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## International Women's Day Celebration by ICC World Business Women

On 8 March 2019, the World Business Women's initiative hosted a lunch-time discussion at ICC headquarters to celebrate International Women's Day (IWD) and the official launch of their '100 Ways Women make Business Work' campaign to mark the centenary of the ICC. —Page 26

## Women's Initiatives in their Workplace

This section features the various initiatives undertaken by firms and organisations to promote women and also what firms and organisations do to assist their female members better organise their personal and professional lives. —Page 29

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# President's Column

## Our April 2019 ArbitralWomen

Newsletter picks up where we left off since our Special Edition Newsletter published in mid-January 2019, in which we described our 25th Anniversary Jubilee Celebrations and the launch of the ArbitralWomen Diversity Toolkit™ (ArbitralWomen Newsletter Issue Number 31).

In this Newsletter, we start with an interview with **Anna Joubin-Bret**, Secretary of the United Nations Commission on International Trade Law, conducted by ArbitralWomen Board member **Affef Ben Mansour**.

We also describe recent diversity initiatives that have been featured on ArbitralWomen's News page, including ArbitralWomen's partnering with Arbitrator Intelligence (**AI**) on a joint AW-AI AIQ Women Arbitrators Campaign launched on International Women's Day 2019, the CPR Institute's compilation of CPR's Female Neutrals "Look Who's Joined ADR's Most Exclusive Club", the Chartered Institute's Women In ADR Initiative featuring interviews of women from various jurisdictions at different stages of their careers about their experiences as female practitioners in ADR, and the launch of Take Charge Negotiations, a consultancy to support women in negotiations through one-on-one consulting services and group training programs.

We also feature reports submitted by ArbitralWomen members about dispute resolution and diversity events in the last quarter of 2018 and first quarter of 2019, including events celebrating International Women's Day 2019.

With respect to developments within ArbitralWomen, we are excited to welcome five new members to the ArbitralWomen Marketing Committee: **Saadia Bhatti, Vanessa Alarcon Duvanel, Natalia Otlinger, Rekha Rangachari** and **Umika Sharma**. Our expanded Marketing Committee



will work together with members of the Board to promote our members, arbitration events involving our members and diversity initiatives.

We are also delighted to announce the launch of a new webpage featuring news about our members. As many will recall, in the past we have reported on "members on the move" and news about ArbitralWomen members in our

Newsletters for several years and since 2018 in our regular news alerts. In order to provide even greater visibility of our members' professional developments, **Mirèze Philippe** suggested that we create a separate news page dedicated to news about our members. **Amanda Lee** and **Erika Williams** have been instrumental in gathering information about our members and liaising with them regarding ArbitralWomen's news coverage of their professional developments in our news alerts and on the new webpage. The new webpage dedicated to news about our members can be found [here](#). This new webpage forms part of our communication tools used by ArbitralWomen to feature and promote its members.

We thank the many ArbitralWomen members who contributed submissions to this Newsletter and the Board members who made this edition possible.

Looking forward to seeing many of you at the ArbitralWomen Annual General Meeting in Vienna on 14 April 2019!

A handwritten signature in blue ink that reads "Dana MacGrath". The signature is fluid and cursive.

Dana MacGrath, Bentham IMF  
ArbitralWomen President

# Women Leaders in Arbitration

## Anna Joubin-Bret

**ArbitralWomen board member, Affef Ben Mansour, met Anna Joubin-Bret, Secretary of the United Nations Commission on International Trade Law (UNCITRAL) and Director of the Division on International Trade Law in the Office of Legal Affairs of the United Nations, at a conference in Cairo**

in 2015. They have since frequently exchanged views on their respective professional experiences and passion for French gastronomy.

On 24 November 2017, Anna returned to the United Nations after 6 years in private practice as counsel and arbitrator in international arbitration.

Since more than a year has passed, we, at ArbitralWomen thought it would be interesting for our newsletter readers to learn more about Anna's experience in this position and, generally, about her career and views on the practice of international arbitration.



### When did you start your professional career in international arbitration?

Notwithstanding the fact that I spent most of my career at the UN, my first professional experience conducted in parallel with my studies involved international arbitration. In 1985, I was pursuing my DEA at Paris I Panthéon-Sorbonne University in Private international Law after completing my Masters in International Trade Law at Paris I as well. I was working at the same time in the legal department of an affiliate of the Schneider Group. I was in charge of drafting agreements with various public companies abroad. These provisions already contained a list of arbitrators, among which the parties could choose in case of arbitration. I had to search for potential arbitrators' names, but I was 20 and had no knowledge of professionals practicing international arbitration or sitting as arbitrator in commercial arbitration. There was no Internet, no online CVs, awards were (and are) confidential, there was no list of practitioners sitting in international arbitration tribunals. We used telex at that time! Therefore, my scope was limited to Professors I knew, whose writings I had read. I am not sure whether I can cite this example, but I proposed several times to include Professor Ignaz Seidl-Hohenveldern, a very famous Austrian arbitrator, in these provisions because I liked his name: 'I was delighted by his name and I liked the idea of living in Vienna where he used to practice!'

### When would you say you became actively involved in the practice of international arbitration?

When I worked as legal counsel in private companies, I was constantly involved in international arbitration proceedings where my employer was a party. I was involved as a client in those cases.

Then, I joined the United Nations Conference on Trade and Development (UNCTAD) in 1996, where I worked mainly on investment arbitration as Senior Legal Advisor for the Division on Investment, Technology and Enterprise Development. In this capacity, I had the opportunity to assist countries and governments in, inter alia, the management of investor-State disputes.

Eventually, I became a practitioner, counsel and arbitrator, in 2011.

### What do you think about the criticisms addressed by part of the doctrine and of the practitioners to the combination of both positions of counsel and arbitrator?

Since this is a sensitive issue, please allow me to use a disclaimer here. What I say is based on my personal views and my specific experience. I could not imagine being counsel in investment arbitration without combining this practice with the role of arbitrator in different cases. I believe there is no inconsistency in representing a party in arbitral proceedings and sitting as arbitrator in other arbitral proceedings, as long as fundamental rules on conflict of interest are abided by. Each position participates in the development of the skills required to exercise the other one. The main advantage of arbitration lies in the parties' right to have their cases decided by people with expertise in the subject matter of the dispute, who they choose because of this background and such expertise is acquired by practicing as counsel in international arbitration proceedings.

## How were you appointed for your current position?

It was not my intention to return to work at the United Nations after all the energy I put into launching my private practice. When it became known that my predecessor was retiring, it was suggested that I could apply. With my knowledge of the organisation from the inside and the experience acquired in private practice, in particular in international arbitration, since 2011, my background appeared to be suitable for the position. But I thought that my application would not be considered: I believed that my nationality could be a barrier, given that my predecessor and I are both French. Ultimately, I applied and it worked. My nationality was not a hurdle to the recognition of my skills for the position. My position is

not an elected one. I am the director of the International Trade Law Division of the Office of Legal Affairs of the United Nations. I have the status of an official of the United Nations under the supervision of the Legal Counsel and I am *ex officio* the Secretary of the UNCITRAL, servicing the Commission and leading the Secretariat. We work in six languages: Arabic, Chinese, English, French, Russian and Spanish. My division is a wonderful melting pot from different parts of the world. It is really the United Nations already at our small level. Working in such a diverse environment enriches and recharges me daily. We work hard, but without the good 'adrenaline' of an arbitration filing!

