



Skiljedomskommittén

29 november 2022



Mötets öppnande

Rapport från ICC:s arbete inom tvistlösning och skiljedomstol

Ordförande Therese Isaksson, Partner, Westerberg & Partners

Vice ordförande Patricia Shaughnessy, Docent, Stockholms universitet

Henrik Blomqvist, Tf. generalsekreterare, ICC Sverige

Val till ICC Sveriges nomineringskommitté

Henrik Blomqvist, Tf. generalsekreterare, ICC Sverige

Uppdatering om ICC Task Force on ADR and Arbitration

Aisha Nadar, Counsel, Advokatfirman Runeland och vice ordförande ICC Commission on Arbitration & ADR

Miljö- och klimatfrågornas betydelse för kommersiell tvistlösning

Annette Magnusson, VD och grundare, Climate Change Counsel

Caroline Mofors, styrelseledamot Ecocide Law Alliance, advokat I Paris advokatsamfund, tidigare Chief Compliance & Integrity Officer

Nästa möte och avslut



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DELEGATIONSRESA TILL
ICC:S SKILJEDOMSTOL





Digital case management

ICC Case Connect

- Begäran om skiljeförfaranden
- Överblick över pågående och avslutade ärenden
- Möjliggör snabb och säker överföring av handlingar
- Skiljedomarprofiler och cv:n.
- Kommer uppdateras kontinuerligt



ICC Dispute Resolution Library

Skiljedomspublikationer via Jus Mundi

- Senaste steget i ICC:s samarbete med sökmotorn/dokumentbiblioteket Jus Mundi
- Sätt att nå ut bredare med de resurser som redan finns i ICC:s eget Digital Library
- 20 % rabatt för ICC-medlemmar

Commission on Arbitration & ADR

Nya svenska ledamöter



AISHA NADAR
Vice Chair

ARVMYREN Simon, Advokatfirman Delphi

BAGNER Hans, Advokatfirman Mossing & Nycander

BROCKER Stefan, Mannheimer Swartling

EWERLÖF Pontus, Hannes Snellman

ISAKSSON Therese, Westerberg & Partners

KADELBURGER John, Kadelburger Law

MÖLLER NORSTED Cecilia, Advokatfirman Vinge

NADAR Aisha, Advokatfirman Runeland AB

PERMYAKOVA Polina, Advokatfirman Delphi

SCHERP Pontus, Norburg & Scherp

SHAUGHNESSY Patricia, Stockholms universitet

WIKSTRÖM-HERMANSEN Rikard, Roschier

GRÄSLUND David, Skanska

WIWEN-NILSSON Tore, Advokat Tore Wiwen-Nilsson AB



Commission on Arbitration & ADR

Höstens kommissionsmöte

- The New Commission Membership and Leadership
 - Task Force on ADR & Arbitration
 - Report of the Secretariat
 - Court President Key Note: "The ICC Court and Damocle's Sword"
 - Task Force on Disability and Inclusion
 - Task Force on Addressing Issues of Corruption in International Arbitration
-
- Nästa möte 28 mars 2023 i Paris i samband med Paris Arbitration Week och ICC:s sjunde europeiska skiljedomskonferens den 27 mars



Rapport från arbetet i ICC:s skiljedomstol

Ordförande Therese Isaksson, Partner, Westerberg & Partners

Vice ordförande Patricia Shaughnessy, Docent,
Stockholms universitet





Val till ICC Sveriges nomineringskommitté

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Miljö- och klimatfrågornas betydelse för kommersiell tvistlösning

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Counsel

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Miljö- och klimatfrågornas betydelse för kommersiell tvistlösning

ICC Sverige
Skiljedomskommittén

Annette Magnusson
29 November 2022



”Arbitration and Climate Change” – vad betyder det?

- ▶ Processuellt
- ▶ Materiellt

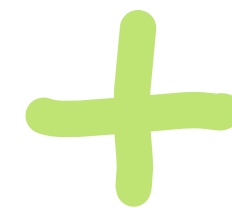
Tvistens klimatavtryck:

- ▶ Flyg
- ▶ Bundles / utskrifter
- ▶ Serverkapacitet
- ▶ Energi faciliteter
- ▶ 1 stor tvist
= 20 000 träd



CAMPAIGN FOR
**GREENER
ARBITRATIONS**

- ▶ Minska flygandet
- ▶ Färre hard copies
- ▶ Fokus grön energi



CLIMATE CHANGE COUNSEL

- ▶ Strategiskt kring val av förfarande
- ▶ Transparens

Klimatet i skiljeförfaranden

- ▶ Kommersiella tvister i klimatomställningens spår
- ▶ Tvist *orsakat* av klimatförändring?
- ▶ Nya bedömningar
- ▶ Investeringsrätten och klimatet



A grayscale photograph of three men in suits standing in a library. The man in the center is standing with his arms crossed, while the two men on either side are seated. Each man has a pair of green sunglasses overlaid on his face. The background is filled with bookshelves. The slide is decorated with green geometric shapes on the right and bottom-left sides.

Arbitration and Climate Change

- ▶ Ny specialistkunskap
- ▶ (Ännu) större perspektiv
- ▶ “Vad kan vi göra annorlunda?”

“You are all climate lawyers now,
whether you want to be or not.
We need your skills, your
expertise, and hard work to
lay the legal pathways and to expedite
our progress.”

— John Kerry i sitt tal till medlemmarna
i American Bar Association, 2021



Frågor?



