

Austrian Yearbook on International Arbitration 2025

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VIAC's Annual Report – 2024

A Year of Fruition and Anticipation

Niamh Leinwather/Nazli Morali/Jessica Puhr

I. Introduction

2024 marked a year of fruition for many of VIAC's ongoing projects, simultaneously it was a year of anticipation for the upcoming Golden Jubilee year. Nominated for a GAR award for "Regional Institution that Impressed", VIAC continued its trajectory of advancements and solidified further its position as a leading institution in the field of international arbitration and mediation, particularly in the Central and Eastern Europe ("CEE") and South-eastern Europe ("SEE") regions, where its influence continues to expand.

On the case management front, VIAC modernised its model mediation clauses to align with judicature of the Austrian Supreme Court and significantly reduced the cost structure for mediation proceedings. It further adapted its arbitration rules by introducing rules and a model clause for corporate disputes in response to a pivotal Austrian Supreme Court decision. The latter developments underscore its commitment to staying at the forefront of international dispute resolution and legal developments. Building on the reform of the award monitoring policies in 2023, VIAC is now finalising a best practice note for arbitrators in award writing as well as a note on the use of artificial intelligence in arbitration proceedings. These efforts demonstrate VIAC's commitment to thought leadership in dispute resolution globally.

As part of its broader vision, VIAC continued to innovate through its various initiatives, including Expert Focus Groups addressing emerging issues, and the ongoing development of the ADR Wellbeing Toolbox. The VIAC Community Ambassador Network ("VIAC CAN") continued to grow and is becoming a cornerstone of the institution's outreach efforts in the CEE and SEE regions. The initiative has facilitated invaluable connections and further reinforced VIAC's prominence in the region. 2024 marked the first year that the VIAC CAN Congress was made open to the public and was received with astounding enthusiasm.

Institutional collaborations also took centre stage this year, with VIAC strengthening its ties on the investment arbitration front with international institutions such as ICSID, in mediation with the Austrian Franchise Association, and from a commercial arbitration perspective with the Macedonian

Association of Corporate Lawyers and the Arbitration and Mediation Center of Armenia. These initiatives reflect VIAC's enthusiasm and dedication to global thought exchange and collaboration.

VIAC welcomed two new team members, one in a paralegal position. The addition of a paralegal to the case management team for the first time also significantly contributes to the efficiency of case administration. The addition of these two new colleagues has also expanded VIAC's language offering considerably with the Secretariat now boasting language skills in eight languages.¹⁾

2024 was also a year of reflection and remembrance for VIAC, as we mourned the loss of distinguished members of our arbitration community. Martin Magál, a valued member of our International Advisory Board, passed away, leaving a profound legacy. We also bid farewell to Alexander Bělohávek who played an important role in VIAC's history. They will both be deeply missed and fondly remembered.

With the beginning of the preparations for the 50-year celebration of VIAC in 2025, last year was a year of anticipation amongst the VIAC team. The meticulous organisation of various celebratory events began as well as the revision of the much-valued VIAC Handbook kicked off with its publication due in October 2025. 2024 stands as a testament to VIAC's unwavering commitment to excellence, collaboration, and leadership in the field of international dispute resolution. This annual report will provide an overview of VIAC's activities in 2024 including the highlights, statistics and trends observed.

II. Highlights of 2024

A. Continuing to Optimise VIAC's Case Management in Arbitration Proceedings

Efficiency continues to be a cornerstone of VIAC's case management, and 2024 saw significant progress in this regard. Building on the measures introduced in previous years, the VIAC Award Checklist has become an integral tool in facilitating smoother finalisation of awards. This year, VIAC further modernised several key documents, including the Acceptance of Office Forms,²⁾ the Checklist for Arbitrators for the Final Determination of Costs, the

¹⁾ In addition to German and English, VIAC team members offer a range of language skills: Vladyslava Donchyk in Russian and Ukrainian, Nazli Morali in Turkish, Ema Potočnik in Slovenian, Ferenc Pöcz in Czech, Hungarian, and Slovak, and Klaudia Sood in Polish.

²⁾ The Acceptance of Office Form is available on the VIAC website: https://www.viac.eu/images/documents/Arbitrators%20Acceptance%20of%20Office_workable.pdf [last accessed on January 30, 2025].

Transfer Instructions,³⁾ and the Declaration by the Tribunal Secretary. These forms are now more user-friendly providing clearer guidance for arbitrators and the parties.

Looking ahead, VIAC is actively developing a new document entitled Best Practice for Costs, designed to guide arbitrators on structuring and drafting the cost sections of awards. This practical resource will include examples to ensure clarity and consistency in cost decisions. Another project in the pipelines is the Note on the use of Artificial Intelligence (“AI”) in arbitration proceedings. This non-binding tool aims at facilitating discussions on incorporating AI while ensuring the integrity and effectiveness of the arbitral process.

