



12th Global Online Forum

International Arbitration and Mediation Institutions – The
raison d’etre

Panel on the Selection of Institutions

13:50 – 14:20 pm – December 23, 2020

Panel members – Introductory statements

- Olga Tsiptse, Greece **Overcome unfamiliarity with arbitration**
- Kati Komorosky, USA– **Court appointed or voluntary mediation**
- Federica Bargetto – **Arbitration clause – impact on outcome**
- Lilia Klochenko – **Ad hoc vs. institutional arbitration**
- Sherlin Tung, Hong Kong SAR – **Compare institutions**
- Suhail Nigar, England – **client perspective, combining rules**
- Arun Kasi, KL – **Jurisdiction in courts (e.g. enforcement)**

Ad hoc vs. institutional arbitration

Lilia Klochenko

PhD jur., FCIArb, Attorney at Law

- ◆ **Advantages of Ad Hoc Arbitration**
- ◆ **Categories of Disputes**
- ◆ **Comparative Statistics**

Advantages of Ad Hoc Arbitration:

- ◆ **F**reedom of creativity and **F**lexibility: possibilities for tailoring and fine-tuning the procedure as much as necessary for the case
- ◆ **E**fficiency and **C**ertainty: collaborative parties and experienced arbitrators can provide speed and cost-efficiency (quick appointment process; no layers of administration, supervision or scrutiny; no administrative fees; established procedure format)
- ◆ **A**bility to choose an institution to facilitate and support
- ◆ **A**d hoc can be tailored to suits all **C**laims **B**ig or **S**mall

Categories of Disputes - 1:

- ◆ Investment Disputes: ICSID vs UNCITRAL: Different Approaches on Some Key Issues (*Investment definition; Dual Nationals; Costs; Overturning Awards and Enforcement*)

- ◆ Insurance and Reinsurance Disputes:
 - ⇒ Traditional ad hoc arbitration clauses with special requirements as to the arbitrators qualification
 - ⇒ Multi-party Disputes (*often involving international brokers*)
 - ⇒ Seriously focused on “double”-confidentiality

- ◆ Construction Sector Disputes:
 - ⇒ Multi-tier dispute resolution process provided by FIDIC contracts
 - ⇒ Other types of Construction Disputes

Categories of Disputes - 2:

◆ Maritime Disputes:

- ⇒ Traditional demand for ad hoc arbitration in maritime activity
- ⇒ Most arbitration proceedings in maritime ad hoc cases are conducted under the LMAA Terms and Procedures
- ⇒ Other institutions widely offer services for administration of ad hoc arbitrations, including maritime disputes

◆ Special industries/sectoral disputes:

- ⇒ Disputes within mega-corporation: many small and medium disputes within a specific industry, a panel of professional arbitrators and a recommended arbitration clause, low costs (*examples from Russia: GAZPROM, ROSATOM, etc.*)

Some Comparative Statistics worldwide for Maritime Disputes:

- ◆ LMAA new cases
(maritime and construction cases) 1561
- ◆ HKIAC new maritime cases 77
- ◆ SIAC new maritime cases 72
- ◆ SCMA new maritime cases
(domestic and international) 56
- ◆ MAC new maritime cases < 20