

**Examination of witnesses by the court:
worth making the effort or uncontrollable risk?**

ASA Below 40 Seminar – 23 May 2014

Court assistance in international arbitration – how to use it wisely and efficiently

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- Witness convenience
- Witness cooperation
- Limited permission to give testimony
- Reliability of the witness statement

- General admissibility
- Who may request court assistance?
- Discretion of the state court
- Court assistance through court assistance

- UNCITRAL Model law:

“The arbitral tribunal or a party with the approval of the arbitral tribunal may request from a competent court of this State assistance in taking evidence. The court may execute the request within its competence and according to its rules on taking evidence.”

- Similar provisions in many Model Law jurisdictions

- Similar provision in Swiss PIL

- Permitted Presence
- Who conducts the examination?
- Content of examination

- Timing
- Language
- Record of the examination / minuting
- Technical facilities
- Confidentiality / Privacy

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