

Curriculum vitae



Prof. Dr. Jan Kleinheisterkamp

* 19 September 1971 in Chiclayo / Peru
German, Peruvian nationality

JK ADR Arbitration & Mediation

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Currently

since 2021	self-employed	Arbitrator, Mediator, Facilitator specialized in resolving international disputes
since 2021	London School of Economics Department of Law	Visiting Professor in Practice for International Arbitration
since 2022	Católica Global School of Law, Lisbon	Visiting Professor for International Commercial Arbitration

Past experience

2008 – 2021	London School of Economics Department of Law	Associate Professor of Law (tenure 2010) Law of Obligations, Commercial Contracts, International Commercial Contracts, International Commercial Arbitration, Investment Treaty Law
2015 – 2016	Cornell Law School	Berger and Clarke Visiting Scholar (on sabbatical leave from LSE)
2004 – 2008	HEC School of Management, Paris Department of Business Law	Assistant Professor at Department of Business Law <i>Droit des obligations</i> , European Law, International Contracts and Arbitration
1998 – 2004	Max-Planck-Institute for Comparative and Private International Law, Hamburg	Research Assistant and Fellow for Latin American law

Other professional services and appointments

2020-2026	Member of the World Bank ICSID Panel of Conciliators appointed by the United Kingdom
2018-2022	Member of the Organising Committee for ICCA 2020/2022 in Edinburgh
2015-2020	Rapporteur to the CISG Advisory Council on applicability of the CISG to dispute settlement clauses
2014-2019	Member of the ICC Governing Body for Dispute Resolution Services
2016-2018	Member of the ICC Task Force on Emergency Arbitrator Proceedings
2013-2015	Member of the Advisory Group on International Arbitration to the UK Government
2004-2021	Admission to legal practice (<i>Rechtsanwalt</i>) in Hamburg / Düsseldorf (Germany)
Editorial Boards	<i>Journal of International Economic Law</i> (2017-2021), <i>b-Arbitrat – Belgian Review of Arbitration</i> (2012-2020)
Visiting positions	Graduate Institute of Geneva – MIDS (2014-2020); Université Panthéon-Assas – Paris II (2009-2014); Université catholique de Louvain (2012-2018); Peking University (2011, 2012); Koç University Istanbul (2011, 2014); Bilgi University Istanbul (2010); EDHEC Lille Business School / France (2009)

Qualifications

2022	TRIALOGUES (Belgium) qualification as Mediator in civil & commercial matters
2020	ICSID/ECT/CEDR qualification in Investor-State-Mediation
2019	CEDR (UK) qualification as Commercial Mediator
2004	<i>doctor iuris</i> (awarded <i>summa cum laude</i>), University of Hamburg (Germany), supervisor: H. Kötz thesis: 'International Commercial Arbitration in Latin America'
2003	2 nd <i>juristisches Staatsexamen</i> : <i>Oberlandesgericht Hamburg</i> in conclusion of the <i>Refrendariat</i> (clerkship)
1998	1 st <i>juristisches Staatsexamen</i> : <i>Justizministerium Niedersachsen</i> (law studies in Freiburg and Hannover)

Languages

mother tongue:	full command in speaking, reading and writing:
• German	• English • French • Spanish • Portuguese

Chairman of the Arbitral Tribunal

- ICC proceedings with seat in an African capital relating to a concession agreement for the construction of a port and railway line between a foreign investor and an African country (English language, African country's law applicable)
- ICC proceedings with seat in Brazil relating to the construction of windfarms between Brazilian and Spanish parties (Portuguese language, Brazilian law applicable)
- Ad-hoc proceedings with seat in Angola, relating to public concessions for the construction and operation of a port between an Angolan party and the Republic of Angola (Portuguese language, Angolan law applicable)
- ICC proceedings with seat in Brazil relating to the construction of an electric power station between Brazilian subsidiaries of foreign companies (English language, Brazilian law applicable)
- Ad-hoc proceedings with seat in Portugal relating to the construction of a bio-fuel production plant between a Portuguese and an Austrian party (English language, Portuguese law applicable, time-limit for making the award: 2 months)
- ICC proceedings with seat in Paris relating to the sale/refurbishment of aircrafts (including issues of assignment and joinder of a third party) between a European/Spanish and a U.S. company (English language, English law applicable)

