

Kluwer Arbitration Blog

Interviews with Our Editors: Nordic Innovations for Arbitration with Annette Magnusson

Fabian Bonke (Hogan Lovells) · Saturday, June 13th, 2020



Welcome to the Kluwer Arbitration Blog, Ms. Magnusson! We are grateful for this opportunity to learn more about the Arbitration Institute of the Stockholm Chamber of Commerce (SCC) and your experience with international arbitration in the region.

1. To start, could you briefly introduce yourself and explain your role at SCC?

Thank you. In my capacity as Secretary General I lead the work and set the general direction for

future initiatives at the SCC. It involves a lot of outreach and co-operation with other organizations, in Sweden and internationally. It includes both operational issues and policy topics such as international arbitration in general, arbitration and climate change, discussions with policy makers on issues of international arbitration in Sweden and in international fora including UNCITRAL. To my help I have two co-pilots, Deputy Secretary General Kristin Campbell-Wilson and Head of Business Development Lise Alm, and a dedicated team of lawyers, case administrators and communications specialists.

2. What have been the main developments at the SCC over the past few years and how has the SCC sought to distinguish itself from other arbitral institutions?

2017 was an important year for us as we introduced new and modernized [Arbitration Rules and Rules for Expedited Arbitration](#). Another important development took place in 2019 when we introduced the [SCC Platform](#), to enable digital management of all cases under the SCC Rules for parties and tribunals. The digitalization of our operations began already in 2013, and it is a constant journey where we are continuously working to upgrade our methods and instruments in support of an efficient arbitral procedure.

This year (2020) the very first [article-by-article commentary to the SCC Rules](#) was published, authored by SCC vice-chairperson Jakob Ragnwaldh and Fredrik Andersson, together with former SCC legal counsel Celeste Salinas-Quero (now working as legal counsel with ICISD).

On the policy side we have focused a lot on arbitration and climate change, and in 2017 we launched [The Stockholm Treaty Lab](#) – an innovation contest to create international policy in support of the Paris Agreement targets.

The SCC celebrated 100 years in 2017 and we used this opportunity to showcase the importance of international arbitration for trade, economic development and peace, for example through the documentary film “The Quiet Triumph” and the book “Arbitrating for Peace” ([published on Kluwer](#)).

3. Can you tell us more about the SCC’s users and their disputes? What kinds of parties do you usually serve, and are there particular industries or types of disputes prevalent among them? What is the ratio between global and regional users in SCC disputes?

The SCC sees parties from 40+ different jurisdictions on an annual basis, and we still receive many disputes with an East-West element. Last year, the most frequent international nationality in SCC cases was Russian, followed by German and American. The disputes are quite diverse, but with a slight emphasis on energy.

The SCC also administers a fairly large number of investment disputes. Since the very first investor-state dispute in 1993 between a French investor and a CIS state, the SCC has seen 112 investor-state cases (as of 31 December 2019). The cases have been filed primarily under Bilateral Investment Treaties and the Energy Charter Treaty.

4. From September 2019, all new SCC arbitrations are administered on the so-called SCC Platform. Could you briefly explain how this works and what the feedback from users has been so far? What is the role of the new “ExhibitManager”?

The SCC Platform provides participants in SCC cases with a secure way of communicating and filing all case materials in the arbitration (e.g. procedural orders, submissions, exhibits, orders and awards). It is also the forum through which the SCC team communicates with the parties, counsel and arbitrators throughout the proceedings.

The Platform contains a calendar for relevant dates and deadlines and a notice board for the tribunal to communicate practical information to the parties, and it provides the tribunal with an archiving service after the arbitration has been terminated.

When the SCC receives a request for arbitration, a designated “site” is created for the case on the SCC Platform which is exclusive for the participants in the arbitration at hand.

The feedback from the users has been very good, and almost all tribunals have decided to use the Platform for the management of their case when offered to do so.

As a response to the COVID-19 outbreak, the SCC in collaboration with Thomson Reuters will be offering the Platform-service also to parties and tribunals in ad hoc cases, starting in May 2020.

ExhibitManager is an intelligent software for litigators and arbitration practitioners. It is intended to simplify writing and organising large submissions with numerous exhibits. This is an external service which the SCC has partnered with to enable the use of eBriefs on the SCC Platform and the Ad Hoc Platform. In practice this means that it is now possible to up- and download eBriefs from ExhibitManager on the SCC Platform.

