

# Kluwer Arbitration Blog

## DIS Conference 2024: Higher, Faster, Further? Drivers of Innovation in Arbitration

Deborah Keller (CMS Hasche Sigle) · Thursday, October 10th, 2024

The [DIS Autumn Conference](#), held on 10 September 2024, was the main event of the [Berlin Dispute Resolution Days](#), which took place from 9 to 12 September 2024 and were jointly organized by the [German Arbitration Institute \(DIS\)](#), the [Federal Ministry of Justice](#), and the [Humboldt University](#) in Berlin.

Set against the vibrant backdrop of Berlin, the conference brought together distinguished practitioners and experts from across the globe to explore the latest trends, challenges, and innovations in international arbitration. The event opened with a keynote speech on handling complex disputes, followed by panels addressing key topics including diversity in arbitrator appointments, efficiency, the integration of AI, and the evolving challenges of disclosure and confidentiality.

### Opening Remarks and Keynote Speech

After a welcoming address by [Rouven Bodenheimer](#) (DIS), the conference was opened by [Michael E. Schneider](#) (Lalive), who delivered a keynote speech focusing on the challenges of handling complex disputes.

Schneider highlighted the complexity of construction disputes where arbitral tribunals had to navigate multiple “realities”, *i.e.*, the actual events that occurred and each party’s interpretation thereof. He noted that the tribunal’s task is to deconstruct these differing realities to uncover what truly happened.

Furthermore, Schneider emphasized that the depth of the tribunal’s engagement with a case, and consequently the quality of its decision, largely depends on the resources that the parties are willing to invest. In this context, he pointed out that the extent to which parties are prepared to fund the arbitration process (“*which price they are willing to pay*”) can significantly influence the tribunal’s ability to thoroughly address the complexities of the case.

### A Morning Coffee Debate: Will Diversity Kill the Party-appointed Arbitrator?

The first panel of the day, moderated by [Nadja Jaisli Kull](#) (Bär & Karrer), tackled the question of whether diversity could spell the end for the party-appointed arbitrator. The debate featured a diverse lineup of speakers, including [Timothy G. Cameron](#) (Cravath), [Huw Jenkin](#) (Travers Smith), [Ramesh Selvaraj](#) (Allen & Gledhill), and Paula de Noronha (Independent Arbitrator) who explored various aspects of diversity in arbitration.

The panelists discussed the increasing emphasis on diversity in arbitrator appointments, observing that while arbitral institutions have made notable progress in prioritizing diversity in recent years, this focus is less evident with party-appointed arbitrators. The panelists agreed that diversity is important and that raising awareness among parties could help enhance its consideration. However, they also emphasized that party autonomy remains fundamental, and parties should thus not be compelled to include diversity in their selection criteria.

The discussion also addressed the potential tension between diversity and qualification, debating how to balance the two. It was argued that the commitment to diversity does not necessarily lead to a reduction in the quality of arbitrator appointments. Instead, the panel agreed that there is a need to challenge biases and expand the pool of candidates by looking beyond the usual, well-established choices to include highly qualified arbitrators from diverse backgrounds.

### **Efficiency at All Costs – A Critical Review of Recent Innovations**

The second panel moderated by [Kai Schumacher](#) (AlixPartners), discussed whether efficiency should be the ultimate goal in arbitration. The panel, consisting of [Sabrina Streicher](#) (BASF), [Raffaella Isepponi](#) (Stockholm Chamber of Commerce), [Karol Bucki](#) (MSC Mediterranean Shipping Company), [Arun Chawla](#) (Indian Council of Arbitration), and [Kevin Nash](#) (SIAC), explored recent innovations aimed at enhancing the efficiency of arbitration.

Chawla highlighted the pressure to prioritize efficiency, particularly in regions such as India, where courts are overwhelmed with a large number of pending cases and arbitration is hence a critical and preferred alternative for faster and more efficient dispute resolution. Bucki advocated for a broader approach to efficiency, emphasizing that it should encompass a balance of time, cost, and quality. The panelists agreed that while arbitration should strive to deliver enforceable decisions in a time-efficient manner, this should not come at the expense of the thoroughness and integrity of the process.

Isepponi and Bucki both emphasized the importance of an active tribunal and of direct communication between arbitrators and parties as key factors in driving efficiency. Streicher added that mediation could also enhance efficiency. Isepponi stressed that expedited proceedings and tools such as the [SCC Express](#), which promise a decision within three weeks, can significantly improve efficiency. Nash underscored the need for institutions to be transparent about timelines and to take proactive measures, including intervening when arbitrators cause undue delays to the proceedings.

