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VIAC NOTE ON  
THE USE OF  
**ARTIFICIAL  
INTELLIGENCE**  
IN ARBITRATION  
PROCEEDINGS

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## Applicability

This Note on the use of Artificial Intelligence (“AI”) (“Note on AI”) is non-binding and intended to facilitate discussions related to the use of AI in the context of VIAC arbitration proceedings.

Should a conflict arise between this Note on AI and the VIAC Rules of Arbitration and Mediation 2021, in the version of 1 January 2025 (“Vienna Rules 2021”), the latter will prevail.

The application of this Note on AI should be tailored to the specific requirements of the case, ensuring that the use of AI tools enhance, rather than hinder the efficiency or effectiveness of the arbitral proceedings while safeguarding their integrity.

While there are numerous definitions of AI (including Generative AI) published by various organisations and bodies across various industries, VIAC does not subscribe to a single definition. This is due to the speed at which AI-derived tools are proliferating, not least in the legal field. As such, a fixed definition would likely not cover the broadening range of tools that will be used in the near future.

Therefore, where arbitrators and parties in VIAC arbitration proceedings agree that this Note on AI shall apply to their case, they should further agree upon which AI tools fall within its scope.

# VIAC Note on the Use of AI in Arbitration Proceedings

## 1. Ethical Rules and Professional Standards

Arbitrators, tribunal secretaries and counsel shall consider any ethical rules or professional standards applicable in both their respective jurisdiction and in the given arbitration proceeding, when using AI tools in the context of an arbitration matter.

## 2. Non-Delegation of Decision Making Authority

2.1. Arbitrators retain full control over the decision-making process. While AI can provide insights, and assist with certain tasks, arbitrators must retain full control over any decision that might have an impact on the proceedings and shall not delegate any such decision to an AI tool.

2.2. The use of AI tools by the arbitrator shall not substitute their independent analysis of the relevant factual and legal issues. AI tools may only be used to facilitate such analysis, not to replace it.

## 3. Confidentiality Standards

3.1. Arbitrators and parties shall respect the confidentiality of the arbitral process as a whole and ensure that AI tools are compliant with any such confidentiality obligations.

3.2. Arbitrators and parties shall thereby take all reasonable steps to prevent unauthorised access to sensitive case-related data.

## 4. Use of AI Tools

4.1. Arbitrators and parties shall ensure that they use AI tools effectively and responsibly in the context of the arbitral proceedings, with the requisite competence and experience.

4.2. Arbitrators and parties are responsible for the outputs of any AI tools they use.

## 5. Management of Parties' and Arbitrators' Use of AI

5.1. Arbitrators shall, within their discretion and where they consider necessary, facilitate the parties' and any third parties' (e.g. experts, court reporters) understanding and use of AI tools. They may wish to discuss in the case management conference, the potential use of AI in the proceedings, the requirement of disclosure as well as the potential impact of AI on the arbitration timeline and costs.

5.2. Arbitrators may, within their discretion and where they consider relevant and necessary, inform the parties if they plan to use certain AI tools. The arbitrators may wish to inform the parties of the name of the AI tool and the tasks it will be employed for. The parties shall be provided with an opportunity to comment on such information.

5.3. Where applicable, the arbitrators and the parties may wish to consider coming to an agreement on provisions related to confidentiality and the transparent use of AI, e.g. in Procedural Order No. 1.

## 6. Evidence and AI

6.1. In relation to the submission of factual and expert evidence, it is within the arbitrators' discretion to decide whether to request disclosure of evidence produced by AI or with the support of AI.

6.2. It is within the arbitrators' discretion to determine the admissibility, relevance, materiality and weight of any evidence produced by the parties with the support of AI.

## **Exclusion of Liability**

Article 46 para 1 of the Vienna Rules 2021 applies to the use of this Note on AI.

VIAC neither provides nor endorses any specific AI tools for use in arbitration. Additionally, VIAC assumes no liability or responsibility for any AI related violations or breaches committed by any arbitrator or party in the course of a VIAC proceeding.

VIAC encourages parties and arbitrators to perform their own due diligence when selecting and using AI tools. In addition, parties and arbitrators shall take all reasonable steps to ensure compliance with applicable laws and regulations throughout a VIAC proceeding, while consistently upholding the integrity of the arbitral process.

VIAC may periodically update this Note on AI to reflect future developments in technology, as well as any potential changes in the Vienna Rules, legal and / or regulatory frameworks.

