



**28 FEB 2020,  
GENEVA**

## 瑞中法律协会第二届全球在线研讨会报告： 跨国法律合作的冲突与信任构建

Report of the 2nd SCLA Online Global Webinar  
Cultural Conflict and Trust Construction in Transnational Legal  
Cooperation

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## A minutes of 2<sup>nd</sup> SCLA Online Global Webinar

### Cultural Conflict and Trust Construction in Transnational Legal Cooperation

第二届瑞中法律协会在线全球网络研讨会的记录<sup>1</sup>

跨国法律合作中的文化冲突与信任构建

#### Moderators:

主持人:

1. Mr. Tianze Zhang (China) 张天泽 (中国)
2. Dr. Lucien w. Valloni (Switzerland) 吕西安·瓦洛尼博士 (瑞士)
3. Carlos Li (Hong Kong SAR) 李家乐博士 (香港特别行政区)

#### Speakers:

演讲人:

1. Mr. Penghe Yan (Harvey)(China) 闫鹏和 (中国)
2. Professor Kolja Targan(Germany) 科里亚·塔根教授 (德国)

#### Attendants:

出席嘉宾:

1. Dr. Claudia von Selle (Germany) 克劳迪娅·冯·塞勒博士 (德国)
2. Ms. Vicky Athanassoglou (Greece) 维奇·安娜瑟洛格女士 (希腊)
3. Mr. Hermann Knott (Germany) 赫尔曼·诺特先生 (德国)
4. Mr. KokChung Hue(Malaysia) 角仲顺化先生 (马来西亚)
5. Mr. Raphael Zumsteg(Switzerland) 拉斐尔·祖姆斯泰格 (瑞士)
6. Mr. Alexander Lindemann (Switzerland) 亚历山大·林德曼先生 (瑞士)
7. Mr. Jianjun Zheng(China) 郑建军先生 (中国)
8. Mr. Jens-Christian Posselt (Germany) 詹斯·克里斯蒂安·波塞尔特先生 (德国)
9. Ms. Peng Hu (China) 胡鹏女士 (中国)
10. Ms. Fang Cheng(China) 陈芳女士 (中国)
11. Ms. Li Wang(China) 王丽女士 (中国)

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<sup>1</sup> Drafted by Mr. Carlos Li and translated by Ms.Ruijia Wang

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12. Ms. Jie Xie(China) 谢杰女士（中国）

13. Ms. Margareth d' Avila(Israel) 玛格丽特·德·阿维拉女士（以色列）

**Date:** 28<sup>th</sup> February 2020

日期: 2020 年 2 月 28 日

**Time:** CET 1800 – 1920

时间: 晚上 6 点-7 点 20 分

### Agenda items

#### 议程项目

1. Mr. Zhang started the meeting by introducing himself and SCLA. The objectives of SCLA are to 1) establish a common standard of legal practice, 2) set up a legal framework for enhancing transparency, 3) increase global presence, 4) facilitate the development of remote arbitration and 5) publish a new journal.

张天泽先生通过介绍自己和瑞中法律协会来启动会议。本次瑞中法律协会会议的目的是 1) 建立通用的法律践行标准, 2) 设立法律框架以提高透明度, 3) 增加全球影响力, 4) 促进远程仲裁的发展, 5) 发布新期刊。

2. Each member of the conference introduced themselves

每一位会议在场成员做自我介绍

3. Mr. Harvey Yan commenced his presentation which is summarized as follows

严·哈维先生开始他的展示, 摘要如下

- His topic was “Cultural Conflict And Trust Construction in Transnational Legal Cooperation” and he started by quoting two statements i.e. 1) “Know yourself, know your enemy, and you will not lose in one hundred battles” and 2) “Know yourself, know your partner, and you will not lose in business or in family”.

他的主题是 "跨国法律合作中的文化冲突和信任构建" 他首先引用了以下两个陈述: 1) "知己知彼, 百战不殆" 和 2) "了解自己, 了解您的搭档, 您就不会在生意或家庭上迷失自我"

- He followed to share two cases which were “A Timber Business Story” and “It’s Just A Show”.

他随后分享了两个案例，分别是 “一个关于木材的商业故事” 和 “这只是一场表演”。

- He brought in two aspects of Chinese cultures i.e. 1) Relative View of Truth and 2) Synthetic, Concrete Thinking. Regarding the second aspect, he used the case of the autonomous driving to illustrate how linear thinking and lateral thing could be applied in practice. He also cited social score as an example to explain the lateral thinking and added that, in response to Mr. Zhang’s question, this was just one of the possible applications he could think of to further elaborate the conception thereof.

他介绍了中国文化的两个方面，即： 1) 相对真理观； 2) 综合具体思维。关于第二点，他以自动驾驶为例说明线性思维和横向思维的应用。他还以社交评分为例来解释横向思维，并补充说，在回应张先生的问题时，这只是他想到的进一步阐述其概念的可能应用之一。

- Mr. Yan continued to share another case about “Business Meeting in China” in which he singled out that a Chinese boss would use indirect manner to surround your questions and put them in the context. He would never answer your questions directly unless otherwise you repeat your questions.

严先生继续分享 “中国商务会议” 的另一个案例，他指出中国老板会用间接的方式来围绕您的问题，将其置于特定背景下。除非您重复您的问题，否则他绝不会直接回答您的问题。

- He also introduced Chinese State-Owned Enterprises and the regional uneven development in China.

他还介绍了中国国有企业以及中国区域发展不平衡的情况。

- In his conclusion, he raised an issue of “Does culture impact business?” and illustrated an example of “Lukoil and Conocophillips Merger” to explain the difference between individualist and collectivist and the disparity of decision-making habit between Russian and American. Finally, he ended his presentation by suggesting six ways to construct trust between parties i.e. 1) Respect, 2) Honesty, 3) To be well prepared, 4) to be fair and mutual beneficial, 5) communication and trust and 6) to seek help from experts.