### **The Sorcerer’s Apprentice – Only Upsides to AI in Arbitration?**

After lunch, the conference shifted its focus to the evolving role of artificial intelligence (“AI”) in

arbitration. The panel “The Sorcerer’s Apprentice – Only Upsides to AI in Arbitration?” was moderated by [Mariel Dimsey](#) (CMS), and featured [Eileen Khor](#) (Siemens Energy), [Milos Rusic](#) (deepset), and [Tobias Vollmer](#) (Raedas), who discussed the potential benefits and challenges of integrating AI into arbitration proceedings.

Rusic explored how AI can assist in managing large data sets and identify patterns within complex disputes, highlighting its potential to streamline the arbitration process. However, he cautioned against an over-reliance on AI without proper oversight, comparing the risks to those faced by a “*sorcerer’s apprentice*”. In this context, Rusic emphasized that organizations should maintain control by developing and carefully monitoring their own AI tools, which includes hiring skilled talent to oversee these systems, pursuing incremental improvements in efficiency, and establishing continuous feedback loops to refine AI integration.

After an audience poll revealed that while most attendees acknowledged using AI, only few have in-house AI systems, Vollmer noted that in his field, AI primarily serves as a tool for data search and comparison but warned of potential confidentiality risks and AI’s limitations in understanding legal nuances. Khor added a critical perspective, stating that the real risk lies not in the adoption of AI, but in failing to adopt it.

The panel agreed that while AI can significantly streamline proceedings, it cannot replace human expertise. Instead, AI should be used to complement arbitration, enhancing efficiency while preserving the quality and integrity of the process. Dimsey concluded the discussion with a compelling takeaway: AI will not take our jobs, but those who use it will!

### **Disclosure and Neutrality – How Far is Too Far?**

The next panel, moderated by [Bernd Ehle](#) (Lalive), delved into the critical and ongoing issue of disclosure and neutrality in arbitration. The panel featured insights from [Erica Stein](#) (Stein Arbitration), [Shai Sharvit](#) (Gornitzky), [Max Thümmel](#) (Bayer), and [Emilia Onyema](#) (SOAS University of London), and explored the extent of disclosure necessary in an era of increasing transparency.

Thümmel emphasized the importance of maintaining party trust and advocated for broad disclosure to avoid conflicts of interest. Stein warned that excessive disclosure might discourage arbitrators from taking on cases due to the fear of conflicts being overly scrutinized. Sharvit highlighted the challenges posed by the impact of social media, noting that even minor interactions can be misconstrued thus making clear guidelines for arbitrators necessary. Onyema suggested that arbitrators, similar to judges, should adhere to a higher standard of disclosure given their pivotal role in ensuring fairness in the arbitration process.

The panel concluded that while disclosure is crucial for transparency, over-disclosure can lead to unnecessary complications. Arbitrators must thus strike a balance, applying disclosure rules thoughtfully and in context to uphold both neutrality and efficiency in arbitration.

### **Confidentiality – Just Another Outdated Concept? A Look into the Crystal Ball**

The final panel of the day tackled the relevance of confidentiality in arbitration. Moderated by [Nadine Lederer](#) (Federal Ministry of Justice), the panel featured [Hans Hahn](#) (Areva), [Alma Forgo](#) (formerly Airbus), and [Kathleen Paisley](#) (Ambos).

The panel agreed that confidentiality remains a fundamental aspect of arbitration, particularly in industries where sensitive information is at stake. Hahn noted that sectors such as nuclear energy heavily rely on confidentiality to protect both commercial interests and national security. Forgo emphasized that in industries with a limited number of players, publishing arbitral awards could potentially harm long-term business relationships. However, the panel also recognized the increasing demand for transparency, particularly in investor-state arbitration.

Paisley raised concerns about data protection challenges associated with the publication of awards, while Forgo questioned whether publishing awards at all serves the interests of the parties involved.

Finally, the potential of AI to enhance the efficiency of redacting sensitive information was discussed, though the panelists remained skeptical whether this would lead to an increase in published awards in practice.

## Conclusion

The DIS Autumn Conference 2024 highlighted the key drivers of innovation in arbitration, from balancing efficiency and quality to embracing AI and maintaining confidentiality. In her closing remarks, [Ramona Schardt](#) (DIS) reiterated the importance of continuing these dialogues as the arbitration community faces evolving challenges and opportunities.

As the Berlin Dispute Resolution Days progressed, participants were left with much to ponder about the future of arbitration, especially as it adapts to the demands of an increasingly interconnected and complex world. The conference reaffirmed the need for careful, context-driven approaches to arbitration to ensure that it remains a flexible, efficient, and trusted method of dispute resolution for years to come.

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