Party-appointed Arbitrator / Co-Arbitrator

- ICC proceedings concerning a pledge agreement in the context of commodities transactions between a Dutch and a Kazakh party (English language, Kazakh law applicable)
- LCIA proceedings concerning a project development agreement in renewable energies between a Hong-Kong and a UK party (English language, English law applicable)
- LCIA proceedings concerning the construction of photovoltaic energy plants between a Spanish and a UK party (English language, English law applicable)
- Ad-hoc proceedings under the UNCITRAL Rules with seat in France concerning the termination of, and rights under, a cooperation and licensing agreement relating to machinery between a Finnish/Swiss and a Brazilian party (English language, Swiss law applicable)

Sole Arbitrator

- LCIA proceedings concerning student loan agreements between Indian and Irish parties (in English language, English law applicable)
- ICC proceedings concerning partnerships and cattle share-lease agreements between Mexican and U.S. parties (English and Spanish language, Louisiana and Mexican law applicable)
- ICC proceedings concerning public works between a Peruvian state entity and a German engineering company (Spanish language, German law applicable)
- ICC proceedings resulting from an international sales contract involving export insurance and insolvency issues between a Spanish bank and a Turkish company (English language, Spanish law applicable)
- LCIA proceedings for the recovery of costs for enforcement of a prior arbitral award relating to an investment in the gaming industry between U.S. American and Russian parties (English language, English law applicable)
- ICC proceedings relating to the sale of pipeline components between a Uruguayan and a Kazakh company (English language, CISG chosen by parties)
- ICC proceedings resulting from a dissolution of a joint venture in the pharmaceutical industry between Italian and Turkish parties (English language, Turkish law applicable)
- ICC proceedings resulting from a cooperation agreement relating to the production of aerospace technology between European and English parties (English language, English law applicable)

Emergency arbitrator

- ICC emergency arbitrator proceedings concerning measures for the preservation of the status quo in the context of a fertilizer plant construction between Russian and Italian companies (English language, English and Russian law applicable)
- ICC emergency arbitrator proceedings concerning performance bonds in the context of a power plant construction between Spanish/Mexican companies and a Mexican state entity (in Spanish language, Mexican law applicable)
- ICC emergency arbitrator proceedings concerning performance guarantees at first demand in the context of a large construction contract between Korean/Colombian and Spanish/Colombian parties (Spanish language, Colombian law applicable)

Co-panellist in Expert Determination Proceedings

- ICANN / ICC gTLD proceedings regarding limited public interest objections against the registration of a generic top-level domain name (gTLD) between U.S. American and English brokering companies (in English language)
- ICANN / ICC gTLD review proceedings regarding limited public interest objections against the registration of a generic top-level domain name (gTLD) requested by ICANN (in English language)

Book

- *International Commercial Arbitration in Latin America – Regulation and Practice in the MERCOSUR and the Associated Countries*
Dobbs Ferry: Oceana / Oxford: OUP (2005) (xxx, 691 pages)

Editorship

- *Commentary on the UNIDROIT Principles of International Commercial Contracts* (with S. Vogenauer)
1st edn, Oxford: OUP 2008 (ccxxix, 1319 pages)
- *Avances del Derecho Internacional Privado - Liber Amicorum Jürgen Samtleben* (with G. Lorenzo)
[Advances of Private International Law – *Liber Amicorum* Jürgen Samtleben]
Montevideo: FCU 2002 (780 pages)

