case, including on the validity of the contract. However, the claimant did not modify its claims which the tribunal eventually dismissed. The tribunal expressed its unease about the decision and explained that:

“the final outcome may seem unsatisfactory: the Tribunal is forced to... reject all of the Claimant's pleas and leave Respondent's unlawful behaviour unpunished. What makes the decision particularly difficult is that the Claimant is entitled to bring a whole variety of actions arising from corruption of the Contract... However, the Arbitral Tribunal expressly opened up the possibility of the Claimant raising such claims... and the Claimant[] decided not to exercise them...”<sup>34</sup>

This decision illustrates the challenge associated with issues of corruption that were not brought up by the parties. The practice of tribunals has been inconsistent on this point, and some tribunals have preferred not to intervene.<sup>35</sup> That being said, there is an increasing sense that tribunals should not turn a blind eye to illegal activities, leaning towards a more inquisitorial approach.<sup>36</sup>

There are of course practical limits to the tribunals' power to investigate corruption.<sup>37</sup> If a tribunal decides to investigate corruption on its own motion, it has to make sure that it provides the parties with a reasonable opportunity to make submissions on the issue. Moreover, *sua sponte* investigations by tribunals are only appropriate when the suspected illegality is directly relevant to the parties' claims and defences and thus to the outcome of the case.

#### *E. The Legal Effects of a Positive Finding of Corruption*

As discussed above, commercial arbitration tribunals do not lose their jurisdictional powers over a case on the sole basis that the underlying contract may have been tainted by corruption. In the context of commercial arbitration, allegations of corruption are therefore typically addressed at the merits stage.

In order to assess whether a party has committed a corrupt act and what the resulting legal consequences are,

tribunals must consider the relevant applicable law, which is usually the law governing the contract. However, when corruption crosses borders (which is typically the case when it comes to intermediary agreements),<sup>38</sup> tribunals may also have to consider mandatory provisions of the laws of the place of performance or the arbitral seat. These laws may significantly differ from the law chosen by the parties. It is therefore crucial that a tribunal conducts a careful conflict of laws analysis when it comes to assessing corruption and its legal consequences.<sup>39</sup> Finally, as noted above, tribunals are also required to consider transnational public policy in their analysis.

Under most national laws, contracts tainted by corruption are considered to be void or voidable,<sup>40</sup> which is often the result of the implementation of requirements under international conventions. For example, Article 8 of the Council of Europe Civil Law Convention on Corruption states that:

“1. Each party shall provide in its internal law for any contract or clause of a contract providing for corruption to be null and void.

2. Each Party shall provide in its internal law for the possibility for all parties to a contract whose consent has been undermined by an act of corruption to be able to apply to the court for the contract to be declared void, notwithstanding their right to claim for damages.”<sup>41</sup>

Similarly, Article 34 of the UN Convention against Corruption provides:

“With due regard to the rights of third parties acquired in good faith, each State Party shall take measures, in accordance with the fundamental principles of its domestic law, to address consequences of corruption. In this context, State Parties may consider corruption a relevant factor in legal proceedings to annul or rescind a contract, withdraw a concession or other similar instrument or take any other remedial action.”

As a result, several tribunals have declared contracts tainted by corruption as being null and void under the applicable national law which lead to the dismissal of all claims. For example, in ICC Case No. 13914 relating to a consultancy agreement in

an African country, the tribunal found that there was convincing evidence that the commission paid by the respondent to the claimant was intended to be used to bribe state officials in order to win the contract.<sup>42</sup> The tribunal held that the bribes were illicit under the applicable law, declared the consultancy agreement as null and void, and dismissed all claims. In that case, the respondent could not reclaim the bribes paid to the state officials because it had consciously participated in the illicit activities that led to the nullity of the contract.

The legal effects of a positive finding of corruption in the context of investment arbitration are more complex than in commercial arbitration. As discussed above, allegations of corruption in the context of investment treaty arbitration are often (successfully) used as a jurisdictional objection by the respondent states.<sup>43</sup> Several tribunals in investment arbitrations that have accepted jurisdiction, have subsequently dismissed the claims in the merits stage of the proceedings on the basis of transnational public policy or the “unclean hands” doctrine which provides that an investor who has engaged in significant misconduct which is directly related to its investment should not be able to pursue its claim.<sup>44</sup>

#### *E. Conclusion*

As the worldwide campaign against corruption has intensified, it has also increasingly influenced the approach of tribunals that were confronted with corruption. The challenges that arise when the issue of corruption comes up in an international arbitration are diverse and complex, and they usually cover the entire gamut of the arbitral process. A mistake in the tribunal’s evidentiary or conflict of laws analysis, for example, can potentially make a huge difference to the ultimate resolution of the parties’ dispute and can have further implications at the stage of enforcing and challenging the arbitral award. It is therefore crucial that tribunals become more aware and more informed about the factual and legal issues that they face when deciding on issues of corruption and the potential relevance of corruption for the validity and admissibility of contractual claims.

