

# Text, Context, and Applicable Law: Arbitral Decision-Making?

Arbitrators often confront a text/context duality in interpreting contracts. The applicable law may impose the adoption of one approach over the other - e.g., New York-textualist versus California-contextualist. However, whether unimposed or even imposed, leeway remains, and an arbitrator's unstated (and perhaps unconscious) philosophy of language is the hidden hand in the interpretive action. Divining "ordinary meaning," and thereby "intention," is the art and the frustration. In the webinar, it will be suggested that arbitrators should try to examine — openly — that hidden hand. Moreover, in doing so, they should consider whether approaches to the interpretation of texts in other disciplines, including the use of corpus linguistics (as promoted by Thomas Lee/Stephen Mouritsen), would improve arbitral decision-making.

November 15

12:00-1:30 p.m.

*NYC time*

6:00-7:30 p.m.

*Paris time*



CENTER FOR TRANSNATIONAL LITIGATION,  
ARBITRATION, AND COMMERCIAL LAW

## HOST/MODERATOR

Franco Ferrari  
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Franco Ferrari joined NYU School of Law as a full-time professor in Fall 2010, after serving as professor of law at Verona University (2002-16, on leave from 2011-2016), Bologna University (1998-2002), and Tilburg University (1995-98). Professor Ferrari, a former legal officer at the UN Office of Legal Affairs, works and does research in the areas of international commercial law, conflict of laws, comparative law, and international commercial arbitration. He is a prolific author, who has published more than 300 law review articles, encyclopedia entries, and book chapters, and 35 books. He is a recipient of the 2018 Certificate of Merit for High Technical Craftmanship and Utility to Practicing Lawyers and Scholars awarded by the American Society of International Law. He also acts as an international arbitrator both in international commercial arbitrations and investment arbitrations.

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## SPEAKERS

**Laurence Shore**  
*BonelliErede,  
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Laurence Shore is Of Counsel at BonelliErede-Milan and head of the firm's international arbitration department. He previously practiced law in London, New York City, and Washington, D.C., and he has taught international arbitration courses at New York University School of Law and the Washington College of Law (American University). Laurence's law degree is from Emory University, where he was editor-in-chief of the Emory Law Journal. He also has a doctorate in American History from Johns Hopkins University. Laurence is a co-author of *International Investment Arbitration: Substantive Principles* (2d edition, OUP, 2017); his other publications include "The Enduring Power of Racism: A Reconsideration of Winthrop Jordan's 'White Over Black,'" *History and Theory*, May 2005.

**Klaus Peter Berger**  
*Cologne University,  
Cologne*

Klaus Peter Berger is a professor for domestic and international civil and business law, comparative and private international Law and founding director of the Center for Transnational Law (CENTRAL) at the University of Cologne, Germany. He is the past President of the German Arbitration Institute (DIS), a former Board Member of the Arbitration Institute, Stockholm Chamber of Commerce and member of the Council of the ICC Institute of World Business Law as well as co-editor of "Arbitration International" and "Oxford International Arbitration Series". He is a practicing international arbitrator and has acted as chairman, party-appointed and sole arbitrator in more than 120 institutional and ad hoc arbitrations worldwide.

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