

BOOK REVIEW

THE COMPLETE (BUT UNOFFICIAL) GUIDE TO THE WILLEM C VIS INTERNATIONAL COMMERCIAL ARBITRATION MOOT – 2ND EDITION

**BY JÖRG RISSE (ED) WITH MARKUS
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ANNETTE KEILMANN AND LISA REISER**

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Sometimes events designed to promote the study of particular disciplines become so well established and recognised that they become subjects of study in their own right. That is the case with the Willem C Vis International Commercial Arbitration Moot¹ and its sister competition the Vis (East)

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¹ See generally Association for the Organisation and Promotion of the Willem C Vis International Commercial Arbitration Moot, *The Annual Willem C Vis International Commercial Arbitration Moot* (2014) <<https://vismoot.pace.edu/>>.

Moot,² held annually in Vienna and Hong Kong respectively. The text under review — the Baker & McKenzie-affiliated second edition of *The Complete Guide to the Vis Moot*³ — is a participant-oriented and practical guide to taking part in the Vis Moot. Its co-authors bring to their task an intimate knowledge of the Vis Moot, and a perspective usefully informed by their own professional practice.⁴ Risse, Altenkirch and Harbst are all members of the Dispute Resolution Group at Baker & McKenzie, where Keilmann specialises in commercial litigation and arbitration, and Reiser advises on international arbitration.

THE VIS MOOT, AND THE GROWING BODY OF VIS MOOT LITERATURE

As an educational endeavour with a long history — now comfortably into its third decade — the Vis Moot has generated a sizeable (and growing) body of literature which considers the Moot from a number of perspectives. Some contributions to this literature, particularly journal articles and book chapters addressing the Vis Moot, do so from a scholarship of teaching perspective.⁵ Some contributions address international mooting events in general, so have a more indirect relevance to the Vis Moot.⁶ Others extend the Moot beyond its formal program, presenting hypothetical arbitral awards deciding the issues in dispute.⁷ Still others, such as *The Vis Book*,⁸ offer informative perspectives on

² See generally The Vis East Moot Foundation Limited, *The Willem C Vis (East) International Commercial Arbitration Moot* (2014) <<http://www.cisgmoot.org/index.html>>.

³ Jörg Risse (ed) (with Markus Altenkirch, Ragnar Harbst, Annette Keilmann and Lisa Reiser), *The Complete (But Unofficial) Guide to the Willem C Vis International Commercial Arbitration Moot* (C H Beck, Hart & Nomos, 2nd ed, 2014).

⁴ See generally *ibid* 201–2.

⁵ See, eg, Jeff Waincymer, ‘International and Comparative Legal Education Through the Willem C Vis Moot Program: A Personal Reflection’ (2001) 5 *Vindobona Journal of International Commercial Law and Arbitration* 251; Jack Graves and Stephanie Vaughan, ‘The Willem C Vis International Commercial Arbitration Moot: Making the Most of an Extraordinary Educational Opportunity’ (2006) 10 *Vindobona Journal of International Commercial Law and Arbitration* 173. See also the contributions comprising Part III: Legal Education in Stefan Kröll, Loukas Mistelis, Pilar Perales Viscasillas and Vikki Rogers (eds), *International Arbitration and International Commercial Law: Synergy, Convergence and Evolution — Liber Amicorum Eric Bergsten* (Kluwer, 2011).

⁶ See, eg, Christopher Kee, *The Art of Argument — A Guide to Mooting* (Cambridge University Press, 2007).

⁷ See, eg, Louise Barrington, Napoleão Casado Filho and Claudio Finkelstein (eds), *The Danubia Files: Award Writing Lessons from the Vis Moot* (Outskirts Press, 2013); Benjamin Hayward et al, ‘Mock Partial Award in Chinese European Arbitration Centre (CEAC) Case No 20120107 – *Mediterraneo Exquisite Supply Co v Equatoriana Clothing Manufacturing Ltd*’ (2013) 17 *Vindobona Journal of International Commercial Law and Arbitration* 229.

aspects of the Vis Moot ranging from considerations of its history, its relationship with international commercial law, moot preparation and participation, perspectives on effective mooting technique, and life after the event.

The Complete Guide to the Vis Moot, being instructional in nature, sits amongst this literature. As its title suggests, it is intended to be of practical application for participants in the Vienna and Hong Kong events.⁹ To that end, its authorship is particularly noteworthy. Described as ‘powered by Baker & McKenzie’,¹⁰ the text’s authors are all practitioners having direct experience of and involvement with the Moot.¹¹ It is that personal experience, viewed through the prism of professional practice, which makes this text’s contribution to the Vis Moot literature (and its utility to student participants) particularly valuable.