Additionally, VIAC published a brochure showcasing its hearing facilities.⁴⁾ Available for both VIAC and non-VIAC arbitrations, the brochure highlights the variety of rooms available at VIAC's office at the Austrian Federal Economic Chamber, which offer day-light, top notch technical equipment, catering facilities on-site as well as very competitive pricing.

B. Improvements of VIAC's Mediation Services

A working group at VIAC comprised of VIAC's President, Nikolaus Pitkowitz, VIAC's Board member, Martin Hauser, members of the Mediation Board, Claudio Arturo und Ulrike Frauenberger-Pfeiler as well as a team from VIAC's Secretariat, Secretary General, Niamh Leinwather, Legal Counsel, Sophie Tesarik and Legal Intern, Stella-Jo Thurner undertook a comprehensive review of the Vienna Rules of Mediation with the objective of enhancing the practice of mediation in Austria and beyond. The focus of the working group was the optimisation of VIAC's mediation services in order to encourage parties to engage more in this underutilised method of alternative dispute resolution.

Key changes include the simplification of the model mediation clauses⁵⁾ while taking into account the latest judgements of the Austrian Supreme Court. There are now two model clauses for mediation that also provide for numerous supplementary provisions. The revision introduced a revised fee schedule for mediation proceedings. The registration fee is now a flat rate set at EUR 500 rather than a maximum amount of EUR 1,500, and the calculation of VIAC's administrative fees has been significantly revised. The administrative fees

³⁾ The Transfer Instructions Form is available on the VIAC website: https://www.viac.eu/images/documents/Transfer%20instructions_workable_final.pdf [last accessed on January 30, 2025].

⁴⁾ The brochure “Hearings at VIAC” is available on the VIAC website: https://viac.eu/images/documents/Hearings_at_VIAC.pdf [last accessed on January 30, 2025].

⁵⁾ The model mediation clauses are available on the VIAC website: <https://viac.eu/en/mediation/mediation-clauses-vienna-rules-2021> [last accessed on January 30, 2025].

continue to be calculated on the basis of the amount in dispute (as outlined in Annex 3 of the Vienna Rules). However, the following maximum amounts have been introduced: EUR 2,000 for disputes up to EUR 500,000; EUR 5,000 for disputes between EUR 500,001 and EUR 5,000,000; and EUR 10,000 for disputes exceeding EUR 5,000,000.

Registration Fee	
Flat rate	EUR 500
Administrative Fees	
<i>Amount in dispute</i>	<i>Maximum Rate</i>
up to EUR 500,000	EUR 2,000
from EUR 500,001 to EUR 5,000,000	EUR 5,000
over EUR 5,000,001	EUR 10,000

At the end of the mediation proceedings, the Secretary General has the discretion to set the administrative fees according to this scale, taking into account the specific circumstances of the case. With this new system, mediation proceedings have become much more cost-efficient at VIAC. Compared with other international institutions VIAC's offering is highly competitive.

In addition, VIAC remained steadfast in its commitment to further expand the use of mediation as evidenced by its cooperation agreement with the Austrian Franchise Association or its ongoing efforts to further develop and grow the Consensual Dispute Resolution Competition in cooperation with the International Bar Association.

C. Reform following the Austrian Supreme Court Decision 18 OCg 3/22y⁶⁾

In April 2024, the Austrian Supreme Court set aside an arbitral award, stating that shareholder disputes are arbitrable under Austrian law only if specific conditions are met. These include ensuring all shareholders agree to the arbitration agreement, and can participate in the arbitration, protecting their rights under fair trial standards, and drafting precise arbitration agreements to avoid enforceability issues.

⁶⁾ The decision is available here: https://www.ris.bka.gv.at/Dokumente/Justiz/JJT_20240403_OGH0002_018OCG00003_22Y0000_000/JJT_20240403_OGH0002_018OCG00003_22Y0000_000.pdf [last accessed on January 30, 2025].

In response to this ruling by the Supreme Court, a working group was set up led by VIAC's Vice-President, Franz Schwarz, VIAC's Board Member, Paul Oberhammer, VIAC's National Advisory Board member, Christian Koller, as well as members from VIAC's Secretariat, Niamh Leinwather, Secretary General and Sophie Tesarik, Legal Counsel. Recognising the court's emphasis on ensuring comprehensive binding effects, adequate participation rights, and precise drafting in arbitration agreements, VIAC has introduced a targeted approach to align its rules with these requirements while maintaining user-friendliness and flexibility. The working group has implemented two important updates to its framework to address these developments.