Annette Magnusson



Anja Ipp



Andrina Kjellgren



Jillian Kirn

CLIMATE CHANGE COUNSEL

Engaging the business community to promote an international Ecocide legislation



Proposal to introduce Ecocide as a fifth crime in the Rome Statute of the International Criminal Court (ICC)

WHY?

There is currently no effective way to internationally prosecute mass damage to the environment and the destruction of the ecosystems. Not all countries have strong environmental laws or the resources, nor willingness, to prosecute violations. National laws do not apply extraterritorially.

From a business perspective, this results in unscrupulous actors' profit at the expense of environmentally sustainable competitors, creating an unlevel playing field.

HOW?

By amending the Rome Statute and creating a new international crime - Ecocide - applicable in the countries where it is ratified and applicable also on non-nationals of such countries.

By engaging the global business community (incl. investors, financial institutions, insurers) to support this initiative, we encourage careful and conscious decision making in matters that risk causing damage to the environment and our ecosystems. The objective with an international Ecocide legislation is not primarily to punish perpetrators, but to act preventively, by providing a forceful legal incentive.

HOW TO MAKE IT HAPPEN?

The non-profit foundation Ecocide Law Alliance (ELA) works to engage and bring together business leaders from a variety of sectors to support the introduction of an international Ecocide law.

We work to bring open, strong and active support from business leaders, as this is crucial to encourage politicians to act for the inclusion of Ecocide as an international crime under the Rome Statute.



In 2021, twelve independent experts in international law from all over the world carefully drafted a definition of ecocide based on concepts and definitions already in the Rome Statute – ready to be proposed by a state member to the ICC.

Ecocide Law – a powerful concept has become a powerful legal definition



Ecocide Law – a 5th crime under the Rome Statute reserved for the most serious environmental crimes

1. For the purpose of this statute, “ecocide” means unlawful or wanton acts committed with knowledge that there is a substantial likelihood of severe and widespread or long-term damage to the environment being caused by those acts.

For the purpose of paragraph 1:

- a. “Wanton” means with reckless disregard for damage which would be clearly excessive in relation to the social and economic benefits anticipated;
- b. “Severe” means damage which involves very serious adverse changes, disruption or harm to any element of the environment, including grave impacts on human life or natural, cultural or economic resources;
- c. “Widespread” means damage which extends beyond a limited geographic area, crosses state boundaries, or is suffered by an entire ecosystem or species or a large number of human beings;
- d. “Long-term” means damage which is irreversible or which cannot be redressed through natural recovery within a reasonable period of time;
- e. “Environment” means the earth, its biosphere, cryosphere, lithosphere, hydrosphere and atmosphere, as well as outer space.

- ☒ Genocide
- ☒ Crimes against humanity
- ☒ War crimes
- ☒ Crimes of aggression
- ☐ Ecocide



Other key developments for Ecocide Law

1972

Swedish Prime Minister Olof Palme advocates the need for an ecocide law, and that world leaders must act immediately to stop ecosystem destruction.

2010

Polly Higgins, Scottish lawyer specialised in business law, promotes the topic of ecocide law, almost 40 years later.

2020

Increasingly, international actors are declaring their support of an ecocide law, including but not limited to the International Corporate Governance Network's (ICGN); Pope Franciscus; President Emmanuel Macron and the UN Secretary General. Antonio Guterres, and many more.

Are

2022

Swedish media picks up the topic and gives ecocide law substantial airtime during the international conference Stockholm+50, held 50 years after the first UN environment conference hosted by Olof Palme in 1972.



Amending the Rome Statute – A Four-step Process

1

Proposal

Any of the 123 State Parties which has ratified the statute may propose an amendment

2

Admissibility

A majority at the next ICC annual assembly of the State Parties vote for consideration

3

Adoption

A 2/3 majority (currently 82/123) of the State Parties vote in favor of the amendment

4

Ratification

State Parties officially agree and within one year thereof implement the law in local legislation



What's in it for the business sector?

Certainty

A clear, fair, safe, and predictable legal framework is necessary for all businesses to thrive and a protection for their investors, insurers, and shareholders too.

Level Playing Field

Since businesses source and market all over the world, an international ecocide legal framework protects vital ecosystems, sets boundaries for human activities, while levelling the playing field for business and contributing to fair competition.

Innovation & Efficiency

Those who act decisively, ensuring their business is taking a lead for the future, are likely to be more successful than those who lag behind.

Employee engagement

Making that ethical choice may also be a boost for your business, helping you recruit the right talent. Increasingly, those who can pick and choose are opting to work for organizations driven by a purpose beyond profit.

Accountability

Standing up for ecocide law is an ethical choice. It shows a commitment to sustainable business that goes way beyond simply abiding by current regulations. Ecocide law is a powerful way to protect biodiversity and human rights.





Nina MacPherson
Chair



Anna Surtevall
Board member



Inger Brattne
Board member



Caroline Mofors
Board member

Ecocide Law Alliance

The Ecocide Law Alliance Foundation was formed in 2022. Our aim is to work for the introduction of the crime of ecocide in the Rome Statute of the International Criminal Court and to promote the ratification process, the work of the International Criminal Court, and other subsequent processes or measures related to monitoring and compliance when introducing the crime of ecocide.

We bring together and mobilize forward-looking businesses who want to create conditions for fair competition within the planetary boundaries and promote sustainable business. We do this by increasing the knowledge and benefits of international law against ecocide, and by mobilizing the business sector to support the proposal that ecocide be added as a fifth crime in the Rome Statute, prosecutable in the International Criminal Court in the Hague.





Ecocide Law Alliance

www.ecocidelawalliance.org

In association with

azote



Nästa möte och avslut