

SWEDISH ARBITRATION DAYS

6–7 September 2018 | Grand Hôtel | Stockholm, Sweden



ADVOCACY IN INTERNATIONAL ARBITRATION

While the building blocks of a case are often a given, they seldom dictate the outcome of an arbitration. Instead, the proceedings signify a journey of strategic choices made from the commencement of the proceedings until the delivery of closing arguments as the client's case is presented to the arbitral tribunal in the most optimal manner. In this process, the advocate acts as both the architect and constructor when building a case that stands steadily on its foundations and, in the end, holds the most appeal for the arbitral tribunal.

In 2018, the Swedish Arbitration Days will focus on Advocacy in International Arbitration. Panels comprising some of the world's most prominent international arbitration practitioners will discuss and share their experiences of advocacy at all stages of an arbitration. Do certain best practices exist in written advocacy and how should they be used? How do you master the art of examining witnesses and deal with any potential surprises? When you have the opportunity to address the tribunal, how do you choose what to focus on, and how can different styles of oral advocacy be used to deliver the message? These questions and many more will be answered during the 2018 Swedish Arbitration Days.

We look forward to seeing you in Stockholm!

Organizing Committee

Johan Sidklev, Krister Azelius, Charlotta Falkman, John Fellas, Mattias Göransson, Therese Isaksson, Wendy Miles QC, Philippe Pinsolle, José Rosell, Tatyana Slipachuk, Johan Strömbäck and Kristoffer Löf

All registrations and payment of the conference fee should be made online on the Swedish Arbitration Association's website: <https://swedisharbitration.se/swedish-arbitration-event-registration/>.



The Swedish Arbitration Association

CONFERENCE PROGRAM

THURSDAY 6 September 2018

08:30–09:00 Registration

09:00–09:15 Opening of conference

Johan Sidklev, President of the Swedish Arbitration Association, Partner, Roschier (Sweden)

09:15–09:45 Keynote address

Claes Lundblad, Partner, Lundblad & Zettermarck (Sweden), Honorary Member of the Swedish Arbitration Association

09:45–11:00 **Session 1 – Strategy in Written Advocacy**

Moderator: **Therese Isaksson**, Partner, Lindahl (Sweden)

Panelists: **Anders Forss**, Partner, Castrén & Snellman (Finland)

Laurence Shore, Partner, BonelliErede (Italy)

Vilija Vaitkute Pavan, Partner, Ellex Valiunas (Lithuania)

The ability to persuade the tribunal hearing the dispute that your client's case should succeed is a fundamental skill of an advocate. Persuasion starts with a powerful opening. It is vital to take the first opportunity to present the tribunal with an intelligible, coherent and convincing narrative that will form the frame through which the tribunal views the case. Written advocacy is particularly important in international arbitration.

The first panel will discuss written advocacy in the context of strategy and how that might impact a party's pleadings. The panel moderated by *Therese Isaksson* from Lindahl (Sweden) and consisting of *Anders Forss* from Castrén & Snellman (Finland), *Laurence Shore* from BonelliErede (Italy) and *Vilija Vaitkute Pavan* from Ellex Valiunas (Lithuania) will discuss issues such as how to best advance the overall case theory in an effective and compelling way, which facts and arguments should be included in the pleading and how they can best be presented, how to deal with unfavourable or weak points, whether to front-load the case or hold back, how and when to present witness statements and expert reports, and the legal consequences of various strategic options adopted by the parties.

11:00–11:30 Break

11:30–12:45

Session 2 – Best Practices in Written Advocacy

Moderator: **Johan Strömbäck**, Partner, Setterwalls (Sweden)
Panelists: **Henriette Gernaa**, Partner, Gorrissen Federspiel (Denmark)
Veijo Heiskanen, Partner, Lalive (Switzerland)
Audley Sheppard QC, Partner, Clifford Chance (UK)

Written advocacy is an essential ingredient of the arbitration process. Put simply, oral advocacy heroics will rarely overcome a failure to coherently address the core of a case in writing. This is perhaps best demonstrated in complex matters, where the chance to effectively play catch-up and dislodge preconceptions inevitably formed by a well-read tribunal may be limited. This panel will discuss three important written submissions, each of them offering an opportunity to win over the tribunal: the statement of claim/defense, the skeleton arguments, and the post-hearing brief. Do you have one form and concept for each submission or do you tailor? Which writing style should you adopt? These and many other issues will be addressed by this panel of three outstanding advocates: *Audley Sheppard* from Clifford Chance (UK), *Veijo Heiskanen* from Lalive (Switzerland) and *Henriette Gernaa* from Gorrissen Federspiel (Denmark). The panel will be moderated by *Johan Strömbäck* from Setterwalls (Sweden).