Articles in peer-reviewed journals

- ‘The Myth of Transnational Public Policy’
(2023) 70(2) *American Journal of Comparative Law* (forthcoming)
- ‘Overriding Mandatory Laws in International Arbitration’
(2018) 67(4) *International and Comparative Law Quarterly* 903-930
- ‘Investment Treaty Law and the Fear for Sovereignty: Transnational Challenges and Solutions’
(2015) 78(5) *Modern Law Review* 793-825
- ‘Financial Responsibility in the European International Investment Policy’
(2014) 63(2) *International and Comparative Law Quarterly* 449-476
- ‘European Policy Space in International Investment Law’
(2012) 27(2) *ICSID Review – Foreign Investment Law Journal* 416-431
- ‘Investment Protection and EU Law: The ECT between Extra- and Intra-EU BITs’
(2012) 15(1) *Journal of International Economic Law* 85-109
- ‘The Impact of Internationally Mandatory Laws on the Enforceability of Arbitration Agreements’
(2009) 3(2) *World Arbitration and Mediation Review* 91-120
- ‘Eingriffsnormen und Schiedsgerichtsbarkeit: Ein praktischer Versuch’
[Internationally Mandatory Rules and Arbitration: A Practical Essay]
(2009) 73 *Rebels Zeitschrift für Ausländisches und Internationales Privatrecht* 818-841
- ‘The UN Security Council's Incapacity of Coping with Conflict-Related Economic Interests’
(2006) 37 *Transnational Legal Policy* 108-123
- ‘Rechtswahl und Ehevertrag: Zum Formerfordernis nach Art. 15 Abs. 3 EGBGB’
[Party Autonomy and Marriage Contracts: On the Form Requirements of Art. 15(3) EGBGB]
(2004) 25 *Praxis des Internationalen Privat- und Verfahrensrechts* 399-402
- ‘Innovation in Corporate Law’ (with K. Pistor, Y. Keenan, M. West)
(2003) 31 *Journal of Comparative Economics* 676-694
- ‘Evolution of Corporate Law and the Transplant Effect: Lessons from Six Countries’
(with K. Pistor, Y. Keenan, M. West)
(2003) 18 *World Bank Research Observer* 89-112
- ‘Evolution of Corporate Law: A Cross Country Comparison’ (with K. Pistor, Y. Keenan, M. West)
(2002) 23 *University of Pennsylvania Journal of International Economic Law* 791-871

Book chapters

- ‘Development of Comparative Law in Latin America’
in: M. Reimann / R. Zimmermann (eds.), *Oxford Handbook of Comparative Law* (2nd edn, OUP 2019)
253-287
- ‘Mehr Freiheit wagen mit Menschenrechten – Ein Versuch zur Rechtssicherheit durch Investitionsschutzrecht’
[Daring more freedom with Human Rights – an essay on legal certainty through investment treaty law]
in: A. Dutta / C. Heinze (eds), *Mehr Freiheit wagen – Beiträge zur Emiritierung von Jürgen Basedow*
(Mohr Siebeck 2018) 173-193

