

Modern arguments

Dispute resolution in a mobile and connected world

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Q1

How should parties seek and agree a seat for ADR, and what advantages does your jurisdiction offer?

First of all I recommend that you identify which type of ADR you want to use. It could be mediation, arbitration or another form. This choice of type of ADR might influence the selection of seat. Also consider factors like convenience, neutrality, confidentiality and the availability of experienced ADR professionals.

As a member of the EU, Sweden can offer EUIPO's new service ADR through which you can use mediation as an alternative dispute resolution for intellectual property disputes at EU level.

In Sweden ADR is often used as a faster and cheaper way of solving disputes between consumers and businesses. It is done outside of court through mediation, conciliation, arbitration, ombudsmen and different alternative complaint boards normally organised through trade and branch associations.

Sweden is internationally recognised for its neutrality which makes it attractive for ADR. Sweden also has a well-established legal infrastructure that supports ADR with the Swedish Arbitration Act providing a robust framework. It is also stipulated in the Swedish Code of Judicial Procedure that the court shall, if the matter is suitable for an out-of-court settlement, initiate such discussion and work with the parties to reach a settlement.

Q2

Have you seen or do you expect to see a rise in the use of AI to discover infringements and actionable matters?

The use of AI for discovering infringements and actionable matters is already an emerging trend globally,

including Sweden. The public legal institutions have not yet initiated the use of AI formally but AI will most likely reduce the time and cost associated with legal disputes both in the public system as well as for the clients or parties in disputes.

Many Swedish companies are at present looking into streamlining legal proceedings as well as well as



Cristina Bergner specialises in franchise related questions as well as counsel in AML and white collar crime investigations. She is often engaged in dispute resolution in general court and in arbitration.

Cristina is also involved in IT development projects within the legal area related to companies and investigations. As an experienced lawyer she combines a robust understanding of both legal principles and technological innovation to support the responsible development and deployment of AI technologies.

Cristina often engages with companies in navigating the complex intersection of law and advanced technology to ensure successful development. At present she is involved in a project developing services for companies to secure they have compliant systems and policies in order to avoid, among other issues, fines, sanctions and criminal legal measures against e.g. the board or CEO.

Part of Cristina's background includes working at the Swedish Tax Agency, which enabled her to acquire specific experience in tax proceedings. Her other areas of expertise include employment-related matters and general commercial law.

In her area of work Cristina finds that collaborating cross-border is crucial in succeeding for the clients and development within legal technology.

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MY ADVICE...

- Proactive Legal Compliance:**
Establish comprehensive governance policies for AI development and deployment. This includes defining roles and responsibilities, setting standards for ethical AI use, and ensuring compliance with relevant regulations, such as GDPR in Europe or the upcoming EU AI Act.
- Transparency and Explainability:**
Maintain detailed documentation of the AI system's development, training data,

decision-making processes, and any changes made. Transparency in how AI systems work and are maintained helps in demonstrating due diligence and accountability.

- Regular Monitoring and Audits:**
Conduct regular audits, risk assessments and updates of AI systems to potential vulnerabilities, biases or compliance issues. Implement ongoing monitoring to ensure that AI systems operate within legal and ethical boundaries.

using tools to analyse vast amounts of data quickly, identifying patterns and anomalies that might indicate infringements and actionable issues. AI is also used in contract review and management including for legal research. AI can assist in predicting likelihood of success in legal actions by analysing patterns from past cases and potentially identifying new approaches to complex legal issues. Using AI one can also identify legal trends which would be very useful in dispute resolution and mediation and also identifying potential breaches in real-time.

For example AI is well suited to be used in detecting IP infringements, VAT and tax evasions due to being able to detect patterns and parties involved. AI can also at an early stage detect people or companies on the internet initiating and inciting crime.

Q3

What questions does AI pose for liability – who is accountable for the actions of AI and has your jurisdiction prepared for the question?

AI poses many questions regarding liability. You have the problem of determining accountability; who is responsible if the AI systems causes harm? Is it the developer, the system or the users? A further question currently under discussion in Sweden is liability and how existing Swedish law and product liability law apply to AI. Can it be treated like a defective product under product liability laws? Finally there is the question of ethical and legal compliance and how traditional

legal concepts like negligence or fault apply to AI systems. How prepared are insurance companies at managing risks associated with AI?

Sweden is actively working to address the challenges of AI liability through legal, regulatory, and policy measures. Sweden has had a national AI strategy since 2018: "National approach for artificial intelligence". The strategy outlines principles for the responsible use of AI, including transparency, fairness and accountability. It also points out the general direction and focuses on the following priorities; education, training, research, innovation framework and infrastructure. These principles are intended to guide the development and deployment of AI technologies and address potential liability issues.

Further Swedish government agencies, such as the Swedish Data Protection Authority and the Swedish National Board of Trade, are actively involved in discussions about AI regulation and liability. They provide guidance and oversight to ensure that AI systems comply with legal and ethical standards.

While specific AI liability laws are still under development mainly within the EU such as the EU AI Act, in Sweden the existing laws are being interpreted and adapted to address AI-related issues by the authorities and courts. Sweden's adherence to GDPR provides a strong foundation for data privacy and security which is an important aspect of AI liability.

About us... www.cristalaw.se

Crista Law firm is a boutique law firm offering specialist advice in the major fields of commercial law, with specialist knowledge and considerable experience in areas such as franchising, property law, private or public investigations in white collar crime including corruption and anti-money laundering.

Crista Law firm offers clients highly skilled and personalised legal advice, which often leads to a more hands-on and responsive approach to legal matters. Crista Law firm offers a first-class service, providing tailor made solutions to its clients with a high level of commitment and genuine interest invested in the client's business. The firm believes in establishing close, long-term

lawyer-client relationships. This enables us to understand what is important to our client's business and offer advice that is specifically tailored to a particular situation for the individual client.

Apart from legal advice Crista Law firm offers through the founder Cristina Bergner an experienced lawyer who combines her understanding, interest and engagement of how to combine legal principles with technological innovation to support successful development of AI technologies.

The commercial benefit to our clients is of paramount importance to us and often achieved through international collaborations.