12:45–14:00

Lunch

14:00–15:15

Session 3 – The Client's Witnesses

Moderator: **Kristoffer Löf**, Partner, Mannheimer Swartling (Sweden)
Panelists: **Boris Kasolowsky**, Partner, Freshfields (Germany)
Arthur Ma, Partner, DaHui Lawyers (China)
Andrea Menaker, Partner, White & Case (USA)

Very few international arbitration practitioners question the legitimacy of witness preparation or the value of witness testimony. At the same time, there are significant differences in how national legal systems deal with these issues. Since we are all deeply influenced by our home jurisdictions, there is an obvious risk of "false friends" when we discuss the "dos and don'ts" of witness testimony. In other words, although we may use the same terminology, we actually mean different things.

Against this background, the panel moderated by *Kristoffer Löf* from Mannheimer Swartling (Sweden) and consisting of *Boris Kasolowsky* from Freshfields (Germany), *Arthur Ma* from DaHui Lawyers (China) and *Andrea Menaker* from White & Case (USA) will address questions such as: Are there any restrictions on who you are allowed to approach as a potential witness? Can anyone be called as a witness? Is it acceptable to lead the potential witness during the initial interviews? Are there any limits to the information you are allowed to share with the witness? Who drafts the witness statement – counsel based on interviews with the witness or the witness itself? How do you prepare your witness for the hearing as a whole and specifically for cross-examination? The aim of the discussion is to find a common understanding on how we work with the client's witnesses.

15:15–15:45 Break

15:45–17:00 **Session 4 – The Opposing Party's Witnesses**

Moderator: **Charlotta Falkman**, Partner, Gernandt & Danielsson (Sweden)
Panelists: **Emmanuelle Cabrol**, Partner, Ashurst (France)
Anke Meier, Partner, Noerr (Germany)
Tatiana Menshenina, Partner, Withersworldwide (UK)

Cross-examining hostile witnesses is considered by some to be an art in itself. But how can that art be mastered? How should counsel prepare for the cross-examination? Do you contact the opposing party's witness in advance? Are you even allowed to do so? The difference in approach between a civil law lawyer and a common law lawyer is perhaps never as great as in the context of cross-examination. The panel moderated by *Charlotta Falkman* from Gernandt & Danielsson (Sweden) and consisting of *Emmanuelle Cabrol* from Ashurst (France), *Anke Meier* from Noerr (Germany) and *Tatiana Menshenina* from Withersworldwide (UK) will discuss these issues and more in addition to sharing the panelists' own war stories in relation to cross-examination.

17:00–18:30 Reception at the Grand Hôtel

18:30- Dinner at the Grand Hôtel

FRIDAY 7 September 2018

09:00–10:15 **Session 5 – Use of Rhetoric in Hearings**

Moderator: **Krister Azelius**, Partner, Vinge (Sweden)
Panelists: **Juliet Blanch**, Independent Arbitrator, Arbitration Chambers (Hong Kong/UK)
Daniel Hochstrasser, Partner, Bär & Karrer (Switzerland)
Anna-Maria Tamminen, Partner, Hannes Snellman (Finland/Sweden)
Prof. Gary Watt, University of Warwick (UK)

This panel, moderated by *Krister Azelius* from Vinge (Sweden) and including the experienced arbitration practitioners *Juliet Blanch* from Arbitration Chambers (Hong Kong/UK), *Daniel Hochstrasser* from Bär & Karrer (Switzerland) and *Anna-Maria Tamminen* from Hannes Snellman (Finland/Sweden) as well as a highly reputed courtroom rhetoric educator, *Prof. Gary Watt* from the University of Warwick (UK), will discuss the art of rhetoric in arbitration. The discussion will focus on the the question of whether or not rhetoric can be of immediate relevance to the outcome of an arbitration and, if so, how rhetoric can be used to achieve the best outcome in an arbitration.

10:15–10:45 Break

10:45–12:00 **Session 6 – Using Your Airtime Wisely at Hearings: What to Focus on and What to Leave out**

Moderator: **Wendy J. Miles QC**, Partner, Debevoise & Plimpton (UK)
Panelists: **Christopher Boog**, Partner, Schellenberg Wittmer (Switzerland)
Bill Urquhart, Partner, Quinn Emanuel Urquhart & Sullivan (USA)
Carita Wallgren-Lindholm, Partner, Lindholm Wallgren (Finland)

Moderated by *Wendy J. Miles QC*, three experienced advocates and arbitrators, from three very different legal jurisdictions, will wrap up the day with a focus on effective and efficient use of hearing time, including what not to do or say. The panel, consisting of *Christopher Boog* from Schellenberg Wittmer (Switzerland), *Bill Urquhart* from Quinn Emanuel Urquhart & Sullivan (USA) and *Carita Wallgren-Lindholm* from Lindholm Wallgren (Finland), will provide contributions on Nordic minimalism, US trial advocacy – and everything in between. The panel will discuss how to focus the tribunal's attention in opening and closing statements on what really matters for the determination of the dispute. It will also discuss the importance of adapting the various elements of a hearing to the expectations of the tribunal.