## You arrived at the head of UNCITRAL at a crucial moment for investor-State dispute resolution mechanisms. How do you see the future of this area of legal practice?

I note with enthusiasm that there is a clear consensus on the need to reform the system. The main issue to agree on at this moment is whether the reform should be based on the present system or whether States should make a clean sweep of it and replace it with another one. The UNCITRAL has no deadline to complete its work on this matter and this is fortunate because the work ahead is complex. We are trying to gather the opinions and voices from as many

*...I would like to point out that, during my years as counsel and arbitrator, I have generally noticed a lack of female solidarity among arbitration practitioners. I cannot understand why women do not nominate women as arbitrators, for example.*

States as possible. 94 States participated at the last session of the Working Group and we expect at least the same number of participants for the next session. Meanwhile, we expect that delegations will have carried out internal consultations with the officials negotiating treaties and those advising States on investor-State disputes in order to participate actively in the forthcoming debates.

Investor-State dispute resolution is not the only topic of interest for international arbitration practitioners. The UNCITRAL Working Group II is dedicated to arbitration and conciliation/dispute settlement. For example, at its fifty-first session on 4-8 February 2019, the Working Group started to work on expedited arbitration.

## What did your experience in private practice bring you?

I would say a way of working, the ability to work swiftly and focus on the essentials. The people I met and the network I developed have also enriched me. For example, the network of practitioners I met between 2011 and 2017 facilitates the identification of people who are willing and able to participate in carrying out the UNCITRAL's mission, such as the revision of the UNCITRAL Mediation Rules.

## You have gained experience in private practice (legal counsel of international companies), at a national court (Commercial Court of Grenoble, France) and in an international organisation (United Nations). Did you face any challenges while in these positions because of your gender?

None. I have never thought of myself as different in the exercise of any of my professional tasks. However, this does not mean that I do not notice the imbalanced representation of female and numerous nationalities in the field of international arbitration and I encourage all initiatives aiming at enhancing diversity in all fields of arbitration practice and all professions.

On this subject, I would like to point out that, during my years as counsel and arbitrator, I have generally noticed a lack of female solidarity among arbitration practitioners. I cannot understand why women do not nominate women as arbitrators, for example. But things will change more quickly if the women who select arbitrators participate in the increase of women nominations as arbitrator, mediator or conciliator. Consideration always pays.



## You have been involved in international arbitration for years now. Which changes have you seen with respect to women practitioners in international arbitration?

I am happy to see more and more women leading cases as counsel. There is less and less the cliché of a male partner with the female associate and her pencil skirt and high heels. In more and more proceedings, women are pleading and they are talented!

## How did you learn about ArbitralWomen?

I had always known about the organisation. While working at UNCTAD, I regularly met ArbitralWomen representatives during UNCTAD's working groups and international arbitration conferences. ArbitralWomen has also an observer status at the UNCITRAL Working Group II (Arbitration and Conciliation) since 9 November 2015.

## How many women are working with you in your division?

In fact, the gender imbalance is reversed in my division. At the United Nations, we are very mindful of gender balanced

representation. We need time before this balanced representation reaches all positions, because of the age pyramid. It goes however without saying that all the women hired at the United Nations are recruited on the basis of their skills.

## What would you say to a young student finishing her studies and who wants to practice international arbitration?

Arbitration is a 'technique / method' of dispute resolution, among other means. Having technical knowledge of arbitration proceedings is necessary. However, it is insufficient if you miss substantial knowledge of the applicable law to the dispute. It is crucial to acquire a solid set of skills and knowledge of domestic laws as applied in different sectors: construction, sales, insurance, energy, etc. Likewise, a solid set of skills and knowledge of public international law are required to practice investment arbitration. Secondly, you should not have a specific goal such as: 'I want to practice investment arbitration' or 'I want to specialise in trade law proceedings' or 'commercial arbitration'. The field is so competitive that it is fundamental to try to diversify your experience. Even if the market of international arbitration has been growing for years with the launch of numerous specialised boutiques, there are, unfortunately, not enough positions for all young associates.

# ArbitralWomen in Vienna

At the time this newsletter is being finalised, the Vis East in Hong Kong has just finished and the Vis Moot in Vienna is underway. Many ArbitralWomen participate traditionally in the Vis in Hong Kong and/or Vienna as arbitrators and coaches of teams.

ArbitralWomen has been funding and coordinating law firm funding of some Vis teams since 2009, mainly by paying the registration fee of teams comprised of a majority of female members and needing financial support in order to participate. ArbitralWomen wishes to support and encourage teams who do not otherwise have the benefit of funding.

This year, ArbitralWomen together with supporting law firms covered the registration fee of a record number of ten teams coming from all over the world: Belarus (Mitso University), Brazil (Pontifical Catholic University), Costa Rica (Universidad de Costa Rica), Egypt (Cairo University), India (Hidayatullah National Law University), Indonesia (University of Indonesia), Iran (Allameh Tabataba'e University), Nepal (Tribhuvan University), Nigeria (University of Lagos), Vietnam (Diplomatic Academy of Vietnam).

Another ArbitralWomen tradition is to publish in its newsletter reports about the Vis competitions provided by teams, coaches and arbitrators. We hope that many will contribute reports on the 2019 Vis Moot. ArbitralWomen has issued two special newsletters dedicated entirely to the Vis Moot competitions — issues 3 and 14 — available on our website here: <https://www.arbitralwomen.org/newsletters/>.

Last year, on the occasion of the 25th Vis Moot, ArbitralWomen organized with the Knoetzl law firm a panel event on diversity and careers in international dispute resolution that was very highly attended and enjoyed by both students and professionals. It was therefore decided to organize a similar event during this year's Vis Moot. Knoetzl is very kindly organising and hosting the event for the second year.

ArbitralWomen will also hold its annual general meeting (AGM) in Vienna on Sunday 14 April 2019, graciously hosted by Knoetzl law firm.

*See you in Vienna!*

# Events

There have been a number of events in the last quarter of 2018 and first quarter of 2019. Our members have provided a few highlights from these events to share with you.

