

# VIAC – Questionnaire for Arbitrators

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- 2. Citizenship:** Austria
- 3. Contact information:**
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- 4. Current position:** International Arbitrator, Managing Partner
- 5. Education:** Visiting Scholar (Georgetown University Law School, 2012-13, international arbitration, international and comparative damages law)  
Licenciado en Derecho (Universidad Nacional Autónoma de México, 1999)  
Doctor of Laws (LL.D/S.J.D. equivalent; Johannes Kepler Universität Linz, 1995, Völkerrecht und internationales Wirtschaftsrecht, Europarecht und österreichisches Wirtschaftsrecht)  
Master of Laws in International Business Legal Studies (University of Exeter, 1998)  
Export Management (Wirtschaftskammer Österreich und Johannes Kepler Universität Linz 1989)  
Magister iuris (LL.M. equivalent; Johannes Kepler Universität Linz, 1998)

## 6. Practiced experience in arbitration

- How many arbitrations have you participated in (domestic/international); under which Rules?  
More than 40: CAM (Mexican Arbitration Centre), CANACO (Inter-American Arbitration Commission), CCL (Peru, mining arbitration), DIS, ICC, ICC ADR, ICDR (co-arbitrator in damages case in Texas), ICSID, LCIA, CAM (Mexican Arbitration Centre)
- How often have you acted as Chairman?  
10 arbitrations
- How often have you acted as Sole Arbitrator?  
10 arbitrations
- How often have you acted as Co-Arbitrator?  
27 arbitrations
- How often have you acted as Counsel?  
30 arbitrations
- How often have you acted in a different function (e.g. Administrative Secretary)?  
N/A
- Recent and pending cases:  
ICC: counsel to claimant and preparation of arbitration and settlement of dispute with respect to EPC contract for 1,000+ MW thermoelectrical plant in New York und New York law (US\$80 million, August 2020)  
ICC 24457/JPA: counsel to defendant for large French energy corporation in first energy tariff dispute after the Mexican energy reform (pending)  
LCIA No. 173641: chair of arbitral tribunal in US\$250 million damages claim with respect to gas pipeline dispute (pending)  
LCIA Case No. 184139: chair of arbitral tribunal related to the construction of substations and transmission lines (pending)  
ICC ADR EXP. 635: sole expert-adjudicator in US\$100+ million dispute related to Peru's largest infrastructure project  
DIS-SV-KR7115-17: party counsel for German manufacturer of heavy construction machines under international sales contract governed by German law (seat: Frankfurt)  
ICC: party counsel to gas pipeline consortium with respect to massive black powder contamination, preparation of expert opinion and arbitration, negotiations and settlement.  
ICC 23173: counsel to claimant with respect to Mobile Virtual Network Operator in the telecommunication business (settlement)  
CCL 0055-2017: international co-counsel in mining arbitration in Peru (award, May 2019)  
ICC 22692/ASM: co-arbitrator, financing of social housing project  
CAM 0107/2017: co-arbitrator in re-insurance case related to highway project in Bolivia  
ICDR 01-16-0005-2996: co-arbitrator in international franchise damages case under the law of Texas  
ICC 21953/ASM: party counsel on behalf of Techint against Semptra/lenova in US\$100 MM+ arbitration related to the construction of a gas pipelines consisting of more than 100 claims for time extension, additional cost, loss of productivity and damages; recovered more than US\$50 million in less than five months (reported in GAR)  
ICC 21092/ASM: co-arbitrator, operation of thermo-electrical power plant  
ICC 21470/ASM: party counsel on behalf of ThyssenKrupp against a sub-contractor in cement plant project in Guatemala (100% recovery of amounts claimed)  
ICC 19867/ASM: president of arbitral tribunal, construction of energy distribution lines and substations  
ICC 19827/ASM: co-arbitrator, construction in oil & gas business and financial disputes