12:00- Closing remarks

Johan Sidklev, President of the Swedish Arbitration Association, Partner, Roschier (Sweden)

REGISTRATION AND CONFERENCE FEE

All registrations and payment of the conference fee should be made online on the Swedish Arbitration Association's website: <https://swedisharbitration.se/swedish-arbitration-event-registration/>.

An early bird rate of SEK 7,000 (approximately EUR 700) applies for registrations made by 30 June 2018. The ordinary rate of SEK 8,000 (approximately EUR 800) applies for registrations made on or after 1 July 2018. The registration fee includes attendance at the conference at the Grand Hôtel, documentation, refreshments during breaks, lunch on the first day of the conference, and the reception and dinner on the first day of the conference.

Note that your registration will be confirmed only after the conference fee has been paid.

ACCOMMODATION

Accommodation is not included in the conference fee. Participants are asked to make their own hotel arrangements.

The following hotels, all of which are located within short walking distance from the conference venue at the Grand Hôtel, offer discounted rates for the participants of the Swedish Arbitration Days 2018 when reservations are made in accordance with the instructions below:

Grand Hôtel *****

Address: Södra Blasieholmshamnen 8, 103 27 Stockholm

Bookings: Discounted rates offered until 6 August 2018 for online reservations made [here](#) (subject to availability).

Hotel At Six *****

Address: Brunkebergstorg 6, 111 51 Stockholm

Bookings: Discounted rates offered for reservations made online at www.hotelatsix.com with the booking code ROS17 (subject to availability).

Scandic Hotel Anglais ****

Address: Humlegårdsgatan 23, 102 44 Stockholm

Bookings: Discounted rates offered until 26 July 2018 for reservations made online at www.scandichotels.com/anglais with the booking code BROS060918.

RELATED EVENTS

All conference participants are warmly welcome to register for the following free-of-charge events organized in connection with the Swedish Arbitration Days 2018.

5 September 2018 – Lindahl's East-West Pre-Conference Debate Hosted by SCC

SCC and Lindahl will co-host a debate on "Taking evidence – Contradictory vs Inquisitorial Tribunal. Discussion on the basis of Prague Rules initiative" and "Iura novit arbiter in international arbitration?"

Time: 15:30–18:00, 5 September 2018
Place: SCC, Brunnsgatan 2, Stockholm
Registrations: Participants are asked to register their attendance by 29 August 2018 by email to preconference2018@lindahl.se.
Contact: If you have any questions, please contact *Ginta Ahrel* at ginta.ahrel@lindahl.se.

5 September 2018 – The 2018 YAS / ICDR Y&I Coffee House Debate

YAS and ICDR Y&I will co-host a lively and engaging coffee house debate on 5 September 2018 on the topic "The café selects the baristas, not the customer!" Debate proposition: Only institutions should appoint arbitrators as party appointments imperil legitimacy.

Time: 18:00–20:30, 5 September 2018
Place: Stockholm, venue to be announced
Registrations: Participants are asked to register their attendance by 24 August 2018 [here](#).
Contact: If you have any questions, please contact *Edward Jansson Stiernblad* at edward.jansson@vinge.se or *Åsa Waller* at asa.waller@msa.se.

7 September 2018 – Luncheon at Roschier

After the close of the conference program, Roschier welcomes all participants to its offices to enjoy lunch and drinks over the rooftops of Stockholm and discuss the key takeaways from the conference.

Time: 12:15–15:00, 7 September 2018
Place: Roschier, Brunkebergstorg 2, Stockholm
Registrations: Participants are asked to register their attendance by 31 August 2018 [here](#).
Contact: If you have any questions, please contact *Yeshi Tikkanen-Bacot* at yeshi.tikkanen-bacot@roschier.com or +46 8 553 191 49.

7 September 2018 – Business Mingle at Mannheimer Swartling

To round up the Swedish Arbitration Days, Mannheimer Swartling cordially invites you to a business mingle with colleagues in the field. We share impressions about this year's conference while overlooking the stunning panoramic view of the city.

Time: 15:00–, 7 September 2018
Place: Mannheimer Swartling, Norrlandsgatan 21, Stockholm
Registrations: Participants are asked to register their attendance [here](#).
Contact: If you have any questions, please contact *Felicia Fischer Berg* at felicia.fischer.berg@msa.se or tel. +46 8 5950 6146.

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