## ArbitralWomen discusses Climate Change Investment at COP24, on 6 December 2018 in Poland



L to R : Judith Levine, Ilona Millar, Wendy Miles QC, Nicola Peart, Lourdes Sanchez, Amelia Keene

**On 6 December 2018, six women** involved in arbitration took to the stage for an arbitration panel as part of the 24th Conference of the Parties to the UN Framework Convention on Climate Change (**COP 24**), held in Katowice, Poland. At the official side event, co-hosted by the Permanent Court of Arbitration (**PCA**), International Chamber of Commerce (**ICC**), International Bar Association and Arbitration Institute of the Stockholm Chamber of Commerce, the panel addressed the theme of Protecting and Promoting Climate Change Investment. Panelists shared their expertise with an audience comprised of men and women with industry, legal, scientific, policy and activist backgrounds. The panel formed part of the ICC's COP24 Business and Industry Day under the broader theme of Increasing Climate Ambition, A Public Private Dialogue.

The panel chair, **Judith Levine**, PCA, introduced the session, which would

explore promotion and protection of investment in climate change mitigation and adaptation projects, by presenting three perspectives on stimulating the necessary investment to implement the Paris Agreement climate ambitions.

First, on the regulatory front, states need to implement a binding regulatory framework to promote and govern system transition and investor conduct. **Ilona Millar**, Baker McKenzie, opened discussions with an overview of state regulatory action in the climate change investment space, drawing particularly on her experience advising developing states on domestic and international policy. She addressed legal readiness for climate finance in the context of implementing nationally determined contributions.

Second, on the contractual front, **Wendy Miles QC**, Debevoise & Plimpton, explored how states' regulatory steps will help drive contractual behavior, and how investor certainty might be achieved with

provisions for enforceable arbitration under the New York Convention. Miles focused on the role of private transactions and contracts in 'system transition' to sustainable energy sources.

Third, on the treaty front, the SCC's Treaty Lab participants presented on the existing investment treaty framework, addressing strengths and weaknesses and potential improvements to provide both certainty to investors and flexibility for states to meet their climate ambitions. **Nicola Peart**, Three Crowns, team Innovate, introduced the framework of investment treaties and provided case examples of investment treaty arbitrations involving transition from old energy to new, and examples involving regulation of new energy. Levine recalled the PCA's experience in administering climate change-related disputes, including investment arbitrations and contract disputes relating to projects under the Kyoto Protocol's Clean

Development Mechanism. Against that background, **Lourdes Sanchez**, IISD, team 'Creative Disruptors', and **Amelia Keene**, Three Crowns, team Innovate, presented key features of the winning entries in the Treaty Lab competition, which had invited participants to draft a new international treaty to encourage investment in climate change mitigation and adaptation. Proposed innovations included procedural mechanisms to discourage unsustainable investments, and a protocol to amend existing invest-

ment treaties which, among other things, would increase transparency and certify investments as 'green'.

COP24 was held close to the Factory at Chorzów, of the PCIJ case cited frequently in arbitrations on principles of compensation. A delegation of public international lawyers participated in a guided tour of the factory, arranged by the PCA. The delegation (Ms Levine, Ms Peart, PCA Assistant Legal Counsel **Camilla Pondel** and 20 Essex Court barrister **Monica Feira Tinta**) was received

by Azoty Chorzów CEO, **Piotr Hetnar**. Mr Hetnar showed archival documents demonstrating the significance of the factory's legal history, and the head engineer provided a tour of the potassium nitrate production line.

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Submitted by Judith Levine, ArbitralWomen Member, Senior Legal Counsel, Permanent Court of Arbitration, The Hague and Camilla Pondell, Assistant Legal Counsel, Permanent Court of Arbitration, The Hague

## Young ArbitralWomen Practitioners Mid-Day Meet-Up, on 20 December 2018 in Cairo



Seated L to R : Cherine Foty, Salma El Baz, Amani Khalifa, Joanne Clarke; Standing from left to right: Sameh Abdelsamad, Ibrahim Shehata, Youssef Ismail, Omnia Gadalla, Sally Kotb, Chahira Bacha, Farida El Baz, Mina Makar, Youssef Rizkana

**On the occasion of the ICC YAF Regional Conference for the Middle East, North Africa & Turkey**, Young ArbitralWomen Practitioners organised a 'Mid-Day Meet-Up'. The mid-day networking event was organised for young practitioners to meet, create links, and learn more about ArbitralWomen and how women in the Middle East, North Africa & Turkey can get involved.

The event was graciously hosted and sponsored by Rizkana & Partners, a recently established Egyptian law firm, and was supported by ICC YAF. It was attended by many young female and male practitioners based in Cairo, Egypt. In fact, the number of young men in attendance put the

event at nearly full gender parity, and led to a stimulating discussion regarding the importance of male support for establishing gender equity.

The event began with a welcome from Young ArbitralWomen Practitioners Steering Committee Member, **Cherine Foty**, who introduced ArbitralWomen and its mission to the attendees, and explained how ArbitralWomen seeks to increase gender diversity within the profession. She spoke about the various initiatives of ArbitralWomen and about the importance of committing to increased female and geographical diversity within the framework of respecting party autonomy, which is the hallmark of international arbitration.

**Salma El Baz**, Senior Associate at Rizkana & Partners, who co-organised the event, also spoke about the specific particularities of the Egyptian market and that of the Arab world with respect to the promotion of female practitioners and arbitrators.

ArbitralWomen members **Amani Khalifa**, **Joanne Clarke** and **Sally Kotb** also contributed thoughts on the various issues raised, and Rizkana & Partners founder **Hazim A. Rizkana** spoke about the importance of female representation in the world of arbitration, highlighting how attendance of the ICC YAF Conference was a clear indication of how the market is moving towards greater involvement of women in arbitration.

An interesting discussion followed with respect to the most effective manner of increasing female representation, either by imposing obligations or by allowing the number to increase naturally through market trends. A number of differing viewpoints were heard, especially with respect to the particularities of the Egyptian market.

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Submitted by Cherine Foty, ArbitralWomen Member, YAWP Steering Committee member, Associate, Jones Day, Paris

## ICC YAF Regional Conference for the Middle East, North Africa & Turkey, on 20–21 December 2018 in Cairo

**ICC YAF held its bi-annual** Regional Conference for the Middle East, North Africa, and Turkey this year in Cairo, Egypt. This 4th edition of the ICC YAF Regional Conference took place at the Diplomatic Club in downtown Cairo and at the Nile Ritz Carlton. The event was widely attended by arbitration practitioners, arbitrators, corporate counsel, academics, and students.

The first day of the event featured welcome speeches by regional ICC YAF Representative **Salma El Baz**, an ICC opening by regional ICC Director **Sami Huerbi** and a keynote speech by **Thomas Voisin** of Quinn Emanuel. It was followed by a round table discussion on the Power of Advocacy, moderated by Ms El Baz, and featured ArbitralWomen members **Joanne Clarke** and **Cherine Foty**, along with **Ahmed Kotb** and **Alexandre Reynaud**. The round table covered the various aspects of advocacy throughout the arbitral proceedings, including considerations of diversity in constituting an arbitral tribunal, bifurcation and parallel proceedings, witness preparation and expert cross-examination. The discussion was followed by questions from the audience



L to R: Sally Kotb, Rami Chahine, Amir Matar, Aseel Barghuthi, Farouk El Hosseny

and a reception in Garden City, Cairo.

