

Kluwer Arbitration Blog

Interviews with Our Editors: Vienna and Beyond, Expanding Horizons and New Opportunities with Alice Fremuth-Wolf

Crina Baltag (Managing Editor) (Stockholm University) · Tuesday, December 14th, 2021

Alice, welcome back to Kluwer Arbitration Blog, and thank you for allowing us to continue our previous conversation published [here](#) in 2019. This time we would like to focus on ‘Alice Fremuth-Wolf’ as one of the leading personalities of international arbitration who has promoted and implemented modern approaches to arbitration at the [Vienna International Arbitral Centre \(VIAC\)](#) and in international arbitration, more broadly. As a background to our conversation, Alice has announced that she will step down from her Secretary General position as of 31 December 2021.

1. Alice, the arbitration community knows you very well as the Secretary General of VIAC. What would you say are the highlights of your time at VIAC?



There are several highlights worth mentioning that are all somehow interrelated:

VIAC was for me like a sleeping beauty that had to be kissed awake. It needed a little brush-up, a new corporate design and a more modern image. The logo, the corporate design, the design of the website that you are familiar with today all stem back from my early days at VIAC, and were then further developed with my new team.

Next were certain technological developments with which institutions such as VIAC have to keep up. I supervised the introduction of an electronic case-management system in 2018 which permits us to administer cases paperlessly. That was and still is a huge advantage for us during the

pandemic since our case-managers can administer cases remotely from home-office if needed. The next logical step was to implement a secure platform that enables communication between the Secretariat, the parties, counsel and arbitrators instead of using emails. I was very proud when on 1 March 2021, the “VIAC Portal” was launched, which is a cloud-based file sharing and collaboration software operated by Thomson Reuters and hosted on HighQ. A separate case site is opened for each case; it is the latest move to increase efficiency in VIAC cases, to enable transparency among case participants, and to address the participants’ ever increasing needs for data security, confidentiality and privacy.

Then there were the several rounds to modernize the Vienna Rules that I oversaw. Here, I am especially proud of two things: 1) the set of mediation rules that entered into force on 1 January 2016 as a second pillar of VIAC’s offers for alternative dispute resolution; and 2) the stand-alone investment arbitration and mediation rules that are available since 1 July this year and that were a product of the latest Rules Revision in 2021.

Another highlight for me was being able to support and to promote new talents, as well as to raise awareness for the importance of diversity when making appointments of arbitrators. I am pleased to say that the number of female arbitrators (and young arbitrators) appointed in VIAC cases has increased steadily under my term of office. I was also fortunate to attract young talents to work at the VIAC-Secretariat and I am super delighted with how my team is composed today.

2. If one looks at the statistics of VIAC in the past 10 years, the increasing diversity in terms of parties and their nationalities, and of the subject matter of the disputes, can be easily noticed. Did you have a well-set target to transform VIAC from a regional hub for arbitration to a one-stop international arbitration institution for both commercial and investment disputes?

When I started in 2012 as Deputy SG of VIAC, I quickly realized the potential of VIAC given its historical background and stronghold in the region. I wanted to bring VIAC to the next level, making it the premier arbitral institution in Central and South-Eastern Europe. To do this, I had to break-up the old structures, and convince the Chamber that “because it has always been handled in a certain way in the past” did not mean that it cannot be done better in the future. I wanted to transform VIAC into an international boutique arbitration centre but with a personal touch and with particular regional experience and knowledge. And I was fortunate that Günther Horvath, the VIAC president under my tenure, shared the same vision. I am very grateful to him; he is such an inspiring person and a mastermind with great humour. It was a pleasure and privilege developing new ideas and projects with him.

VIAC’s advantage is that it is a much smaller institution than the big players, with the benefit of less administrative hurdles, which enables us to react much quicker to enquiries. The VIAC Secretariat is a small team, but very efficient and fluent in many languages spoken in our region. That helped create trust with our clients. I was always personally available to speak to parties, counsel and arbitrators in urgent matters, as is my Deputy Elisabeth Vanas-Metzler who is head of case management. She is doing a fantastic job, always full of energy and good spirit.

3. In your position as Secretary General, you had to make conscious decisions about certain directions VIAC should not take. I recall from your previous interview with Kluwer Arbitration

Blog that one of such decisions was not to include emergency arbitrator procedure in its rules. Can you tell us a little bit more about these strategic decisions?