- ‘Breach of Contract: El incumplimiento del contrato – una perspectiva common law’
in: A. Castro Pinzón (ed), *360º de la Compraventa Internacional de Mercadorias* (Bogotá 2017) 19-27.
- ‘Investment Protection in TTIP: Three Feasible Proposals’ (with L. Poulsen)
in: M. Bungenberg *et al* (eds), (2016) *7 European Yearbook of International Economic Law* 527-541
- ‘Critically Thinking International Arbitration in Context’
in: S. Brekoulakis / J. Lew / L. Mistelis (eds), *The Evolution and Future of International Arbitration* (Kluwer 2016) 401-406
- ‘Venezuela: The End of Federalism?’ (with A. Brewer-Carías)
in: M. Halberstam / M. Reimann, *Federalism and Legal Unification* (Springer 2013) 523-543
- Arbitraje comercial internacional en el Reino Unido’ [International Commercial Arbitration in the UK]
in: J.L Collantes González & Anne-Carole Cremades (eds), *Arbitraje comercial internacional en Europa: aspectos actuales y regímenes jurídicos* (Lima 2013) 1015-1044
- ‘Recognition and Enforcement of Arbitral Awards’, ‘Influence of European Private Law on Latin America’, ‘UNIDROIT Principles of International Commercial Contracts’
in: J. Basedow / K. Hopt / R. Zimmermann (eds), *Encyclopaedia of European Private Law* (OUP 2012) [German edition: Mohr Siebeck 2009]
- ‘Recognition and Enforcement of Foreign Arbitral Awards’
in: R. Wolfrum (ed.), *Max-Planck Encyclopedia of Public International Law* (2nd edn., OUP 2012) 664-672
- ‘Les sanctions pour inexécution du contrat dans les Principes UNIDROIT’ [Remedies for breach of contract in the UNIDROIT Principles]
in: G. Keutgen (ed), *Les Principes UNIDROIT relatifs aux contrats de commerce international (éd. 2011) et l'arbitrage* (Bruylant 2011) 125-143
- ‘National Report for the United States – Commercial Arbitration’ (with Joel Samuels)
in: J. Sánchez Cordero (ed.), *The Impact of Uniform Law on National Law: Limits and Possibilities* (Mexico City 2010) 129-171
- ‘La ley se acata... The Role of the Law in the Processes of Integration in Latin America’
in: C. Franck *et al.* (eds), *The European Union and the Rise of Regionalism / L'Union européenne et la montée du régionalisme* (Brussels: Academia-Bruylant 2009) 183-188
- ‘Anerkennung und Vollstreckung ausländischer Schiedssprüche’;
‘Ausstrahlung des europäischen Privatrechts in lateinamerikanische Rechtsordnungen’;
‘UNIDROIT Principles of International Commercial Contracts’
in: J. Basedow / K. Hopt / R. Zimmermann (eds), *Handwörterbuch des europäischen Privatrechts* (Tübingen: Mohr 2009) 61-65, 159-162, 1547-1551
- ‘Chapter 1 – General Provisions’ (with S. Vogenauer); ‘Section 2.1 – Formation of Contract – General Part’; ‘Article 5.1.7 – Price Determination’; ‘Article 7.1.7 – Force Majeure’
in: S. Vogenauer / J. Kleinheisterkamp (eds.), *Commentary on the UNIDROIT Principles of International Commercial Contracts* (1st edn, OUP 2009)
- ‘Los Principios UNIDROIT en la interpretación del derecho nacional por tribunales estatales’ [The UNIDROIT Principles in the Interpretation of Domestic Law by State Courts]
in: M.P. Ferrer Vanrell & A. Martínez Cañellas (eds), *Principios de Derecho Contractual Europeo y Principios UNIDROIT sobre Contratos Comerciales Internacionales* (Madrid: Dykinson 2009) 176-190
- ‘Development of Comparative Law in Latin America’
in: M. Reimann / R. Zimmermann (eds.), *Oxford Handbook of Comparative Law* 261-301 (OUP 2006)
- ‘Medidas cautelares en el arbitraje – Una perspectiva comparatista’ [Interim Measures in Arbitration – A Comparative Perspective]
in: D. Fernández A. / R. Herbert (eds), *Liber Amicorum en homenaje al Profesor Dr. Didier Operti Badán* (Montevideo: FCU 2006) 269-287
- ‘O Brasil e as disputas com investidores estrangeiros’ [Brazil and the Disputes with Foreign Investors]
in: R. Di Sena Jr. / M.T. Costa Souza Cherem (eds), *Comércio Internacional e Desenvolvimento – Uma Perspectiva Brasileira* (São Paulo: Saraiva 2004) 156-187
- ‘A interpretação uniforme do direito comunitário – Um ensaio prático sobre a metodologia do direito do MERCOSUL’,
in: J. Rodas (ed), *Contratos Internacionais* (São Paulo: RT 2002) 331-367.

- ‘Conflict of Treaties on International Arbitration in the Southern Cone’
in: Kleinheisterkamp/Lorenzo (eds.), *Avances del Derecho Internacional Privado - Liber Amicorum Jürgen Samtleben* (Montevideo, FCU 2002) 667-700 (2002)

Case notes

- ‘A Dispute Capable of Settlement by Arbitration or Arbitrators Capable of Settling a Dispute?’
[2013-3] *Cahiers de l'arbitrage / Paris Journal of International Arbitration* 595-607
- ‘Lord Mustill in the Courts of Tennis: *Dallah v Pakistan* in England, France and Utopia’
(2012) 75(4) *Modern Law Review* 639-654
- ‘The Review of Arbitrator’s Interpretation of International Contracts – Transnational Law as a Dangerous Short-Cut: Note regarding Swiss Federal Supreme Court Decision 4A_240/2009’
(2011) 29 *ASA Bulletin* 474-486
- ‘Comentário à decisão do Tribunal de Apelação de Amsterdam, 29 de Abril de 2009, Yukos Capital S.A.R.L. c. OAO Rosneft’ [Case note on *Yukos v Rosneft*, Amsterdam Court of Appeals]
(with C. Valença)
(2010) 23 *Revista Brasileira de Arbitragem* 222-226