ICSID Case No. ARB/10/17, Renée Rose Levy de Levi v. Republic of Peru, counsel of claimant in investment arbitration annulment procedure (reported in GAR)  
CAM 0097/2015: co-arbitrator in plant construction case  
CAM 0085/2016: president of arbitral tribunal, complex recycling business related to major steel plant  
CAM 0106/2017: damages experts in post M&A dispute appointed by White & Case (Adriana San Román and Herfried Wöss)  
CCL 2663/2013: legal expert on interpretation of Sub-Clause 20.4 of the FIDIC silver book related to the water distribution system of the City of Piura in Peru

## **7. Publications and other activities in arbitration (e.g. training sessions, seminars, conferences, articles and others):**

### Relevant publications:

Herfried Wöss, Adriana San Román, Pablo T. Spiller, Santiago Dellepiane, *Damages in International Arbitration under Complex Long-term Contracts* (Oxford University Press, Oxford International Arbitration Series, 2014, 384 pp, <http://ukcatalogue.oup.com/product/9780199680672.do>)

Herfried Wöss, "Schadenersatz", in: *Handbuch Schiedsgerichtsbarkeit und ADR* (LexisNexis Austria, 2020) forthcoming

Herfried Wöss, Adriana San Román, chapter on "Damages in Investment Treaty Arbitration", in: *International Arbitration and EU Law* (Edvard Elgar Publishing, 2021) forthcoming

Herfried Wöss, Adriana San Román, chapter on "Damages in Commercial Arbitration", in: *International Arbitration and EU Law* (Edvard Elgar Publishing, 2021) forthcoming

Herfried Wöss, "Damages and Loss of a Chance or Loss of Opportunity", (2020) 13 *New York Dispute Resolution Lawyer* 1, 33-5

Herfried Wöss, Adriana San Román, "Full compensation, Full Reparation and the But-for Premise", in: *GAR's Guide to Damages in International Arbitration* (3<sup>rd</sup> edition, 2019) 113ss

Herfried Wöss, Devin Bray, "Investment Protection and the Mexican Energy Reform", (IBA 2016) 12 *Dispute Resolution International* 1, 41-57

Herfried Wöss, "Protección de Inversiones y La Reforma Energética en México", (Noviembre – Diciembre 2016) *Energía a Debate* 42-50.

Herfried Wöss, "Systemic Aspects and the Need for Codification of International Tort Law Standards in Investment Arbitration", in: *The Comprehensive Economic and Trade Agreement between the European Union and Canada (CETA)*, Andrea K. Bjorklund, John Gaffney, Fabien Gélinas, Herfried Wöss (eds.), (2016) TDM 1.

Herfried Wöss, Jennifer Cabrera, Dante Figueroa, "The Administrative Contract, Non-Arbitrability and the recognition and execution of awards annulled in the country of origin: the case of *Commisa v. Pemex*", (2016) 12 *Arbitration International* 1, 125-148

Herfried Wöss, Adriana San Román, "Damages in International Arbitration with respect to Income Generating Assets or Investments in Commercial and Investment Arbitration", (2015) *Journal of Damages in International Arbitration* 1, 37-62; Mark Kantor (ed), *Yukos Special*, (2015) *Transnational Dispute Management* 5

Herfried Wöss, "Legitimacy in WTO law and investment arbitration: the role of the contracting parties", Columbia FDI Perspective No. 144, March 30, 2015

Sonia Rodríguez, Herfried Wöss (eds.), *Investment Arbitration Forum: Trends and Tendencies* (in Spanish, Instituto de Investigaciones Jurídicas, UNAM, 2013)  
<http://biblio.juridicas.unam.mx/libros/libro.htm?l=3386>, 462 pp.

Sonia Rodríguez, Herfried Wöss, *Investment Arbitration* (in Spanish, Instituto de Investigaciones Jurídicas, UNAM, 2009)

Herfried Wöss, "The ICC Model Turnkey Contract for Major Projects", (2008) 3 Construction Law International, International Bar Association 2, 6-11.