I have mentioned before that it was one of my goals to modernize VIAC and the Vienna Rules. By that I did not mean that VIAC should follow each and every trend that was introduced by other institutions over time. We wanted to keep our main selling point, i.e. having lean and flexible rules that enable tailor-made arbitration and mediation at affordable costs. So, we had to make certain strategic decisions. One of these was not to offer emergency arbitrator proceedings.

First, emergency arbitrator proceedings are very expensive. Courts very often are able to offer the same service cheaper and are vested with coercive powers to enforce the interim measures issued. Second, we know that that most courts in the regions where VIAC operates are competent and willing to render interim and conservatory measures in support of arbitral proceedings. Third, there is still uncertainty in many jurisdictions as regards the enforceability of such decisions rendered by an emergency arbitrator.

We are of course closely observing UNCITRAL's Working Group II which aims to improve the efficiency of arbitral proceedings (including emergency arbitrator proceedings), and the experiences of other arbitral institutions which have incorporated such provisions.

Another such conscious decision was to have opt-in rules for expedited proceedings. There is no monetary threshold under the VIAC Rules for proceedings to automatically fall under a fast-track procedure with a sole arbitrator. We are of the opinion that the amount in dispute is not the decisive criteria if a case is suitable for expedited proceedings. We had observed that very often the parties do not appreciate that they are being ushered into expedited proceedings just due to the amount in dispute, as the case may be fundamental for them and deserves thorough attention. In addition, in a fast-track procedure, not only do the arbitrators have to decide fast, but the parties and their counsel also have to be very well-organized. That is not always easy, particularly in smaller cases with less-experienced stakeholders. In general, most of our proceedings are completed within a year's time which is already considered fast by many parties.

So instead of forced-on expedited proceedings, we chose to provide in the Vienna Rules the general proposition that arbitrators and parties as well as their representatives shall conduct the proceedings in an efficient and cost-effective manner. Such conduct will then be taken into account in determining the arbitrators' fees and in determining the allocation of costs by the arbitrators at the end of the proceedings.

4. Strategic decisions require exceptional professionals and exceptional professionals have a unique background. I dare to add that your unique background is also a complete one. I will refer first to the dispute resolution specialist side of it: you practiced as counsel in commercial disputes, you had your judicial training with the Austrian courts, and you are trained as mediator. How much of each has helped you in being successful at the helm of VIAC?

Actually, all of it! I think it was exactly the mixture of my work as a court clerk, counsel, arbitrator and mediator that formed a big mosaic of my ever-growing skills. It is often like that in one's career ?? you collect pieces on your way, and at some point you end up with a wonderful collection that is still growing. I would not want to miss any of these experiences, and it helps me tremendously to have stepped into various roles to better understand the needs and desires of

different stakeholders in various dispute resolution scenarios.

5. Moving to the other side of your background: prior to and after obtaining your doctoral degree, you have pursued as well an academic path with the Institute of Civil Procedure at the University of Vienna (Institut für Zivilgerichtliches Verfahren, Universität Wien) and have also coached, for a good number of years (and where our paths have crossed) the Willem C Vis Moot team of the University of Vienna. Tell us a little about your time at the University of Vienna, and in particular about how research and teaching in arbitration has shaped your future career.

Academia has taught me many things, amongst these are persistence, precision, humbleness and the ability to persevere. I was very lucky to have had the opportunity to work as an assistant at the Institute of Civil Procedure at Vienna University with bright and inspiring fellow colleagues who have become leading scholars in Austria and beyond. Writing my thesis was a stony path and at my first attempt I stumbled and failed, as I had completely underestimated the perseverance needed for such a task. At that time, I was simply lacking the ability to dig deep and deeper into one topic until you reach the bottom. But fortunately, I realized this quickly and gave in to my longing for studying abroad. I applied to and was accepted at the London School of Economics and Political Science in 1997 for an LLM programme. As one of my choices, I took a course in arbitration at the School of International Arbitration (“SIA”) at Queen Mary that proved to be a game-changer for me. Prof Lew and the late Prof Adams, who were brilliant and inspiring teachers, sparked a fire in me for arbitration that is still burning.

Until then, I had had only one practical encounter with arbitration as a summer-intern in a law firm when asked to assist in an arbitration between an Italian party and a Czech party concerning the delivery of tractors. I had no idea on both issues but was fascinated by the international environment, the site visits, and the exciting hearing days. Instinctively I knew that this was something for me (arbitration, not tractors!). What had been lacking was a sound theoretical backbone that I obtained during my time at the SIA.