Reports, policy papers and other articles

- ‘Who is Afraid of Investor-State Arbitration? Or Comparative Law?’
LSE Law Policy Paper 4/2014, <http://ssrn.com/abstract=2483775>
- ‘The Supposed Need for Investor-State Arbitration in the Transatlantic Trade and Investment Partnership’
Policy Paper, April 2014, <http://ssrn.com/abstract=2410188>
- ‘The Future of the BITs of the European Member States after Lisbon’
(2011) 29 *ASA Bulletin* 212-223
- ‘Part II – The Draft Regulation on Transitional Arrangements’
in: S. Woolcock (ed.), *The EU Approach to International Investment Policy after the Lisbon Treaty* 53-70 (European Parliament INTA Study 2010)
- ‘Interdependência entre os Procedimentos de Anulação e de Execução (II): Proposta de reforma da Lei de Arbitragem’
(2009) 20 *Revista Brasileira de Arbitragem* 92-98
- ‘Interdependência entre os Processos de Anulação e de Execução’
(2004) 1 *Revista Brasileira de Arbitragem* 96-104

Recent conference papers, lectures and speeches

- ‘The Review of the English Arbitration Act 1996’
BIICL Event on The Review of the Arbitration Act 1996: How do we Maintain English Arbitration Law as State of the Art?, London 16 November 2022
- ‘The Challenges of Cross-Jurisdictional Arbitral Tribunals’
Panel Discussion on ‘A cross-jurisdictional conversation among experienced arbitrators’, Australian Arbitration Weeks, Corrs Chambers Westgarth, Melbourne 8 November 2022 (hybrid/online)
- ‘Médiateur et arbitre – regards croisés’
Dialogues *Eat & Learn*, Brussels 23 September 2022
- ‘Is the Doctrine of Legitimate Expectations Spiraling out of Control?’ (with Dilara Khamitova)
Young ITF Debate, London 13 September 2022
- ‘Arbitragem de investimento e conflitos armados’ (with Tiago Duarte)
XVth Congress of the Portuguese *Centro de Arbitragem Comercial*, on Disruptive Moments and Arbitration: Pandemic and Conflict, Lisbon 23 July 2022
- ‘Los procedimientos acelerados y el *early dismissal* – La perspectiva del árbitro’
XVI International Congress of the *Club de Arbitraje Español* on Improving Arbitration: Resolving Earlier and Better, Madrid 20 July 2022

- ‘Getting Mediation and Arbitration to Tango: Potential and Difficulties’
Webinar: Joint Monthly Fellowship of the Philippine Institute of Arbitrators and the Chartered Institute of Arbitrators (East Asia Branch, Philippine Chapter), Manila/Brussels 26 May 2022
- ‘Mediation and Early Determination in International Commercial and Investment Arbitration’
Webinar by Baker & McKenzie, Paris Arbitration Week, Paris/Brussels 23 September 2021
- ‘Decision Making Behind the Scenes – The Psychology of Arbitrators’
Webinar of the *Associação Portuguesa de Arbitragem* APA-40, Lisbon/Brussels 11 November 2020
- ‘The External Dimension of European Regulatory Private Law: Commercial Law and International Arbitration’
Workshop on Exploring European Private Law in the (Re-)Shaping of Global Markets and Orders, Helsinki 7 September 2020
- ‘Arbitration Agreements and Awards as Investments: How far does the protection of international law go? An EU Law perspective’
ICC / CIDS Conference on Enforcement, setting aside and related treaty claims: A view from Europe, Geneva 10 May 2019
- ‘The safeguard of international, European and domestic mandatory rules by arbitral tribunals – practical implications’
3rd ICC European Conference on Public interest and the future of arbitration : lessons from Europe, Paris 1 April 2019
- ‘The intra-EU application of the Energy Charter Treaty after Achmea’
ICCA-ACIL Colloquium on The Impact of Achmea, Amsterdam University 26 June 2018
- ‘Paradox of International Investment Law post Brexit’
Research Workshop on Democratic Citizenship, Portsmouth University 7 June 2018
- ‘Arguments in favor and against the choice of the UNIDROIT Principles’ (in Spanish)
Conference on *Contratación Mercantil Internacional – Tendencias y Retos*, Universidad Francisco Marroquín, Guatemala City, 1 February 2018
- ‘Recent Problems with Investment Arbitration in Latin America’ (in German)
Symposium in Honour of Dr. J. Samtleben on *Focus Latin America: International Conflict and Legal Order*, Max-Planck-Institut Hamburg, 6 October 2017
- ‘Daring more freedom with Human Rights’ (in German)
Symposium in Honour of Prof. J. Basedow on *Daring More Freedom – Conflict and Cooperation*, Max-Planck-Institut Hamburg, 30 September 2017
- ‘*Audi alteram partem* and *iura novit curia* in international arbitration’ (in Portuguese)
XVIth Annual Congress of the Comité Brasileiro de Arbitragem on Due Process in International Arbitration, Gramado / Brazil 25 September 2017
- ‘Internationally Mandatory Rules in Arbitration’
Lecture at the Catholic University of Chile 20 September 2017
- ‘CETA, TTIP and Arbitration: venues of conflicts’
Alpbach Legal Symposium on *Conflict and Cooperation*, Alpbach (AUT) 27 August 2017
- ‘Arbitration as Protection of Foreign Investment: the experience of Latin America and the lessons for the Iberian Peninsula’
Keynote speech at the CEA <40 Conference on *Miradas Cruzadas en el Mundo Iberoamericano del Arbitraje*, Lisbon 25 May 2017
- ‘EU Overriding Mandatory Rules in International Arbitration’
LSE Law & Financial Markets Colloquium on *Financial Markets, Party Autonomy and Regulation*, London 18 May 2017
- ‘The CISG and the PICC as Models for Convergence – or Transnational Will-o’-the-Wisps?’
Conference on *The CISG as a Model for Harmonisation, Convergence and Law Reform*, National University of Singapore, 6 January 2017