5. What are the most appreciated features of the SCC platform?

The Platform is used by nearly all tribunals and parties to whom it has been introduced, which tells us something about the user friendliness and that it is truly adding value for the purpose of efficiency in managing the cases under the SCC Rules. I would therefore say we see an overall appreciation of the SCC Platform. This has been even more emphasized during the COVID-19 outbreak.

6. Cybersecurity is a current concern in international arbitration. How is the security of file sharing via the SCC Platform maintained?

Cybersecurity vulnerabilities is a multifaceted issue. When we began looking at cybersecurity at the SCC and especially for the SCC Platform, it was important to assess from several angles: the technical aspects of the system (including software, hardware and facilities), legal aspects, and the human factor. Each of these areas was thoroughly assessed when choosing a supplier, during implementation and continuously after launch.

The technical assessment was a strong driver when choosing a supplier. In addition, we also

collaborate with external security consultants to carry out so-called penetration tests regularly. Our website provides more information about the technical security standard that the system meets.

On the legal side, we are continuously working with internal and external counsel to ensure that the different legal issues are covered. This includes the legal relationship with the supplier, with the user, and with the overall compliance regulations, including data protection.

Maybe the most important element when it comes to cybersecurity is the human factor. For this purpose, user-friendliness is key. If our system is too hard to use, users are likely to revert back to less secure systems used earlier. If the system is too difficult to navigate, users might make mistakes when uploading information. And if the system is too rigid, it might not suit all cases, or if it is too flexible, it might not safeguard the principles of the process. Therefore, the core of our efforts has been to make the system simple and foolproof while maintaining the right balance between flexibility and rigor.

7. How is the SCC collaborating with arbitrators appointed under its rules to ensure that arbitrators are well versed proficient users of the SCC platform?

Our team at the SCC Secretariat is available to answer questions relating to the use of the platform, both from arbitrators and parties, and if needed guide users to the different features of the platform on a case-by-case basis. It has worked very well. Since we migrated cases dynamically and not all at once, team members have been able to spend as much time as needed with every individual who has reached out for guidance. And to be honest, there have not been that many questions yet. The Platform is very user-friendly.

8. In October 2019, the SCC revised its [Arbitrator's Guidelines](#). Could you please highlight some of the key changes and reasons which compelled the changes? How, do you think, will it help to achieve greater efficiency and diversity in international arbitration? What has the feedback on the new Arbitrator's Guidelines focused on in the last 4 months?

The Arbitrator's Guidelines provide practical information regarding the administration of SCC proceedings on aspects which arbitrators frequently have questions. The updated version released in October 2019 aimed to increase readability and included a section on the then newly introduced SCC Platform.

9. The new Arbitrator's Guidelines explicitly recognize the reimbursement of the "standard costs of climate compensating for flights". What is the intention behind the inclusion of this as part of arbitrator's costs?

This is our way of communication that we think climate change mitigation efforts in all shapes or forms matter. The SCC has been quite engaged in climate change issues in recent years, this is but one example. Another example is the Stockholm Treaty Lab, or webinars targeting Arbitration and Climate Change as part of the SCC Online Seminar Menu.

10. *The health crisis due to the COVID-19 outbreak is currently affecting all areas of life and business on a global scale. Can you already assess the impact it has on the SCC activities? We read that the SCC has, as part of its measures, introduced a so-called Online Seminar Menu. Could you tell us more about it?*

In the short term, we have had to re-organize our daily work into remote mode. All in all, it has worked extremely well. The same goes for our events, where we have been able to reach out to very large groups thanks to the online format, including many people whom we otherwise probably would not have had an opportunity to meet at in person conferences. This has been very inspiring.

It is too early to draw any conclusions on the long-term effects on the number of cases filed at the SCC. Our case load so far has been quite steady throughout this crisis.

11. *What do think will be the key challenges for arbitral institutions in the next few years? What will be the main objective that the SCC pursues in the next few years?*

As an arbitral institution we must constantly work on the services we offer to stay relevant for the business community we are here to serve. Expectations on efficiency and value for money in a dispute resolution context will continue to be discussed going forward. As more and more general counsel typically take a seat in the management board of their corporations, the business perspective of any dispute is likely to continue gaining traction. This in turn will impact how much resource the company is willing to spend on having their disputes decided, and in the end how disputes are finally resolved.

Our policy initiatives will continue to focus on arbitration and climate change, but we also expect to continue to be active in digitalization and arbitration. And of course, always stay tuned to the world around us and be ready to change with it. An agile mind firmly rooted in core values will hold the keys to success for any organization in the next few years.

Thank you for this opportunity. We wish continued success to both you and the SCC!

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