The following day began with a keynote speech from **Karim Hafez**, followed by a roundtable discussion on developments in arbitration and their effect on the practice. The afternoon was composed of a series of four debate sessions on various issues. The first concerned whether institutions or parties were better placed to choose arbitrators. The second discussed whether the existence of dissenting opinions was positive and negative, and

featured ArbitralWomen member **Sally Kotb**, along with **Amir Matar**, **Rami Chahine**, **Farouk El Hosseny**, and **Aseel Barghuthi**. The third debate centered on multi-tier clauses and the benefits of mediation, and the fourth on soft and hard law. The second day finished with a reception in Zamalek, Cairo.

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Submitted by Cherine Foty, ArbitralWomen member, Associate, Jones Day, Paris

## ICC Young Arbitrators Forum event – How to be a Successful Arbitration Practitioner and ICC Arbitration Day, on 16–17 January 2019 in Jordan

**Clyde & Co recently teamed up** with Jordanian firm Aljazy Law to organise two ICC events in Amman. These events were notably co-organised by **Nadia Darwazeh**, an ArbitralWomen member.

On 16 January 2019, an ICC Young Arbitrators Forum event took place on the topic: 'How to be a Successful Arbitration Practitioner'. The conference was opened by **Hesham Tal**, President of the

Amman Constitutional Court, who gave an inspiring keynote speech. **Nadia Darwazeh**, a Clyde & Co Partner and Head of Arbitration Paris, was then interviewed about her career path by **Sami Huerbi**, Director of the ICC for the Middle-East and Africa. **Sarah Lucas**, a Clyde & Co Associate and ArbitralWomen member, then contributed to an interesting panel discussion, which gave young arbitration practitioners the opportunity to get best

practice guidance on how to build a career in international arbitration.

On 17 January 2019, the ICC held its first Jordan Arbitration Day, sponsored by Clyde & Co and Aljazy Law. This event explored current developments in the industry and in the region, including the recent amendment to the Jordanian Arbitration Law, tips and tricks for running an ICC arbitration, the Prague Rules, corruption, expedited proceedings and



diversity. His Excellency the Minister of Justice, **Dr Bassam Talhouni** provided the keynote speech where he spoke on the new amendment to the Jordanian arbitration law. His Excellency **Awn Al Khasawneh**, former Prime Minister of Jordan and former Vice President of the International Court of Justice, provided closing remarks on the future of international arbitration.

Submitted by Sarah Lucas, ArbitralWomen Member, Associate, Clyde & Co, Paris



L to R: Sami Houerbi and Nadia Darwazeh



His Excellency the Minister of Justice Dr Bassam Talhouni

## Schiefelbein Global Dispute Resolution Conference, on 18 January 2019 in Phoenix, Arizona

On 18 January, 2019, the inaugural Schiefelbein Global Dispute Resolution Conference was held at the Arizona State University Sandra Day O'Connor College of Law in Phoenix, Arizona, United States.

The conference addressed the complex and constantly evolving nature of international dispute resolution due to the fast pace of the global economy and technological innovation. Over 150 practitioners, academics, corporate counsel, law students and community members registered to attend the conference. The lineup of speakers included world renowned lawyers, counsel for global corporations, internationally-recognised arbitrators and mediators, academics, and leaders from arbitration institutions to engage in discussions on current issues in international

dispute resolution. Among the speakers were many members of ArbitralWomen.

ArbitralWomen member Professor **Lucy Reed** of the National University of Singapore gave the inaugural Schiefelbein Global Dispute Resolution Lecture entitled "Ultima Thule: Prospects for International Commercial Mediation." Professor Reed compared Ultima Thule, the farthest object ever discovered in the solar system comprised of two smaller objects that collided and became stuck together billions of years ago, to the feuding parties that need come together in international mediation. She discussed several challenges when mediating international commercial disputes, the need to build a 'cadre of international expert mediators and mediation counsel' and provided an up-

date on the Singapore Convention, which will confer legitimacy to the process.

Three panels then explored cutting-edge topics in global dispute resolution. First, technology as used in international arbitration and arbitration used in technology-related disputes, which featured ArbitralWomen members **Nancy Thevenin** and **Maria Chedid** of Arnold & Porter. The second panel considered global disputes arising out of China's unprecedented and massive Belt and Road Initiative, which featured four practitioners from the Asia-Pacific region, including ArbitralWomen member **Chiann Bao** of Arbitration Chambers. The third panel was entitled "Atmospheric Arbitration: resolving Climate-Change Related Disputes", which featured ArbitralWomen member **Judith Levine** of the Permanent Court of Arbitration. Finally, the day concluded with a panel exploring the perspectives on global dispute resolution of corporate counsel from four global corporations, and wrap-up remarks by Professor **Victoria Sahani**, one of the event's organisers from ASU.

The full agenda and speaker biographies are available on the conference [website](#) and the video is available for free, after registration, [here](#). The next Schiefelbein Global Dispute Resolution Conference is scheduled for 17 January 2020.



L to R: Danel Bodansky, Judith Levine, Rafael Liano, Professor Victoria Sahani



L to R: Maria Chedid, Gary Benton, Nancy Thevenin, Rachel Kent, Paul Cohen

Submitted by Judith Levine, ArbitralWomen Member, Senior Legal Counsel, Permanent Court of Arbitration, The Hague

## Young ICCA – WIPO Seminar on IP Arbitration, on 30 January 2019 in Geneva, Switzerland

On 30 January 2019, the young chapter of the International Council for Commercial Arbitration (**Young ICCA**) and WIPO organised a joint seminar on IP Arbitration at the WIPO headquarters in Geneva. The event was set up by Young ICCA's **Nhu-Hoang Tran Thang**, WIPO's **Erik Wilbers** and **Ignacio de Castro** and **Alex McLin** of the Swiss Arbitration Association (ASA).

### Keynote

The event kicked off with a keynote presentation by **Stavros Brekoulakis**, Queen Mary University, who focused on arbitration in the pharmaceutical industry and in disputes involving standard-essential patents (SEP). Professor Brekoulakis cited three main reasons for choosing arbitration over national courts in the field of pharmaceutical patents: speed (patents are granted for 20 years only), expertise (parties can choose arbitrators based on technical expertise) and enforcement (avoiding contradictory decisions in multi-jurisdiction disputes). Similarly, with regard to standard-essential patents, choosing the right expertise on the panel of arbi-

trators may well guarantee better results.

### Arbitration of Patent Disputes

The first panel was dedicated to the arbitration of patent disputes. Under the moderation of **Heike Wollgast**, WIPO, **Philipp Groz**, Schellenberg Wittmer, outlined the perfect arbitrator (spoiler alert: she does not exist) and the pros and cons of requesting interim relief from the arbitral tribunal, an emergency arbitrator or the national court (in spite of an arbitration clause). **Dorothee Schramm**, Sidley Austin, completed the picture by outlining the (big) differences among national jurisdictions in recognising the arbitrability of patent disputes, especially when it comes to allowing arbitrators to weigh in on the validity of patents.

