## **ADR VIETNAM CHAMBERS**







# MEMBERS OF ADR VIETNAM CHAMBERS AT ICCA CONGRESS 2024

Last week, members of ADR Vietnam Chamber, Arbitrator Nguyen Manh Dzung và Tribunal Clerk Ha My Linh participated in the 26th ICCA Congress Hong Kong from May 5th to May 8th 2024. This year Congress, with the theme "International Arbitration: A Human Endeavour", attracted more than 1400 arbitration practitioners from around the world, marking this as the largest arbitration event in the history of ICCA Congress.



### **DAY 1 IN A GLANCE**

The Congress started with keynote delivered by Prof. Bryant G. Garth, titled "Unveiling the Human Dimensions of International Arbitration: Dealing in Virtue Then and Now". The speech focused on ethical foundations that affect the development of international arbitration. The keynote speech is followed by six panels discussing the role of arbitrators and ethical principles influencing the determination of arbitration results. In addition, panels also delved into the social and cultural factors that influence advocacy, administration, interpretation and practice of international arbitration.



#### **PANEL 2**

The second panel revolved around the theme "The Arbitrator" with the participation of Hon Justice Mimmie Chan, Neil Kaplan CBE KC SBS, V K Rajah SC, Aisha Abdallah, Chris Campbell, Elliott Geisinger. The panel explored the qualifications, roles, responsibilities of arbitrators in arbitral proceedings, especially in ensuring justice for parties.

#### PANEL 3

The third panel, themed "Decision-Making and Biases", moderated by Patricia Saiz González, was joined by Sehila Ahuja, Curtis Fung, GS. Stavros Brekoulakis, Anna Howard, Rachel Cahill-O'Callaghan, Henry Forbes Smith KC và Hon Justice Dominique Hascher. The discussion examined factors that affect the decision-making process of the arbitral tribunal, particularly cultural background and aspects in trust and impartiality.



# PANEL 5

The fifth panel, themed "Judging the New York Convention", was led by Andrés Jana, who accompanied by Bahrain's Hon Judge Fatima Faisal Hubail, Singapore's Hon Justice Judith Prakash, Chian's Hon Judge Xi Xiangyang, delved into the interpretation and application of the New York Convention in national courts. Besides, other relevant issues included the consistency and uniformity of arbitration, the ability to resolve disputes by arbitration across legal systems and their impact on domestic law.

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#### PANEL 6

The sixth panel, themed "Culture, Localisation and Regionalism", was moderated by Evgeniya Goriatcheva , together with Mohamed S Abdel Wahab, Won Kidane, Ruth Teitelbaum, Fei Lu, Giorgio F. Colombo in a discussion revolving around culture in arbitration. The Panel analyses the impacts of cultural differences between participants in arbitral proceedings on arbitration procedure, arbitrator appointment, outcomes of the proceedings. Besides, the speakers addressed other significant issues regarding how the harmonization of proceedings may improve the effiency of arbitration and how to improve cultural sensitivity among practitioners.



# **IMPACT ON VIETNAM'S ARBITRATION PRACTITIONERS**

According to Vietnam International Arbitration Center (VIAC) statistics, in 2023, VIAC handled 427 cases.[1] According Singapore International Arbitration Center report, Vietnam is one of the top SIAC's users. In 2023, SIAC handled 22 disputes in which of the parties Vietnamese and two cases are expedited procedures.[2]

According to statistics from Ministry of Justice, Vietnam has around 1000 arbitrators and 100 mediators.[3] More specifically, there are 198 VIAC arbitrators. 162 Vietnamese arbitrators và 36 foreign arbitrators from the UK, the US, France, South Korea and Singapore.[4] In 2023, top 3 SIAC arbitrators come from common law jurisdiction, namely Singapore, the UK and Australia.[5] On the contrary, the majority of Vietnamese arbitrators are judges lawvers that are familiar with procedures in civil law iurisdictions.



Therefore, issues discussed in Panel 2, 3, 5 and 6 are of pivotal importance to practitioners in Vietnam because of the Golden Rule in arbitration. "Know Your Tribunal". Speakers from different jurisdictions holding different positions such as counsels, arbitrators, judges provide diverse viewpoints in the roles and responsibilities of an arbitrator and aspects influencing the decision-making process of the arbitral tribunal, for example, culture, trust and impartiality. In addition, discussions regarding the recognition of arbitration agreements and enforcement of foreign arbitral awards under New York Convention in Singapore, China and Hong Kona interpretation of public order in each jurisdiction. However, the common difference between these countries and Vietnam is using public order instead of basic principles in Vietnamese law. More importantly, the differences in culture and legal background between counsels and arbitrators should be highlighted to tailor a more suitable arbitral proceeding.

[2] SIAC, Annual Report 2023, https://siac.org.sg/wp-content/uploads/2024/04/SIAC\_AR2023.pdf

[3] Ministry of Justice's internal report [4] Ms. Hang Vu's presentation, "Arbitration at VIAC – Effective Dispute resolution method for business", 23 Feb 2023 [5] SIAC, Annual Report 2023, https://siac.org.sg/wp-content/uploads/2024/04/SIAC\_AR2023.pdf

Find out detailed summary by Yashan Huang, Max Joite, Kritika Sethia, Scarlett Xianshu Wu, and Gökçe Uyar, ICCA Hong Kong 2024: Unpacking the 'Human' in Arbitration, Kluwer Arbitration Blog, 9/5/2024, https://arbitrationblog.kluwerarbitration.com/2024/05/09/iccahong-kong-2024-unpacking-the-human-in-arbitration/



**THANK YOU** 

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