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1 See Transparency International, Corruption Perception Index 2017, available at: [https://www.transparency.org/whatwedo/publication/corruption\\_perceptions\\_index\\_2017](https://www.transparency.org/whatwedo/publication/corruption_perceptions_index_2017).

2 Website of Transparency International, available at: <https://www.transparency.org/what-is-corruption#define>.

3 *Ibid.*

4 OECD Convention, at Article 1(1).

5 UN Office on Drugs and Crime, The Global Programme against Corruption: UN Anti-Corruption Toolkit, 3rd edn., 2004, Chapter 1.

6 *Ibid.*

7 See M. Hwang and K. Lim, Corruption in Arbitration – Law and Reality, Asian International Arbitration Journal, 2012, Vol. 8, Issue 1, at pp. 2-3; D. Baizeau and T. Hayes, The Arbitral Tribunal’s Duty and Power to Address Corruption *Sua Sponte*, in A. Menaker, ed., International Arbitration and the Rule of Law: Contribution and Conformity, ICCA Congress Series, Vol. 19, 2017, at p. 232.

8 *World Duty Free v Kenya*, ICSID Case No. ARB/00/7, Award, dated 4 October 2006, at para. 157.

9 See M. Hwang and K. Lim, Corruption in Arbitration – Law and Reality, Asian International Arbitration Journal, 2012, Vol. 8, Issue 1, at pp. 50 *et seq.*

10 See R. Kreindler, Aspects of Illegality in the Formation and Performance of Contracts, Transnational Dispute Management, Vol. 3, No. 2, 2006, at p. 273.

11 See ICC Case No. 1110, Award, reprinted in J. Gillis Wetter, Issues of Corruption Before International Arbitral Tribunals: The Authentic Text and True Meaning of Judge Gunnar Lagergren’s 1963 Award in ICC Case. No. 1110, Arbitration International, Vol. 10, 1994.

12 *Ibid.*, at p. 294.