### Arbitration of Copyright and IT Disputes

The second panel, addressing arbitration of copyright and IT disputes, was moderated by WIPO's **Leandro Toscano**. **Alejandro Garcia**, Clyde & Co, focused on (non-ICT) copyright arbitration, with particular regard to issues in the audiovisual media industry. **Kathleen**

**Paisley's**, Ambos NBGO, presentation focused on ICT disputes and made a strong case for mediation in general and the use of multi-tier (mediation-then-arbitration) clauses in ICT agreements in particular.

### Arbitration of Trademark and Commercial Disputes

Under the moderation of **Thomas Widmer**, Lalive, the last panel focused on trademark issues arising in the realm of distribution and franchise agreements. **Pascal Hollander**, Hanotiau & van den Berg, presented the often underappreciated problem of arbitrability in distribution agreements. **Isabelle Michou**, Quinn Emanuel, closed the seminar with a talk on IP issues in investor-state arbitrations. Trademarks have been recognised as 'investment' within the meaning of various bilateral investment treaties, most famously in various arbitral proceedings on plain packaging statutes for tobacco products.

A longer version of this post was published in the [IPKat Blog](#).

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Submitted by Peter Ling, associate, Lenz & Staehelin, Zurich

## ArbitralWomen presentation cocktail event, on 30 January 2019 in Lima, Peru



L to R: Tatiana Herrada, Guadalupe López, Diana Gárate, Elena Gutiérrez and Irma Rivera

On 30 January 2019, ArbitralWomen made a formal presentation in Lima, Peru during a cocktail event kindly hosted by local law firm Rebaza,

Alcázar & De las Casas. More than 125 practitioners from more than 10 different countries attended this cocktail event, including the finest representatives of

the Peruvian arbitration community. ArbitralWomen Regional Director for Latin-America Elena Gutiérrez described the work of ArbitralWomen in the past 25 years and its different programs. ArbitralWomen members Irma Rivera, Guadalupe López and Diana Gárate highlighted the benefits of becoming a member of ArbitralWomen, which include the networking possibilities and the showcasing of member profiles as well as its mentorship program.

A lively debate with the audience followed, in which ways to increase the visibility of women in arbitration in Latin-America were discussed. The local press, El Comercio, published a piece on this event the following day, with an

interview with ArbitralWomen Director Elena Gutiérrez and ArbitralWomen member Diana Gárate.

The next day the first Women in Arbitration International Conference took place in Lima, with the support of ArbitralWomen. This initiative was

extremely well received in the region and is a pioneer of its kind, as all of the panelists were women. Many of ArbitralWomen's Latin-American members acted as speakers (Sandra Gonzalez, Verónica Sandler, Guadalupe López, Ana Carolina Weber, Irma Rivera, Christa Mueller and

Érica Franzetti) as well as ArbitralWomen Board Members Diana Droulers and Elena Gutiérrez.

Submitted by Elena Gutiérrez, independent arbitrator and ArbitralWomen Board Member, Paris

## ASA Annual Conference, on 1 February 2019 in Geneva, Switzerland

### On the occasion of the Swiss

Arbitration Association (ASA) annual conference, which took place in Geneva on 1 February, 2019, several ArbitralWomen members participated as moderators and panelists on the subject of 'Arbitration and Corruption'. The event brought together speakers and participants from the arbitration community with criminal law and policy experts, which allowed them to approach the topic from a range of different perspectives. The aim of the conference, which was very well received, was essentially to create awareness of the issues and multiple challenges arising when suspicion or allegation of bribery and corruption come up in the context of an arbitration, and to provide the arbitration community with a framework for dealing with such challenges.

The first panel under the title "Corruption – What does it really mean?" was moderated by Professor **Maxi Scherer** of Queen Mary University of London and WilmerHale in London. Together with the panelists, she set the stage for the rest of the day, exploring corruption as a social and economic phenomenon, outlining its costs and addressing the importance of red flags in identifying



Kate Davies



Mariella Orelli



Ulrike Gantenberg



Prof. Maxi Scherer

suspicious relationships and payments.

**Mariella Orelli**, Homburger, Zurich, moderated the second panel, which addressed the impact of corruption on issues of jurisdiction, admissibility and substantive law. The speakers discussed the impact of corruption on arbitration agreements, before exploring the validity of contracts for bribery and of contracts induced by bribery.

The third panel focused on the impact of corruption on the arbitral process, as such, covering issues of proof, the arbitrators' right or duty to raise corruption *sua sponte*, as well as the judicial scrutiny of corruption-tainted arbitral awards. **Kate Davies**, Allen & Overy, London, guided the audience through the practical challenges and choices which

arbitrators may be faced with when issues of bribery or other criminal conduct arise in the context of an arbitration, while **Anne-Catherine Hahn**, Baker McKenzie, looked at the level of judicial control that courts in various European jurisdictions exercise over awards potentially involving bribery and corruption.

Finally, panel number four, under the guidance of **Ulrike Gantenberg**, Heuking Kühn Lüer Wojtek, Düsseldorf, took a step back and discussed the role that international arbitration can play in the global fight against corruption, both through changes in mind-set and approach, and through concrete measures at the level of arbitral institutions.

Submitted by Anne-Catherine Hahn, Partner, Baker McKenzie, Zurich.



Anne-Catherine Hahn

## Xth French-Spanish Days – Crossed Looks on 8 February 2019 in Madrid



L to R: Laurent Jaeger, Caroline Duclercq, Francisco Prol, Sophie Nappert, José Carlos Fernandez Rozas.

### On 8 February 2019 the 10<sup>th</sup>

Franco-Spanish conference of the Club Español de Arbitraje (CEA) (Spanish Arbitration Club) took place in Madrid. The objective of CEA is to remain at the vanguard of the arbitration world, as recalled by **Carlos de los Santos**, and it has been an extremely interesting day. The conference took place at Cuatrecasas' office in Madrid, and **Alberto Fortun** welcomed the audience and panelists.

The first panel discussed international, internal and transnational public order. **Caroline Duclercq** outlined the situation in France. Then

**Laurent Jaeger** presented recent case law in France, reflecting deep changes leading to increased control of public order, with the objective of fighting corruption in the background. **Sophie Nappert** shared the minimalist conception of public order in the UK. **José Carlos Fernandez Rozas** summarised the recent trends in Spain, mentioned by **Francisco Prol** during the introduction. The conclusion of this panel was that public order is a dynamic concept which evolves with society.

The second panel, moderated by Pierre Raoul-Duval, was an opportunity to hear more about the Prague rules. **Gaelle Le Quillec** and **José Rosell** em-

phasised that the Prague rules have commonalities with the IBA rules and promote, among other aspects, an efficient administration of the case. **Christian Camboulive** and **Antonio Hierro** discussed possible difficulties linked to the Prague rules, such as substituting one set of rules with another without addressing the true issue of the arbitrator's courage.