在他的结论中，他提出了一个问题“文化对企业有影响吗？”并用卢克石油和康菲公司合并的例子以解释个人主义和集体主义之间的差异以及俄罗斯和美国习惯差异。最后，他在演讲结束时提出了六种在各方之间建立信任的方法，即 1) 尊重, 2) 诚实, 3) 充分准备, 4) 公平 互利, 5) 沟通与信任 和 6) 寻求来自专家的帮助。

- In the Q &A, Mr. Hue suggested we should use hybrid approach of both lateral and literal thinking. Understanding cultures is important and good communication and mutual understanding could help build better relationship.

在问答环节中，顺化先生建议我们应同时使用横向思维和想象力的混合方法。了解文化很重要，良好的沟通和相互理解可以帮助建立更好的关系。

- Mr. Zhang asked what the difference between SOEs and other companies like SMEs is. Mr. Yan explained that this depends on who makes the final decision. Comparatively, SMEs are easier to make a change to get themselves adapted to the environment and this trait is the key to success.

张先生问国有企业与其他企业（如：中小企业）有何区别？严先生解释说，这

取决于谁做出最终决定。相比之下，中小企业更容易做出改变以使其适应环境，而这一特征是成功的关键。

- Dr. Valloni inquired about how the importance of time would be in China? To answer this question, Mr. Yan said that, generally speaking, Chinese parties would invite their guests a week before but may change the time just before the meeting. Then, Dr. Valloni further asked whether Chinese lawyers would use lateral thinking in answering a specific legal question to which Mr. Yan said Chinese lawyers would give their advice directly.

瓦洛尼博士询问时间在中国的重要性如何？为回答这个问题，严先生说，一般来讲，中方将在一周前邀请他们的客人，但可以更改会议前的时间。然后，瓦洛尼博士进一步询问中国律师是否会在回答一个具体的法律问题时使用横向思考，严先生说中国律师将直接给出他们的建议。

- Apart from Russian culture, an audience from the floor shared her view on German culture

除了俄罗斯文化外，与会嘉宾还分享了她对德国文化的看法。

#### 4. Following Mr. Yan's presentation, Professor Targan started his presentation.

既严先生的演讲之后，塔根教授开始了演讲。

- Professor Targan explained what legal culture would be by quoting three statements from Prof. Vassilios Skouris, Prof. Lawrence Friedman and Prof. Ingo von Munch. 塔根教授引用了瓦西里奥斯·斯库里斯教授，劳伦斯·弗里德曼教授和英戈·冯·蒙克教授的三句话解释了什么是法律文化。
- He introduced the traits of German lawyers which, among the others, include “a Lawyer is an independent agent in the administration of justice”, “a lawyers is also bound by obligations”, “a lawyer cannot accept the promise from his client to be a



part of his client's company", "a lawyer has a duty to observe professional secrecy" and "a lawyer is obligated to tell the truth".

他介绍了德国律师的特点, 其中包括 "律师是司法行政中的独立代理人", "律师也受义务约束", "律师不能接受委托人的承诺成为其客户公司的一部分", "律师有义务遵守专业保密规定" 和 "律师有义务说实话。"

- Further, he described the Hanseatic Higher Regional Court of Hamburg and the lesson behind the history of the court.

此外, 他描述了汉堡的汉萨同盟高等区域法院以及该法院历史的教训。

- To build up trust, the key is open communication from the German perspective. Professor Targan also cited some real examples to illustrate the cultural differences among different places.

要建立信任, 从德国的角度看关键是开放式沟通。塔根教授还援引了一些真实的例子来说明不同地方之间的文化差异。

- Finally, he concluded his presentation by sharing his view on trust by collecting information in the context of Germany.

最后, 他通过在德国范围内收集信息来分享对信任的看法, 从而结束了他的演讲。

- In Q&A, Dr. Valloni said, with regard to transparency in Switzerland, people could know who the owner of the building is. How is the situation in China or Germany? Professor Targan said, in Germany, the government adopts the electronic data collection and people can see the general information via search engine. But for some specific information, people must obtain the approval beforehand.

在问答环节中, 瓦洛尼博士谈到关于瑞士的透明性 - 人们可以知道建筑物的

所有者是谁。那么，中国或德国的情况如何呢？塔根教授指出，在德国 - 政府采用电子数据收集，人们可以通过搜索引擎查看大致信息。但是，对于某些特定信息，人们必须事先获得批准。

- Dr. Valloni further asked whether the culture in respect of conflict of interest in Germany is strict? Professor Targan said that it is strict in Germany. If people are not happy, they can go to bar or state.

瓦洛尼博士进一步询问有关德国利益冲突的文化是否严格？塔根教授说，这在德国很严格。如果人们不开心，他们可以去酒吧或州。

- In term of code of conduct, Mr. Zhang asked whether you would refuse your clients who ask you to do something that is possibly in conflict of interest. Professor Targan said he would refuse his client if it is a criminal matter. For a civil matter, as a lawyer, he has the responsibility to check it and advise your client whether it is legal or not.

在行为准则方面，张先生询问您是否拒绝要求您做可能有利益冲突的客户。塔根教授说，如果这是刑事案件，他将拒绝他的委托人。对于民事事务，作为律师，他有责任进行检查并为您的客户提供法律咨询或建议。

- Mr. Hue shared his view on conflict of interest in Malaysia where lawyers are governed by status and code of conduct.

顺化先生分享了他对马来西亚利益冲突的看法，在马来西亚，律师受制于地位和行为守则。