THE COMPLETE GUIDE TO THE VIS MOOT — SOME GENERAL OBSERVATIONS

As a participant-oriented and practical guide, *The Complete Guide to the Vis Moot* combines useful detail with appropriate brevity. Its design aids navigation and application: the use of colour illustrations, diagrams and charts draws the reader (even on a cursory glance) to key points of emphasis. An interesting example is the use of post-it-note-style graphics as a way of highlighting particular information. The *Guide* addresses a variety of topics not dissimilar to those covered by *The Vis Book*, such as the Vis Moot as an event,¹² the competition process,¹³ the oral rounds in Vienna and Hong Kong,¹⁴ and what might lie (in professional life) beyond the Moot.¹⁵ Within these broad topics the authors’ messages are conveyed in a logical and useful order.

The text’s self-proclaimed ‘unofficial’ status¹⁶ is also important, in two respects. First, and on a cautionary note, since the *Guide* is a private initiative

⁸ Janet Walker (ed), *The Vis Book — A Participant’s Guide to the Willem C Vis International Commercial Arbitration Moot* (Juris Publishing, 2008).

⁹ Risse (ed), 2nd ed, above n 3, 1.

¹⁰ Reflected on the front cover of the text.

¹¹ Risse (ed), 2nd ed, above n 3, 201–2.

¹² *Ibid* 1–27.

¹³ *Ibid* 29–133.

¹⁴ *Ibid* 135–161.

¹⁵ *Ibid* 163–98.

¹⁶ Reflected in the title of the text.

and not officially affiliated with the Moot, the reader must be careful to confirm that the advice given conforms to the current versions of the official Vis Moot and Vis (East) Moot rules. These rules can (and do) change from time to time, as has occurred this year, for example, with changes to the rules relating to the eligibility of past participants, and the timing of written submissions in the Vienna event, among other things. Secondly, however, the private nature of the text facilitates the giving of more specific advice and directions regarding how to approach the Vis Moot than might be possible in an officially-sanctioned text. The authors' personal experiences with the Vis Moot — as student participants, team coaches, and arbitrators — make them well-placed to offer this very direct advice. This is pointed out in the foreword of Professor Eric Bergsten, Director of the Vis Moot in Vienna from 1993 to 2013, who suggests that '[t]here is no better group that can advise you on what to look for, how to overcome some of the difficulties, and in general, how to make the most of the opportunities that the Vis Moot offers'.¹⁷

THE COMPLETE GUIDE TO THE VIS MOOT — SOME PARTICULAR FEATURES

The Complete Guide to the Vis Moot comprises eight chapters, and an Annex. The Annex directs readers to the Vis Moot website for the competition rules,¹⁸ rather than reproducing them as the first edition did.¹⁹ Whilst the first edition contained a copy of the 2012/2013 competition rules for the Vienna event,²⁰ the 2014/2015 rules had not been published at the time that this second edition went to print.²¹

The first two chapters provide a very good introduction to the Vis Moot as both an event and an educational experience. The first chapter²² explores five key aspects of the Moot — its skills development component, the challenge that participation involves, the career opportunities it can present to participants, the fact that the Moot strives to simulate real-life arbitration, and the social aspect of participation. A particularly interesting new addition to the first chapter²³ is the transcript of an interview between two of the authors

¹⁷ Risse (ed), 2nd ed, above n 3, vii.

¹⁸ Ibid 199.

¹⁹ Jörg Risse (ed) (with Markus Altenkirch, Ragnar Harbst, Annette Keilmann and Lisa Reiser), *The Complete (But Unofficial) Guide to the Willem C Vis International Commercial Arbitration Moot* (C H Beck, Hart & Nomos, 2013) 183–98).

²⁰ Ibid.

²¹ Risse (ed), 2nd ed, above n 3, 199.

²² Ibid 1–11, 'The Vis Moot: A Lifetime Experience'.

²³ Cf Risse (ed), above n 19, 1–4.

(Lisa Reiser and Markus Altenkirch) and Professor Bergsten, the ‘spiritus rector of the Vis Moot’, conducted in April 2014.²⁴ As the interviewing authors point out, Professor Bergsten provides many interesting insights into the Vis Moot’s history, being the person best qualified to do so.²⁵

Chapter 2²⁶ usefully opens with an explanation of mooting as a practical legal training tool.²⁷ Though the concept of a moot might seem self-evident to readers in some jurisdictions, mooting is not common to all legal traditions, and the explanation assists readers from legal traditions where mooting is not commonly practised.

The Vis Moot is then discussed in some detail. Particularly interesting amongst the facts and figures about the Moot are the series of four world maps which chart universities’ participation in the Vis Moot in its inaugural, tenth, nineteenth and twenty-first years.²⁸ The annual Vis Moot process is described in detail from its beginning (the distribution of the problem) to the end (the awards function following the final argument). Given the text’s purpose — to provide practical advice to participants and potential future participants in the Vis Moot — this broad overview is an appropriate precursor to the detailed ‘how-to’ that follows.