The third and final panel was moderated by **Javier Diez Hochleitner** and covered the consequences of the Achmea case on investment arbitration. **Dera Villanua** depicted Achmea as a love/hate story. **Michele Sabatini** examined post Achmea awards where no consequence was drawn from the Achmea decision. **Patricia Frohligsdorf** reviewed the applicability of Achmea to the Energy Charter, and **Isabelle Michou** highlighted the impact of Achmea on cases in progress.

Finally, **Juliette Fortin** gave the closing remarks to this very rich day of debates.

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Submitted by Juliette Fortin, ArbitralWomen Board Member, Senior Managing Director, FTI Consulting, Paris.

## Debating Transparency, on 21 February 2019 in Georgetown, Washington

On 21 February 2019, the Georgetown International Arbitration Society hosted a panel to debate transparency in international arbitration, with the support of the Center of Arbitration and Conciliation of the Bogotá Chamber of Commerce and ArbitralWomen. The debate took place as part of the Georgetown International Arbitration Month, which included a series of events throughout February. The panel was moderated by **Santiago Díaz-Cediel**, Center for Arbitration and Conciliation –

Bogotá Chamber of Commerce, and was attended by an eager crowd of students and practitioners, who were actively engaged in the discussion and raised interesting questions on this hot topic.

The event gathered first rate panelists: **María Julia Milesi**, Freshfields Bruckhaus Deringer, and **Érica Franzetti**, Dechert, were tasked with voicing arguments in favor of seeking more transparency. On the opposing side, **José Arvelo**, Covington Burling, and **Kristen Young**, White & Case, presented the negative

effects that increased transparency may bring to proceedings.

María Julia Milesi opened the debate by explaining that the outcry for transparency first originated from the criticism that the confidential nature of the proceedings, imported from commercial arbitration, was not compatible with the public interest elements at play in investment arbitration. In her experience in Latin America, when citizens and taxpayers became aware that the liability of the State was at stake in

these proceedings – potentially leading to having to pay large sums – they began demanding more information. María Julia described the different efforts of the international community in responding to these criticisms by implementing rules that permitted publicity of proceedings. Among other initiatives, the UNCITRAL Rules on Transparency were drafted, the Mauritius Convention was passed, and ICSID is proposing to incorporate several pro-transparency provisions in its Rules (as it did in 2006, when ICSID included several changes to its Arbitration Rules regarding transparency of the proceedings and third party participation).

In response, José Arvelo noted that this set of international rules provides for mechanisms that make it possible to increase the openness of proceedings, but reflected on the fact that many of these mechanisms led to undesired results. He pointed out that the participation of non-disputing parties requesting the submission of *amicus curiae* briefs tends to extend the length of proceedings and requires numerous further exchanges of pleadings between the parties. The agreement or disagreement on redaction of awards and the publication of other documents, he noted, also generates further lengthy interchanges between the parties. Ultimately, increased transparency in practice leads

to higher costs, prolonged proceedings, and greater inefficiency.

Érica Franzetti went on to discuss the role that transparency has to play in addressing the backlash against investment arbitration. Érica argued that publicity, as one of the fundamental pillars of justice, is required to make investment arbitration a better system. Transparency should be used to legitimize proceedings, even if that means increased costs. She pointed out that there is an unequivocal trend towards more transparency. Institutions competing for investor-State disputes are incorporating provisions providing for greater publicity. As an example, she referred to key provisions of the proposed new ICSID Rules, which have a chapter entirely dedicated to transparency, and the Note to Parties and Arbitral Tribunals on the Conduct of the Arbitration published by the International Chamber of Commerce on 1 January 2019. She also provided a comparison of key transparency provisions contained in selected multilateral treaties, such as the CPTPP, USMCA and CETA.

In reply, Kristen Young observed that, under some treaties like the NAFTA, arbitration proceedings and awards have been subject to transparency requirements for many years, but that this transparency has not led to a deeper

understanding of the system or prevented the backlash against investment arbitration, particularly in the US. She noted that public interest in arbitration proceedings may be overstated, and that where arbitration proceedings have been open to the public, public interest in fact has been quite low. For example, when ICSID hearings have been broadcast at the World Bank's facilities, very few attendees have registered to see them, and when hearings are publicly available online, the number of viewers has been strikingly low. In order to address the backlash against investment arbitration, Kristen suggested that transparency provisions are not sufficient and that practitioners might have a duty to educate policy makers and the public about investor-state arbitration, an important international dispute resolution mechanism that serves to encourage and protect foreign investment.

The debaters did an excellent job in presenting their cases and agreed in general terms that the question of how transparency should be treated still remains open. The system is in its early stages and new rules and changes may be required to reinforce the legitimacy of investor-State arbitration in coming years.

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Submitted by Maria Paz Lestido, Freshfields Bruckhaus Deringer, Washington DC.



L to R: Santiago Díaz-Cediel, María Julia Milesi, Érica Franzetti, Kristen Young and José Arvelo

## DIS40 Panel Discussion on the new DIS Arbitration Rules and their options for promoting amicable settlements, on 21 February 2019 in Munich



L to R: Nadine Lederer, Marie Christin Englmann, Chun Kyung Paulus Suh, Ramona Schardt, and Christian Stretz

**As part of a series of events** by the Initiative of Young Arbitrators of the German Arbitration Institute (**DIS40**) on the new DIS rules, Norton Rose Fulbright's Munich office kindly hosted a panel discussion on the options for amicable settlement under the DIS Arbitration Rules on 21 February 2019.

The distinguished and diverse panel was composed of **Ramona Schardt**, in-house counsel at the Siemens AG litigation department and member of the DIS Arbitration Rules Editorial Committee, **Marie-Christin Englmann**, Senior Associate at Eversheds Sutherland (Germany) LLP, and **Chun-Kyung Paulus Suh**, Counsel at the DIS Case

Management Team. **Christian Stretz** and **Nadine Lederer**, DIS40 regional co-chairs for Munich, moderated the panel discussion.

Marie-Christin Englmann opened the event with a keynote speech on the new DIS Arbitration Rules. She gave a brief overview of the new rules, which entered into force on 1 March 2018, replacing the then 20-year-old 1998 rules. One of the most prominent features of the (new and previous) DIS Arbitration Rules is the promotion of early settlements.