First, VIAC developed a Model Arbitration Clause for intra-corporate disputes, available on the VIAC website since January 2025.⁷⁾ This model clause offers a practical solution for corporations seeking to include or update arbitration provisions in their articles of association or partnership agreements. Designed for clarity and precision, it aims to pre-empt impracticable clauses and provide a straightforward tool for meeting the Austrian Supreme Court's standards.

A second key step was the drafting of a new Annex to the VIAC Rules, specifically tailored to intra-corporate disputes. Annex 7 now ensures compliance with the Austrian Supreme Court's requirements by providing clear guidance for arbitration agreements involving shareholder disputes. It outlines mechanisms to guarantee that all shareholders are bound by and adequately represented in the arbitration process, thus safeguarding fairness and preventing future challenges to arbitral awards.

These updates reflect VIAC's commitment to adapting to evolving legal standards while offering practical resources that uphold the integrity of the arbitral process.

D. VIAC Community Ambassador Network (VIAC CAN), Legal Tech Think Tank (LTTT) and Other Initiatives

In February 2023, VIAC launched VIAC CAN. Since its inception, the VIAC CAN initiative has grown significantly. What began as a regional effort has evolved into a globally established platform for professionals to share knowledge and explore opportunities. The Congress and the plethora of events that have ensued from this network demonstrate the power of cross-border collaboration and how VIAC CAN has acted as a catalyst for positive change in the CEE/SEE region and beyond.

⁷⁾ The model arbitration clauses are available on the VIAC website: https://viac.eu/images/documents/vienna_rules/VIAC_schieds_mediationsordnung_2021_e_v4_1812s.pdf [last accessed January 30, 2025].

VIAC's LTTT convened regularly in 2024, to analyse the impact of AI on transparency and disclosure obligations in arbitration proceedings. A particular focus was on the development of a non-binding AI Practice Note, intended to facilitate discussions about the use of AI in VIAC arbitration proceedings. In 2024, an additional workstream was introduced to strengthen collaboration with tech companies by organising joint events that foster closer ties between the legal and technology sectors, enhancing mutual understanding and engagement.

During 2024, VIAC's expert focus groups continued their work on trending topics focusing on investment arbitration, energy, construction, and post-M&A disputes, as well as ESG, succession, and trust. Among their notable achievements, the Energy Expert Focus Group led by Ana Stanic, E&A Law Limited, London and Eric Leikin, Freshfields, Vienna successfully organised a legal workshop in collaboration with OPEC, specifically its General Legal Counsel, Leonardo Sempertegui. Over the course of two days, various representatives engaged in in-depth discussions on key topics, including government considerations, reflections on financing energy contracts, and the pivotal role of dispute settlement in facilitating today's energy agreements. The first day featured a plenary session, fostering dialogue among government officials, and institutional representatives. The second day comprised a series of focused workshops, exploring contractual and legal mechanisms to balance the interests of investors and states, as well as broader dispute resolution frameworks within the energy sector. These initiatives showcase VIAC's commitment to fostering dialogue and innovation within the ADR community, ensuring its continued leadership in the field.

The ADR Wellbeing Toolbox was launched in 2023 by VIAC, ARBalance, and REAL and gained quite some traction in 2024 hosting four events. This initiative underscores our ongoing commitment to supporting the wellbeing of our users and comprises a series of free, recorded webinars designed to provide practical tools and insights. In 2024 an in-person event was organised during the Willem C. Vis International Commercial Arbitration Moot ("Vis Moot") in Vienna, tailored specifically for students. For International Women's Day, the ADR Wellbeing Toolbox hosted a fireside chat with two renowned female practitioners, Patrizia Netal, VIAC Vice-President and Emi Rowse Igusa, Partner and Head of Japan Practice at Kududn and Partners. In the penultimate webinar of the year, Amber Allan, head of Learning and development at Stewarts shared her useful techniques for overcoming imposter syndrome. The final event of 2024 took place during the Kyiv Arbitration Days and focused on Emotional Intelligence in the Workplace, tailored for our colleagues in Ukraine and led by Sara Cook, conflict response specialist. Looking ahead to 2025, the ADR Wellbeing Toolbox will be introducing fresh concepts addressing key topics, including pre-recorded sessions that will deal with various aspects of professional and personal wellbeing, burnout pre-

vention, emotional resilience, conflict fatigue, workplace relationships and female-related challenges such as fertility issues.