That ‘how-to’ part of *The Complete Guide to the Vis Moot* (and the bulk of the text) is contained in chapters 3 to 6. These chapters chart the authors’ detailed advice on participation in chronological (competition) order. Chapter 3²⁹ describes how to get started, and comments on team registration, team organisation, funding, and visa applications. Chapter 4³⁰ addresses the initial written advocacy stages of the Moot — that is, the preparation of written legal submissions on behalf of the Claimant and the Respondent that are filed in December and January respectively. While the focus of this chapter is on the requirements of the Moot — and comment is specifically directed (amongst other things) at the competition rules which govern the presentation of the written submissions³¹ — the authors also compare these requirements with the preparation of written submissions in arbitral practice.³² Chapter 5³³ covers in

²⁴ Risse (ed), 2nd ed, above n 3, 5. See generally 5–11.

²⁵ *Ibid* 5.

²⁶ *Ibid* 13–27, ‘The Vis Moot: Facts and Figures’.

²⁷ *Ibid* 13–4.

²⁸ *Ibid* 19–22.

²⁹ *Ibid* 29–45, ‘How to Start’.

³⁰ *Ibid* 47–83, ‘How to Write Effective Memoranda’.

³¹ *Ibid* 52–4.

³² *Ibid* 56–60.

³³ *Ibid* 85–133, ‘How to Present Your Case Before the Arbitral Tribunal’.

detail the oral argument phase of the Vis Moot. Chapter 6³⁴ then addresses the oral rounds. Importantly, Chapter 6 provides coverage of both the Vienna and Hong Kong legs of the Vis Moot, and provides good advice tailored to each.

Current and potential future participants in the Vis Moot will be likely to find chapters 3 to 6 of the greatest immediate interest. However, given that the Vis Moot's firm purpose is to be an educational endeavour in the form of a competition (and not the other way around),³⁵ chapters 7 and 8 convey the most important message. In chapter 7,³⁶ the authors explain what might lie ahead for participants after taking part in the Vis Moot. The authors describe three pathways that (as the authors' own experiences show) are not mutually exclusive — the engagement of past participants with the Moot Alumni Association,³⁷ a return to the Vis Moot in the role of coach or arbitrator (or both), and continuing involvement with the discipline through the pursuit of international arbitration as a career. Finally, chapter 8³⁸ presents a range of views about the Moot from the authors' present and former colleagues at Baker & McKenzie. These practitioners and ex-participants share their 'war stories' on arbitration and also their 'advice on good mooting'.³⁹ Their accounts validate the educational messages enthusiastically conveyed by the authors throughout. To take just one example, Grant Hanessian (a partner at the New York office of Baker & McKenzie) recalls the thought that crossed his mind during his first judging assignment at the Moot ten years earlier — '[t]his is the future of international arbitration'.⁴⁰ The accounts are also earnest reflections on the challenges of participation. As Heidrun Elisabeth Preidt, a former participant from the University of Vienna, attests, 'I will never forget the pressure, the emotions and the sleep deprivation that we had to endure ... However, at the end it was worth all the pressure, the anxiety and the team fights for the fun, excitement and success we got in return.'⁴¹

³⁴ Ibid 135–62, 'Seven Days in Vienna and/or Hong Kong'.

³⁵ *Twenty Second Annual Willem C Vis International Commercial Arbitration Moot Rules* art 3; *Twelfth Annual Willem C Vis (East) International Commercial Arbitration Moot Rules* art 3.

³⁶ Risse (ed), 2nd ed, above n 3, 163–6, 'Where to Go From Here: Life Goes on After the Moot'.

³⁷ See generally Moot Alumni Association of the Willem C Vis International Commercial Arbitration Moot, *Welcome to the Moot Alumni Association* (2009) <<http://maa.net/>>.

³⁸ Risse (ed), 2nd ed, above n 3, 167–98, 'Views from Around the World'.

³⁹ Ibid 167.

⁴⁰ Ibid 172. See generally 172–3.

⁴¹ Ibid 181. See generally 179–81.

CONCLUSION

The Complete Guide to the Vis Moot is appropriately concise, but contains sufficient detail and direct advice to be of practical use to its intended audience — participants and potential future participants in the Vis Moot. However, even readers already familiar or closely associated with the Moot will find its detailed summaries useful as an event checklist for various non-competitive roles — those of team coaches, readers of the written memoranda, and arbitrators at the oral rounds.

As a practical and participant-oriented guide, this text occupies a valuable place amongst the growing body of Vis Moot literature. The authors are to be congratulated for their development of an important and useful student resource. Vis Moot team coaches will no doubt find *The Complete Guide to the Vis Moot* useful recommended reading for their teams, who stand to learn much from its sound advice, given by well-credentialed authors.