Ms Englmann's keynote speech was followed by a lively panel discussion of the new rules. Ramona Schardt, one of

the authors of Article 27 DIS Arbitration Rules (efficient conduct of proceedings), described its underlying considerations. The panel proceeded to discuss the advantages and disadvantages of bifurcation of proceedings and partial awards, the possibility of a preliminary non-binding assessment of factual and legal issues by the arbitrators, the option of using mediation or any other method of alternative dispute resolution to seek an amicable settlement, and hybrid proceedings such as med-arb-med. The panel further gave specific examples of the differing approaches of parties and arbitrators with a civil law background as opposed to those with a common law background. While Ramona Schardt and Marie-Christin Englmann shared their experiences as in-house counsel and party representative respectively, Chun-Kyung Paulus Suh described the experiences of the DIS during the first year of the new DIS Arbitration Rules. Thus, the audience benefited from valuable insights from different perspectives, giving them a well-rounded understanding of the new rules.

The audience actively participated in the discussion, also sharing their personal experiences with the new rules. The panel and the audience concluded that the new DIS Arbitration Rules provide a solid procedural framework and modern set of arbitration rules, while maintaining and enhancing the promotion of early settlements.

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Submitted by Liv Jores and Nadine Lederer, ArbitralWomen members, Hogan Lovells International LLP, Munich

## ILS Global Forum on International Law held, on 22 February 2019 in Miami, Florida

**The ILS Global Forum on International Law** – referred to as iLaw 2019 – took place on 22 February 2019 in Miami, Florida USA. The conference

featured an International Litigation Track, an ICDR Arbitration Track and an International Business Transactions Track.

The ICDR Arbitration Track included several panels on cutting-edge issues in international arbitration. The morning panel was titled 'International Arbi-

tration Awards – Examining the Data – Discussing the Findings and Trends – Understanding How Arbitrators Approach the Drafting of an International Arbitration Award’. This panel included as speakers ArbitralWomen members **Ann Ryan Roberston**, Locke Lord LLP, and **Hagit Elul**, Hughes Hubbard & Reed as well as **Cristina Cadenas**, Reed Smith, and moderator **Eric P. Tuchmann**, Senior VP and General Counsel of the AAA-ICDR.

The ICDR Arbitration Track sponsored two afternoon panels. The first afternoon panel was titled, ‘Corruption in Arbitration’ and included as speakers **Grant Hanessian**, Baker McKenzie, **Ava Borrasso**, AAA-ICDR Arbitrator, **C. Ryan Reetz**, Bryan Cave, **Carlos Forbes**, President, CAM-CCBC, and as moderator **Mauricio Gomm Santos**, GST LLP.

The second afternoon panel was titled ‘Hot Topics in International Arbitration’ and included as speakers ArbitralWomen Members **Deborah Masucci**, AAA Arbitrator and Mediator, **Kathleen Paisley**, Ambros, **Dana MacGrath**, ArbitralWomen President and Bentham IMF, and as moderator **Luis M. Martin-**



L to R: Dana MacGrath, Kathleen Paisley, Deborah Masucci, Luis Martinez

**ez**, Vice President, AAA-ICDR. The hot topics covered by this panel included data privacy and GDPR issues, the new Singapore Convention, and the latest on diversity in international arbitration. The conference was highly attended by

participants from the U.S., Latin America, Europe and Asia.

Submitted by Dana MacGrath, ArbitralWomen President and Legal Counsel, Bentham IMF.

## First International Arbitration Conference held in Jaffa, Tel Aviv on 25 February 2019

On the occasion of the first international arbitration conference held in Israel, ArbitralWomen was well represented. Edna Sussman led a panel that explored differences in regions around the world including Russia, China, Africa, the US and India. Gabrielle Nater-Bass and Paula Hodges, as representatives of the Swiss Chambers’ Arbitration Institution and the London Court of International Arbitration, respectively, participated in a lively session on the future of international arbitration covering a wide variety of subjects including new technologies, standardisation and diversity. Other panels covered arbitration in various industry sectors, third party funding, interim measures



L to R: Edna Sussman, Dmitry Dyakin, Helen Shi, Tatiana Minaeva, Sarah Biser, Karan Chandhiok

and expedited rules. The conference was a huge success with over 200 participants in a lovely setting in Jaffa, Tel Aviv.

Submitted by Edna Sussman, ArbitralWomen Member, Arbitrator, Mediator and ADR practitioner.

## International Women's Day Breakfast, on 25 February 2019 in Dubai



L to R (backrow): Richa Goyal, Aarthi Krishnan, Gita Bose, Katrina Morrison, Hannah Moran-Ellis, Harriet Jenkins, Alex Wilson, Zillah K.Kisswany, Nicky Lloyd, Jacqui Record, Rana Nawas, Sarah Kaiser-Cross. L to R (front): Claire Barker, Mandip Dulay

On 25 February 2019, **Arbitral–** Women member **Harriet Jenkins**, Supervising Associate at the international law firm Simmons & Simmons, hosted a lively breakfast roundtable to celebrate International Women's Day in Dubai.

Following this year's theme of 'Balance for Better', the aim of the day was to discuss the challenges women face in the workplace and what improvements are needed to working environments. The group was made up of women from various fields including financial institutions, the legal sector, construction, consulting, and recruitment, currently based in the UAE.

The topics discussed at the event included:

- Unconscious bias - to what extent do we think it plays a part in the modern business world?
- How do we create an environment in which women can excel?
- Networking - to what extent do you think female only networking is effective?
- Is there still a need for an International Women's Day in 2019?

The conversation was strong and involved, which is indicative of the quality and engagement of the attendees.

Opinions on the merit of female-only events were divided. Some considered that female-only events fail to move issues forward and that permitting male attendees would help improve awareness of the issues, stakeholder engagement, and promote gender parity. Others expressed the view that they would not have been as comfortable to share their perspective and insight, or as open with their personal experiences if it had been a mixed-gender group.

The discussion highlighted a popular theme of the day, which was confidence - the importance of confidence for women to succeed, and how we can foster it in the next generation.

An important issue for everyone in the room was identifying how to positively effect change. The group shared their experience and ideas of practical actions to improve their own and other women's experience at work.

Some key take-aways from the day were:

- Confidence is key.
- Women should support and mentor other women, but men should also support and sponsor women in their business, and advocate for gender parity.
- Women's networks work.
- Being aware that unconscious bias exists is not enough. Practical steps must be taken to address and limit the impact of it in the workplace.
- Everyone should take responsibility for progress. If something does not appear right, be bold and push for change!

The event was a great success and marks the start of a new professional network of women supporting women in Dubai. For more information on this, please contact [harriet.jenkins@simmons-simmons.com](mailto:harriet.jenkins@simmons-simmons.com).

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Submitted by Harriet Jenkins, Arbitral-Women Member, Associate, Simmons & Simmons, Dubai.



## CPR 2019 Annual Meeting: Business Unusual: Rules, Tools and Strategies to Disrupt Disputes from 28 February to 2 March 2019 in Washington, USA

**The International Institute** for Conflict Prevention and Resolution (CPR) held its annual arbitration and mediation conference over the course of three days from 28 February 2019 to 2 March 2019. Many ArbitralWomen members spoke at the conference, including **Frances Bivens**, Davis Polk & Wardwell, **Vanessa Alarcon Duvanel**, White & Case, **Hagit Elul**, Hughes Hubbard & Reed, **Betsy Hellman**, Skadden, **Mélida Hodgson**, Jenner & Block, **Dana MacGrath**, ArbitralWomen President and Bentham IMF, **Melissa Magliana**, Lalive, **Kathleen Paisley**, Ambros Law, **Ank Santens**, White & Case and **S.I. Strong**, University of Missouri School of Law.