Herfried Wöss, "The Application of TRIPS to the Authorization by Health Authorities of the Using, Making and Selling of Pharmaceutical Drugs", (2002) Journal of International Trade Law & Regulation 3, 79-84.

Herfried Wöss, "Rules of origin in international trade and under NAFTA" (in Spanish, October 1999), El Foro, Law Review of the Mexican Bar Association 2, 159-174.

Herfried Wöss, *Dispute Resolution in International Economic Law and under the North American Agreement on Labor Co-operation*, National Autonomous University of Mexico, 1999.

Herfried Wöss, "The legal benefits of NAFTA for German enterprises" (in German), in: Roland Bomhard, Heinrich Dörner (eds.), *Legal Aspects of Foreign Trade between Germany, Mexico and Argentina* (Schriftenreihe der Universität Düsseldorf, Nomos-Verlagsgesellschaft Baden-Baden, 1998) 101-118.

Herfried Wöss, "The application of the UN-Sales Law by courts and arbitral tribunals in Mexico" (in German), in: Roland Bomhard, Heinrich Dörner (eds.), *Legal Aspects of Foreign Trade between Germany, Mexico and Argentina* (Schriftenreihe der Universität Düsseldorf, Nomos-Verlagsgesellschaft Baden-Baden, 1998) 43-56.

Herfried Wöss, *The legal status of Voluntary Restraint Agreements on the Steel Sector with particular emphasis on the Associated Financing of Exports (EC-US Steel and Consensus Agreements)*, doctorate thesis with honours (in German; J.S.D./LL.D. equivalent), Johannes Kepler Universität Linz, 1995.

For a full list of publications, see: <http://www.woessetpartners.com/publicaciones-list.php>

#### Seminars and Conferences:

Herfried Wöss, Adriana San Román: **Advanced Seminars on Damages in International Arbitration**, ICC Austria (2018, 2019), Mexican Arbitration Centre (2018), Washington DC Bar (2019), Mexican Association of Corporate Lawyers (2019), ICC Costa Rica (2021)

Regular speaker on investment and commercial arbitration, damages, disputes in infrastructure and energy projects (at average one conference per month, see LinkedIn)

#### **8. Membership in arbitral institutions / functions in arbitral institutions/organizations:**

Member of the Executive Board of the North America Branch of the Chartered Institute of Arbitrators (2014-2018)

ICC Arbitration Commissions (Mexico and Austria)

Founder of the Investment Arbitration Forum

Member of the panel of international arbitrators of the International Centre for Dispute Resolution (ICDR) of the American Arbitration Association

Member of the panel of arbitrators of KCAB International

London Court of International Arbitration (LCIA)

Austrian Arbitration Association (ARBAut)

Vienna International Arbitration Centre (VIAC): Member of the Advisory Board (2019-)

Swiss Arbitration Association (ASA)

German Institution of Arbitration (DIS)

Arbitration Committee of the International Bar Association

Arbitration Committee of the Mexican Bar Association

Mexican Arbitration Centre (CAM)

Dispute Resolution Board Foundation (country representative and member of multilateral development banks committee)

## 9. Languages

Mother tongue: German

Working languages (i.e. languages in which you have both a spoken and written command so that you may conduct arbitral proceedings in this language): English and Spanish

## 10. In which legal systems have you trained?

X Civil Law

X Common Law

X Austrian Law

Hungarian Law

Swiss Law

Czech Law

Polish Law

Ukrainian Law

German Law

Slovakian Law

X European Law

Other CISG, UNIDROIT Principles, International Investment Law, Mexico, Guatemala, Peru

## 11. What is your main jurisdiction of practice?

Mexico

Latin America

International commercial law

## 12. In which jurisdictions are you admitted to the bar?

Mexico

Washington DC Bar (Special Legal Consultant)