- ‘Investor Protection under CETA and TTIP’
Hearing at the Austrian Parliament on *CETA and TTIP – The Free Trade Agreements of the EU and its Member States with Canada and the USA*, Vienna 14 September 2016
- ‘Engaging with *Dealing in Virtue* – Then and Now’
Anatomy of a Book: Bryant G. Garth & Yves Dezalay, Dealing in Virtue. International Commercial Arbitration and the Construction of a Transnational Legal Order, KCL Transnational Law Summer Institute 2016, London 14 June 2016
- ‘What is wrong with investment protection in TTIP and CETA? A European perspective’
Globalization, Law & Justice Workshop on *The Past and Future of Investor-State Arbitration: CETA, TPP, TTIP, and Beyond*, University of Toronto 14 June 2016
- ‘Enforcing Arbitration Awards: *Yukos* and Beyond’
Annual Symposium of the Stanford Journal of International Law on *Adjudicating Across Borders*, Palo Alto 29 April 2016
- ‘What is the problem with investment protection in TTIP? A European perspective’
Berger Speaker Series, Cornell Law School, Ithaca 20 April 2016
- ‘Investor-Staat-Streitbeilegung in TTIP, CETA und BITs: Wo liegt das Problem?’ (in German)
Jean Monet Lecture Series, University of Jena, 5 April 2016
- ‘The new generation of investment law – a European perspective’
McGill University Dispute Resolution Talk, 30 March 2016
- ‘Breach of Contract – A Common Law Perspective’
II Ibero-American Congress on International Business Law,
360^o of International Sales of Goods – CISG’s 35th Anniversary, Bogotá 19 October 2015
- Comments (with G. Bermann) on C. McLachlan’s ‘Coordination of Domestic and International Procedures’
CIDS International Conference 2015 on *International Dispute Settlement at the Crossroads of Public and Private International Law*, Geneva 25 September 2015
- ‘No Greater Rights – but still meaningful investor protection?’
Columbia Center on Sustainable Development [Video] Series on *New Thinking on Investment Treaties*, 30 June 2015, <https://www.youtube.com/watch?v=Drv0NmytvRU>
- ‘Investor protection and Investor-State Dispute Settlement (ISDS)’
European Parliament Legal Service Seminar on *Legal aspects of the New Generation of Free Trade Agreements with focus on TTIP*, Brussels 3 July 2015
- ‘What standards to improve? Do we need a new legal instrument?’
European Commission DG FISMA Seminar on *Treatment of EU investors in the Single Market: Adding pieces to the puzzle*, Brussels 19 June 2015
- ‘The Commission as Litigator’
BIICL Investment Treaty Forum on *Europe as an Investment Treaty Actor*, Stockholm 12 June 2015