- 13 *Ibid*, at pp. 277 *et seq.*
- 14 C. Albanesi and E. Jolivet, Dealing with Corruption in Arbitration: A Review of ICC Experience, in ICC Bulletin Vol. 24, Tackling Corruption in Arbitration, 2013, at p. 29.
- 15 *See, e.g.*, H. Tezuka, Corruption Issues in the Jurisdictional Phase of Investment Arbitrations, in D. Baizeau and R. Kreindler, eds., Addressing Issues of Corruption in Commercial and Investment Arbitration, ICC Dossiers, Vol. 13, 2015, at pp. 62 *et seq.*
- 16 *See also* S. Nappert, Raising Corruption as a Defence in Investment Arbitration, in D. Baizeau and R. Kreindler, eds., Addressing Issues of Corruption in Commercial and Investment Arbitration, ICC Dossiers, Vol. 13, 2015, at pp. 175 *et seq.*
- 17 *See* A. Menaker, Proving Corruption in International Arbitration, in D. Baizeau and R. Kreindler, eds., Addressing Issues of Corruption in Commercial and Investment Arbitration, ICC Dossiers, Vol. 13, 2015, at pp. 78 *et seq.*
- 18 G.B. Born, International Commercial Arbitration, 2nd ed., 2014, at p. 2135.
- 19 *See also* A. Reiner, Burden and General Standards of Proof, in A. Redfern *et al.*, The Standards and Burden of Proof in International Arbitration, Arbitration International, Vol. 10, 1994, at p. 331.
- 20 *See* A. Menaker, Proving Corruption in International Arbitration, in D. Baizeau and R. Kreindler, eds., Addressing Issues of Corruption in Commercial and Investment Arbitration, ICC Dossiers, Vol. 13, 2015, at p. 79.
- 21 *Metal-Tech v Uzbekistan*, ICSID Case No. ARB/10/3, Award, dated 4 October 2013, at para. 237.
- 22 C. Albanesi and E. Jolivet, Dealing with Corruption in Arbitration: A Review of ICC Experience, in ICC Bulletin Vol. 24, Tackling Corruption in Arbitration, 2013, at p. 31.
- 23 *Siag v Egypt*, ICSID Case No. ARB/05/15, Award, dated 1 June 2009, at para. 317.
- 24 C. Albanesi and E. Jolivet, Dealing with Corruption in Arbitration: A Review of ICC Experience, in ICC Bulletin Vol. 24, Tackling Corruption in Arbitration, 2013, at p. 32.
- 25 *See* A. Menaker, Proving Corruption in International Arbitration, in D. Baizeau and R. Kreindler, eds., Addressing Issues of Corruption in Commercial and Investment Arbitration, ICC Dossiers, Vol. 13, 2015, at p. 84 *et seq.*
- 26 *Ibid*, at pp. 85 *et seq.*
- 27 *EDF (Services) Ltd. v Romania*, ICSID Case No. ARB/05/13, Award, dated 8 October 2009, at para. 221.
- 28 *See* C. Albanesi and E. Jolivet, Dealing with Corruption in Arbitration: A Review of ICC Experience, in ICC Bulletin Vol. 24, Tackling Corruption in Arbitration, 2013, at p. 33.
- 29 *See* V. Khvalei, Using Red Flags to Prevent Arbitration from Becoming a Safe Harbour for Contracts that Disguise Corruption, in ICC Bulletin Vol. 24, at pp. 15-25.
- 30 *Ibid*.
- 31 Article V(2)(c) of the New York Convention provides that the recognition or enforcement of an award may be refused if the award deals with a difference not contemplated by or not falling within the terms of the submission to arbitration.
- 32 Article V(2)(b) of the New York Convention allows the recognition of an award to be refused if it is contrary to the public policy of the country where recognition or enforcement is sought. As discussed above, an award rendered in disregard of the possible existence of corruption may be contrary to international or transnational public policy.
- 33 *See* C. Albanesi and E. Jolivet, Dealing with Corruption in Arbitration: A Review of ICC Experience, in ICC Bulletin Vol. 24, Tackling Corruption in Arbitration, 2013, at p. 35.
- 34 *Ibid*.
- 35 *See, e.g.*, *Westacre*, ICC Case No. 7047/JJA, Final Award, dated 28 February 1994, 13 ASA Bulletin No. 2, 1995 (“If the defendant does not use [the word bribery] in his presentation of facts an Arbitral Tribunal does not have to investigate”), at p. 343.
- 36 *See* D. Baizeau and T. Hayes, The Arbitral Tribunal’s Duty and Power to Address Corruption *Sua Sponte*, in A. Menaker, ed., International Arbitration and the Rule of Law: Contribution and Conformity, ICCA Congress Series, Vol. 19, 2017, at pp. 228 *et seq.*
- 37 *Ibid*, at pp. 243 *et seq.*
- 38 *See* M. Nueber, The Arbitration Agreement and Arbitrability, Corruption in International Commercial Arbitration – Selected Issues, in C. Klausegger *et al.*, eds., Austrian Yearbook on International Arbitration, 2015, at pp. 8-13.
- 39 For more details on how to determine the law governing the elements and legal consequences of corruption, *see* M. Hwang S.C. and K. Lim, Corruption in Arbitration – Law and Reality, Asian International Arbitration Journal, 2012, Vol. 8, Issue 1, at pp. 37-61.
- 40 For more details on the impact of corruption on contracts, *see* M. Bonell and O. Meyer, The Impact of Corruption in International Commercial Contracts, 2015.
- 41 *See also* UN Convention against Corruption, at Article 34 (“With due regard to the rights of third parties acquired in good faith, each State Party shall take measures, in accordance with the fundamental principles of its domestic law, to address consequences of corruption. In this context, State Parties may consider corruption a relevant factor in legal proceedings to annul or rescind a contract, withdraw a concession or other similar instrument or take any other remedial action.”).
- 42 *See* C. Albanesi and E. Jolivet, Dealing with Corruption in Arbitration: A Review of ICC Experience, in ICC Bulletin Vol. 24, Tackling Corruption in Arbitration, 2013, at p. 30.
- 43 For more details, *see* Y. Banifatemi, The Impact of Corruption in “Gateway Issues” of Arbitrability, Jurisdiction, Admissibility and Procedural Issues, in D. Baizeau and R. Kreindler, eds., Addressing Issues of Corruption in Commercial and Investment Arbitration, ICC Dossiers, Vol. 13, 2015, at pp. 23-24. *See also* H. Tezuka, Corruption Issues in the Jurisdictional Phase of Investment Arbitration – An Arbitrator’s Checklist, in D. Baizeau and R. Kreindler, eds., Addressing Issues of Corruption in Commercial and Investment Arbitration, ICC Dossiers, Vol. 13, 2015, at pp. 52-54.
- 44 *See* C. Lamm *et al.*, Fraud and Corruption in International Arbitration, in M. Fernández-Ballesteros and D. Arias, eds., 2010, at p. 723.