Austria (Jurist only)

**13. Special expertise or specializations (please list a maximum of five):**

- |                                                                     |                                                             |                                                           |                                                            |
|---------------------------------------------------------------------|-------------------------------------------------------------|-----------------------------------------------------------|------------------------------------------------------------|
| <input checked="" type="checkbox"/> Antitrust/Unfair competition    | <input checked="" type="checkbox"/> Damages                 | <input type="checkbox"/> Insolvency                       | <input checked="" type="checkbox"/> Power plants           |
| <input type="checkbox"/> Aviation                                   | <input checked="" type="checkbox"/> Distribution            | <input checked="" type="checkbox"/> Insurance             | <input checked="" type="checkbox"/> Private Intern. Law    |
| <input checked="" type="checkbox"/> Banking & Finance               | <input type="checkbox"/> Domain name disputes               | <input type="checkbox"/> Intellect. property (IP)         | <input checked="" type="checkbox"/> Public Intern. Law     |
| <input type="checkbox"/> Capital markets                            | <input type="checkbox"/> Employment                         | <input checked="" type="checkbox"/> ISDS/ Foreign invest. | <input type="checkbox"/> Real estate                       |
| <input checked="" type="checkbox"/> CISG                            | <input checked="" type="checkbox"/> Energy                  | <input checked="" type="checkbox"/> Joint ventures        | <input type="checkbox"/> Shipping                          |
| <input type="checkbox"/> Civil fraud disputes                       | <input checked="" type="checkbox"/> Engineering             | <input checked="" type="checkbox"/> Licensing             | <input type="checkbox"/> Sports                            |
| <input checked="" type="checkbox"/> Commercial disp. / transactions | <input type="checkbox"/> Entertainment                      | <input type="checkbox"/> Life sciences                    | <input checked="" type="checkbox"/> State/Public contracts |
| <input type="checkbox"/> Commodity market                           | <input checked="" type="checkbox"/> Healthcare & Pharmac.   | <input type="checkbox"/> Maritime arbitration             | <input checked="" type="checkbox"/> Technology             |
| <input checked="" type="checkbox"/> Company/Corporate/M&A           | <input type="checkbox"/> Hotel/Gastro./Tour.                | <input type="checkbox"/> Media                            | <input checked="" type="checkbox"/> Telecommunication      |
| <input checked="" type="checkbox"/> Construction                    | <input checked="" type="checkbox"/> Inform. technology (IT) | <input checked="" type="checkbox"/> Mining                | <input checked="" type="checkbox"/> Transport              |
| <input checked="" type="checkbox"/> Contract law                    | <input checked="" type="checkbox"/> Infrastructure          | <input checked="" type="checkbox"/> Natural resources     |                                                            |
| <input type="checkbox"/> Other _____                                |                                                             |                                                           |                                                            |

**14. Date of birth:** 21 December 1963

VIAC offers arbitration practitioners the possibility to present themselves on its website. VIAC reserves the right to publish any presentations submitted and to remove it as the case may be. Parties are free to nominate an arbitrator of their choice and so is the VIAC Board when appointing an arbitrator. These presentations do not constitute recommendations but may assist the parties in choosing an arbitrator willing to conduct proceedings according to the Vienna Rules. The fact that an arbitration practitioner appears on this list, does not authorize this person to use the title "VIAC-arbitrator".

I have completed this questionnaire to the above to the best of my knowledge and believe they are accurate.

I hereby consent that the data provided in this questionnaire may be processed for the appointment of arbitrators and published by VIAC. This includes in particular publication on the website of VIAC as well as use in any presentations, etc. This consent may be withdrawn at any time by contacting VIAC at our general contacts, in particular by email addressed to [office@viac.eu](mailto:office@viac.eu). The consequence of any such withdrawal will be that my data will no longer be processed by VIAC. For further information, see our privacy statement at <http://www.viac.eu>.

30 September 2020

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Date Signature