After having deepened my academic knowledge in arbitration and upon returning to Vienna, I first went back to practice and took the bar exam. However, the thorn in my side of the unfinished business of my doctoral thesis made me quit at the law firm and bring “this” to an end. I chose the topic of “*Singular Succession (Assignment) and Arbitration Agreements*“, where I had to answer several difficult and central questions of civil (procedural) law. But this time, I had the passion and necessary steadiness to finish, and this still makes me proud.

So, returning to academia as a coach for the Vienna Vis Moot team in 2004 was very rewarding for me in many ways. I could give back to the university and I also realized that I enjoy teaching and supporting and challenging young talents to help them rise to their best. I still very much remember my first Vis Moot team. When they reached the finals, I was out of my way, also because I had just given birth to my first-born during the Vis week and was attending the ceremony with a baby. Truly unforgettable. I had a slightly better timing for my other two kids who were both born in summer, well after the Vis Moot week.

6. You have managed to successfully lead VIAC, to have a truly exceptional career as academic and practitioner in dispute resolution, and to have a wonderful, numerous family, being the

mother to three wonderful children. The answer to my question has practical value to our readers – VIAC, all the other arbitration institutions, and all arbitration stakeholders are currently pushing the boundaries of diversity in international arbitration. How do you manage all?

This is a really good question! I am sure that I don't manage it all but at least I try. And I came to realize three things: 1) "good is sometimes good enough" and "perfect is the enemy of good". 2) You need to have (with fall-backs) a good plan A but don't be disappointed if it is eventually only plan F that materializes. 3) Be flexible and take opportunities when they arise. It is impossible to be good at everything all the time; I even think it is not healthy.

It is important to look after oneself because you can only give as much as you actually have and if your life is empty, then it is bad for everyone including yourself. It is ok to take a break, to enjoy a great moment and still give your best. Sometimes giving your best can also mean, doing less, letting others take over and spreading responsibilities within your team and within your family so that all can take their share. This enhances team-spirit and this is a secret for success: to realize that you are always in a team and not a sole marathon-runner (although sometimes it feels like it).

My kids have taught me many things, they have been like a mirror for me and my flaws, challenging me and my beliefs constantly. I want them to grow up in an environment where it is allowed to ask questions, to say no, to have freedom of choice for their careers, to have diversity in society, to have a healthy environment and to have fun living their lives. And I want to contribute to this where I can.

7. What's next, Alice?

After 10 years at VIAC, it was time for me to move on. I was ready to accept a new challenge by entering the field of litigation finance. I will join the European-based third-party-funder Nivalion as of February 2022.

8. I am thrilled to hear this! And I wish you best of luck in this next step of your career. Nivalion is truly fortunate to have you and the arbitration community will be pleased to see you when negotiating the next funding agreement. How does this position align with your broader career goals and ambitions?

It was the logical next step. I am a visionary who wants to work for a good cause. I truly believe that third-party funding is beneficial as it enables access to justice for parties that could otherwise not pursue their case. I will be working with a great team of ambitious people that know their business and are very determined to this cause. My new role as Market Area Head of Austria & CEE of Nivalion allows me to contribute to this mission. I want to help build trust and for stakeholders to better understand the way funding works and make use of this instrument. And it enables me to stay within the dispute resolution arena where I have met so many bright people and made lots of friends. I would not want to miss this inspiring environment and the arbitration community. I look forward to partaking in a different function but with the same energy and commitment.

9. Judge Brower, in an [interview](#) to *Kluwer Arbitration Blog*, was talking about the “building blocks” of a career. Your career is stellar and each part of it appears to be, indeed, a building block to where you are today. What would be that one advice you would give to our readers who are now at beginning of their careers in arbitration?

Judge Brower is a truly outstanding personality with a remarkable career path – and I still have a long way to go before being even close to such achievements.

My advice to young professionals is simple: Believe in yourself! Be brave. Have faith. Have dreams and pursue them, even if the path is not a straight one. Don't lose sight of where you are heading to; stay true to your personal goal and cause. Sometimes life takes unexpected turns, embrace them and move on, don't let anyone get you off the track. My personal mantra when faced with a set-back or tough situation is: “it will be good for something” and it always has been for me, even if I came to realize it only much later. And, don't forget to have fun, you only got this one life.

Thank you, Alice, for your time and candid views! We wish you all the best always.

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