

# Kluwer Arbitration Blog

## International Law Talk Podcast and Arbitration: Does the International Arbitration Community Need Minimum Civility Standards? A Dialogue with Abby Cohen Smutny

Kiran Nasir Gore (Associate Editor) (The George Washington University Law School) · Thursday, January 28th, 2021

*International Law Talk* is a series of podcasts through which Wolters Kluwer provides the latest news and industry insights from thought leaders and experts in the fields of International Arbitration, IP Law, International Tax Law, and Competition Law. Here at *Kluwer Arbitration Blog*, we highlight the podcasts focused on international arbitration. In this latest episode, [Kiran Nasir Gore](#), Associate Editor of *Kluwer Arbitration Blog*, interviews [Abby Cohen Smutny](#), Global Head of White & Case’s International Arbitration Practice.



With decades of experience in international arbitration, Abby shares her thoughts on various topics, including her commitment to enhancing her work as an arbitration practitioner and advocate through professional activities. In particular, Abby is Co-Chair of the [ICCA Task Force on Standards of Practice in International Arbitration](#) (“Task Force”) (with [Professor Guido Tawil](#)). Abby discusses the value of professional extra-circular activities to practitioners to maintain perspective on arbitral procedure and practice more broadly. She provides her perspectives on the Task Force’s substantive mandate and goals, highlighting tensions central to practice in a growing and maturing field. The conversation explores:

- The way the increasing number of practitioners, the increased use of arbitration, and the general maturity of the field have together created a need for common guidelines on civility as a matter of best practice. Abby compares such standards to ones on civility and conduct developed in recent years in national contexts, including by domestic courts.
- The Task Force’s mandate to develop guidelines that may serve as voluntary benchmarks in arbitration proceedings. In Abby’s view, the Task Force faced the challenge by identifying a common understanding of “civility,” drawing on the experience of practitioners coming from different legal traditions.
- Abby’s hope that the guidelines (once issued) could help to ensure civility and respect among practitioners and other participants. A challenge of promulgating proposed guidelines is that they are not “rules” of conduct and, thus, they are not coercive and failure to adhere to them is not sanctionable.
- How practitioners “embody the law” and can help to cement the legitimacy of arbitration as a means of dispute resolution among users and various stakeholders. In particular, Abby describes the conduct of practitioners as a reflection of the rule of law. On this point, she emphasizes that practitioners must approach their work with a sense of respect, civility, and fairness.
- The distinction between ethical requirements and guidelines on civility, and relatedly, the fine line between zealous advocacy on behalf of one’s clients and courtesy toward and respect for one’s colleagues. While these concepts dovetail, Abby describes the Task Force’s efforts to balance these competing interests in a manner that does not interfere with practitioners’ obligations to their clients.

While the ICCA Task Force on Standards of Practice in International Arbitration has not issued its final guidelines yet, Abby hopes that the guidelines could provide a “soft reminder” and objective basis to the arbitration community and other participants to manage their own conduct. She further hopes that arbitration institutions, law firms, tribunals, and/or parties could endorse and reference the guidelines and that they become a reflection of industry best practice.

As a final thought, Abby opines that the continual improvement of process and procedure is healthy, as innovation and evolution is necessary for the field and community to continue thriving.

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[Listen to the podcast “Does the International Arbitration Community Need Minimum Civility Standards?”](#) with Abby Cohen Smutny.

The [International Council for Commercial Arbitration \(ICCA\)](#) is an NGO dedicated to promoting the greater understanding and use of international dispute resolution processes globally. Its activities include convening the biennial ICCA Congress, publishing authoritative dispute resolution publications (including the ICCA Yearbook Commercial Arbitration, the ICCA International Handbook on Commercial Arbitration, and the ICCA Congress Series), and convening outreach and research projects on contentious or cutting-edge areas of international arbitral practice. ICCA’s publications are available on [Kluwer Arbitration](#).

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This entry was posted on Thursday, January 28th, 2021 at 8:42 am and is filed under [Advocacy](#), [Arbitration Industry](#), [Best practices](#), [Civility](#), [Ethics](#), [ICCA](#), [Kluwer Podcast](#), [Podcast](#), [sociology of international arbitration](#)

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