E. Events – From Vienna through the Balkans and the Baltics to Tbilisi and beyond: VIAC's Standout Events of 2024

2024 was a significant year for VIAC, marked by a series of impactful events that showcased its leadership in arbitration and mediation. The year began with the first ever VIAC CAN Congress on 9 February 2024, bringing together 40 VIAC CAN Ambassadors. The Congress featured an exclusive programme for VIAC Ambassadors on Thursday, 8 February 2024, including a tailored cross-examination workshop led by Franz Schwarz, VIAC's Vice-President. On Friday, 9 February 2024, the main agenda unfolded with engaging panel discussions on "ADR in Emerging Markets" and "New Trends in Investment Arbitration: What Role Can the Vienna Rules Play in the Region?", a keynote speech on business development, and a workshop on body language. The event concluded on Saturday, 10 February 2024, with a ballroom dancing class and the prestigious Ball of Legal Professionals — an elegant evening of celebration and connection, marking the perfect end to a memorable event.

VIAC was also the proud co-organiser of the Vienna Arbitration Days which took place on 7 to 8 June 2024. The Vienna Arbitration Days 2024 offered dynamic discussions on the latest trends in digitalisation, practical and ethical aspects for arbitration practitioners, and the impact of ESG and human rights policies on dispute resolution. The event was complemented by cultural highlights, including a dinner at Motto am Fluss with a live performance, the first-ever Arbitral Women Breakfast, a guided tour of the Heidi Horton collection, and a performance from the Chorus Juventus of the Vienna Boy's Choir after the infamous World Café.

VIAC actively participated at the 22nd "Exporttag", a trade fair hosted by Advantage Austria of the Austrian Federal Economic Chamber on 18 June 2024. VIAC had its own stand and engaged with trade experts fostering valuable discussions about dispute resolution possibilities in cross-border transactions. Under the theme "Beyond the Box" over 70 international leaders from politics, business, and academia inspired and informed the some 3,000 visitors.

VIAC also made a significant impact at the Vis Moot in March 2024, hosting multiple events, such as an innovative AI-focused session where the Vis Moot problem from the previous year was arbitrated using AI. VIAC also co-organised the launch of the world's first Global Tribunal Secretary Platform, at the University of Vienna along with ASA, Jus Connect, AAA-ICDR, and CIArb, which offers arbitrators an innovative tool to source external tribunal

secretaries and access valuable practitioner resources. During the Vis Moot, VIAC partnered with various organisations and institutions. “Running for Resolutions”, organised in cooperation with Comitê Brasileiro de Arbitragem, brought together the arbitration community for a unique morning run in the scenic Wiener Prater – an opportunity to strengthen connections in an informal setting and promote a healthy lifestyle. Additionally, in collaboration with CAM-CCBC, VIAC co-hosted a Traditional Viennese Breakfast, where participants enjoyed an authentic Viennese coffee morning alongside an engaging panel discussion on cybersecurity from an institutional perspective. In March 2024, VIAC also had the honour of hosting the IFCAI General Assembly and the IFCAI Councillors’ Meeting at its premises, warmly welcoming representatives from ADR centres worldwide to Vienna.

During the summer, VIAC once again participated in academic student programmes such as the Summer ELSA Law School and the Austrian Arbitration Academy. Both programmes give students from around the globe the unique opportunity to interact with arbitration experts. VIAC offered a glimpse into the world of institutional arbitration as well as advice on careers in arbitration.

Under the auspices of the VIAC CAN initiative, in 2024 VIAC organised 19 exceptional events across 15 jurisdictions in CEE/SEE, and beyond. From traditional conferences like the “Arbitration Matinée” in Belgrade and “The Future of Modern International Arbitration” in Warsaw to industry-focused roundtables for the construction sector in Sarajevo. Each occasion addressed unique regional and professional needs. VIAC partnered with local law firms and institutions to host international conferences, including, but not limited to “Arbitration 360: Cutting-Edge Issues and Expert Advice” in Skopje and “Navigating Arbitration: Essential Skills for Lawyers and In-House Counsel” in Ljubljana. VIAC also embraced more creative settings for a smaller group gathering in Zagreb, and even incorporated a musical performance into the programme for “The Art of Arbitration” in Vilnius. 2024 was also a year of expansion for VIAC CAN. For the first time, VIAC organised events in Georgia and Kosovo, and extended its reach to audiences in India and Japan. Additionally, VIAC supported and participated in international arbitration events in the Baltics, Bucharest, Moldova, and Azerbaijan.

In the latter half of the year highlights included VIAC hosting the highly anticipated GAR Live Vienna on 27 September covering energy transition disputes in arbitration, with a focus on key cases and new regulations in the renewable energy sector. The classic “GAR What would you do?” interactive session on “soft skills” in arbitration did not disappoint, where the stellar panel discussed real-life scenarios and compared solutions with the audience. This was followed by the Winds of Change conference at the end of November, co-organised with the University of Vienna and Herbert Smith Freehills, which featured a star lineup of speakers addressing key developments in investment arbitration.