### VIAC Secretariat



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**Niamh Leinwather** is the Secretary General of the Vienna International Arbitral Centre (“VIAC”). She took the lead of VIAC in January 2022. Niamh has both a common and civil law background (Bachelor of Civil Law, University College Dublin, Mag.iur., University of Vienna, Master of European Studies, University of Vienna). She was the first Irish woman to be admitted to the Austrian Bar in 2013. Niamh has over a decade of experience in international dispute resolution at Freshfields in Vienna where she acted as both counsel and arbitrator. She has held the office of Secretary Treasurer of the International Federation of Commercial Arbitration Institutions (IFCAI) since February 2023. In July 2024 Niamh was appointed to the Board of Directors of Arbitral Women and chairs the Education Committee. In October 2024 Niamh was invited to her alma mater as an Adjunct Professor of the Sutherland School of Law (University College Dublin).



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**Vladyslava Donchyk** joined VIAC as an intern in 2022 and has been actively supporting the Legal Tech Think Tank initiative since its inception. With the launch of the VIAC Community Ambassador Network (VIAC CAN) in 2023, Vladyslava transitioned into the role of VIAC CAN Coordinator, working on strengthening VIAC’s ties with the CEE/SEE region. Prior to joining the team, Vladyslava participated in the Willem C. Vis International Commercial Arbitration Moot and contributed to the IBA–VIAC CDRC Mediation & Negotiation Competition, where she served as Head of Content and Communication. Vladyslava is currently in her final year of studies in International Relations at the Taras Shevchenko National University of Kyiv, while simultaneously pursuing a degree in International Law at the University of Vienna. Vladyslava also contributes to VIAC publications, including articles for the Kluwer Arbitration Blog and the Third Edition of the VIAC Handbook.

### Members of the VIAC Legal Tech Think Tank



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**Mihaela Apostol** is a civil and common law qualified lawyer (Avocat of the Bar of Bucharest, Romania; Solicitor of the Supreme Court of England and Wales) with over 11 years of practice. Mihaela has an all-round experience in international arbitration having worked as counsel, tribunal secretary and arbitrator in investment and commercial arbitration and adjudication cases in the field of construction, tech, intellectual property, energy and oil & gas disputes. Mihaela is an active member of the arbitration community and is involved in various projects and initiatives: co-founder and moderator of ArbTech (discussion forum focusing on the impact of new technologies and the future of justice); coordinator of the Cross-Examination Moot in international arbitration (winner of the 2022 GAR Award for Best Development in Arbitration); former events coordinator at the Young Romanian Arbitration Practitioners group; former editor of the Delos Tech Channel (legal-tech newsletter). She is also member of the IBA AI Task Force.



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After **Aija Lejniece** spent almost a decade working at some of the biggest top-tier international law firms, she decided to become an independent practitioner. The need for arbitration and cross-border litigation attorneys has steadily increased over the past few years, but so have the fees of major international law firms. Her aim as an independent counsel is to offer a first-rate service to her clients without the unnecessary expenses or overhead, and to close the gap that currently exists in the international dispute resolution market. Her status as an avocat à la cour in Paris and attorney-at-law in New York allows her to practice independently, avoiding conflicts of interest and enabling her to offer more flexible arrangements to her clients.



### Seán McCarthy

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**Seán McCarthy** is an Irish barrister and NY attorney-at-law. He is a former Deputy Counsel at the ICC Secretariat in Paris and the current ICC YAAF Representative for Ireland and the United Kingdom. Seán has a wide range of experience in both international commercial and investment arbitration across industries such as construction, energy, intellectual property, commodities and technology. Seán is listed as a Future Leader in Arbitration by Who's Who Legal in 2024. He is a co-founder and moderator for [ArbTech](#); a global, cross-disciplinary community that discusses the intersection of law, technology and the future of justice. Furthermore in the technology context, Seán is a former legal consultant for a Swiss blockchain startup, and a current member of Blockchain Ireland's Legal Working Group.



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**Philipp Schwarz** specialises in conducting international arbitration proceedings, in particular in connection with post M&A, construction law, commodity trading and IP/IT disputes. He has been involved in numerous proceedings under the ICC, LCIA, DIS, SCC and VIAC rules as well as in ad hoc proceedings as party representative, administrative secretary and arbitrator. Due to his enthusiasm for art and new technologies, Philipp also advises artists and companies in the creative industries on all aspects of intellectual property and IT law.



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**David Tebel** is co-founder and Partner at rothorn legal. He advises and represents clients in complex proceedings before arbitral tribunals and state courts, both domestic and international. He has broad experience with technology-focused industrial liability cases – particularly governed by international sales law, large-scale infrastructure projects and corporate disputes. David has acted as counsel and arbitrator in proceedings governed by DIS, ICC, SCC and ICSID rules as well as in ad hoc proceedings. His clients include leading industrials and technology companies with a focus on corporates from the energy, automotive, and oil & gas sectors. David is recognised by Lexology Index as Future Leader in arbitration. He is co-coordinator of the DIS Technology Group, and a Swiss Arbitration Ambassador in Germany. He regularly publishes and speaks on topical issues of arbitration and the intersection of technology and law.