Ms Bivens and Ms Hellman spoke on 'Dispute Resolution in India'. Ms Bivens also spoke on 'Assault on Arbitration as a Dispute Resolution Mechanism'. Ms Elul and Ms Paisley discussed 'Cybersecurity and Data Privacy'. Ms Magliana spoke on 'Expedited Procedures in Arbitration'.



L to R: Joshua Karton, Dana MacGrath, Jennifer Thornton, Vanessa Alarcon Duvanel, Patrick Pearsall, Peter Buckley

Ms Hodgson and Ms Santens spoke on 'Navigating Risky Business: NAFTA, BITs, ITAs, and Global Trade'. Ms Strong spoke on 'Practical Take-Aways from Court Decisions'. Ms Alarcon Duvanel and Ms MacGrath spoke on 'Confidentiality in the Arbitral Process: Key Motivator or Unreal Expectation?' which included a debate on the benefits and downsides of

confidentiality in arbitration. The conference was highly attended by practitioners and arbitrators from the U.S., Latin America, Europe and Asia.

Submitted by Dana MacGrath, ArbitralWomen President and Legal Counsel, Bentham IMF and Melissa Magliana, Partner, Lalive.

## Women in Law Conference on 1 March 2019 in Vienna, Austria

**The Women in Law Conference** was organised by **Dr Alex Frank-Thomasser** to connect female legal professionals from around the globe and discuss the advancement of women within the wider legal profession. The conference at the University of Vienna began with an historical look at the plight of the first women in law by Professor **Ilse Reiter-Zatloukal** of the University of Vienna. Professor **Margaret Thornton** of The Australian National University then took a look at women in law today and the perennial challenge for gender equity. Thereafter a plenary panel looked at the gender gap in legal professions, including the gender pay gap and the paucity of female equity partners and general counsel in law firms

and companies in various jurisdictions.

The afternoon session was comprised of a series of four hour-long breakout sessions exploring, in considerable depth, five different topics:

i) legal tech and women, ii) millennials, iii) work-life balance, iv) diversity, inclusivity and intersectionality and v) mentorship, networking, and role models.

ArbitralWomen member **Cherine Foty** spoke on the panel in the breakout session entitled 'Diversity, inclusivity and intersectionality – Going beyond gender: How building a culture of inclusion is essential for a holistic and successful way of addressing the dilemma of diversity in the legal profession today'. She spoke alongside **Alex Storer**, Diversity & Inclusion Adviser

(Gender Equality) of the Law Society (UK). Ms Foty discussed the intersectionality between gender diversity and other types of diversity, such a racial and ethnic diversity, geographic diversity and age diversity, as they relate to the field of international arbitration, and law more generally. She discussed, among other topics, the recent full gender parity of the ICC Court of Arbitration, the ICC statistics on age, geographic, and gender diversity, and the various considerations confronted in reconciling those different types of diversity.

Other participants in the discussion raised issues of male solidarity and participation in the path towards achieving greater gender diversity and the means by which to achieve it. Tools which were

mentioned to assist in achieving such diversity were the Male Champions for Change Toolkit prepared by the Law Society, the Equal Representation in Arbitration Pledge, and the recent legal requirement that large law firms report statistics on the gender pay gap and the issues that negative public relations can play in fighting lack of diversity. Gender norms and gender stereotypes, perceptions surrounding motherhood, genderising 'leadership', and providing opportunities on a gender neutral basis were all topics discussed which posed obstacles to achieving greater gender diversity.



Submitted by Cherine Foty, ArbitralWomen Member, Associate, Jones Day, Paris.

Professor Margaret Thornton

## Vienna Arbitration Days, 1-2 March 2019



L to R: Philippa Charles, Claudia Winkler, Giuditta Cordero-Moss, Edna Sussman & Dr Philip Anthony

**The 200+ delegates at the Vienna Arbitration Days 2019** were warmly welcomed by members of the Organising Committee, representing **ArbAut**, **VIAC**, **AYIA** (the Austrian Yearbook of International Arbitration), **ICC Austria**, **YAAP** (Young Austrian Arbitration Practitioners), and **UNCITRAL**, with introductory remarks by **Anna Joubin-Bret**, UNCITRAL's Secretary. The keynote speech from **Professor Catherine Rogers** of Penn State University and Queen Mary,

University of London, discussed the development of Arbitrator Intelligence, which is due to launch later in 2019 and seeks to unlock a wider range of options for parties and appointing counsel by using an in-depth data-driven analysis of an arbitrator's track record to assist parties in making more informed selections of arbitrators.

The first panel featured four ArbitralWomen: **Edna Sussman** (independent arbitrator and mediator), who chaired the session, **Philippa Charles** (Stewarts,

London), **Giuditta Cordero-Moss** (University of Oslo) and **Claudia Winkler** (Negotiation Academy) as well as Dr Philip Anthony from DecisionQuest (a leading mock trial/arbitration provider based in the U.S.). They discussed psychology and its impact in arbitration, including cultural differences, the influence of arbitration practitioners' own national approach (e.g., more or less individualistic), legal subconscious or attachment to one's own legal culture, how framing (story-telling) affects the recipient's response in negotiation and cross-examination and the efficacy of mock arbitration when assessing how, for example, a dominant arbitrator may affect the proceedings and the outcome of the arbitration.

The second panel, consisting of **Wendy MacLaughlin** (GBsqd LLP), Howard Rosen (Secretariat International), and Manuel Conthe (Independent Arbitrator) was chaired by Dr. Günther Horvath (Dr. Günther J. Horvath Rechtsanwalt GmbH) and focused on the importance of mathematics and economics in arbitration. The panelists discussed the issues of delayed calculations in construction disputes. They also discussed the quantification of damages and the specific challenges created by the use of artificial intelligence (AI).

The third panel, which featured

two ArbitralWomen, **Floriane Lavaud** (Debevoise & Plimpton) and **Cecilia Carrara** (Legance), as well as Paul Oberhammer (WilmerHale), Carsten van de Sande (Hengeler Mueller), and moderator Klaus Peter Berger (Center for Transnational Law), considered—from the perspective of counsel—the myriad of ways in which unconscious bias affects arbitration proceedings. After discussing the different types of bias that affect arbitration proceedings, the panel suggested possible solutions and mitigating measures, including through the use of technical tools. The panel also emphasized that arbitrators are often self-aware of their biases and will



Klaus Peter Berger, Floriane Lavaud, Cecilia Carrara & Paul Oberhammer.

indeed try to look beyond the manner and style of presentation of counsel to ascertain the underlying facts.

Submitted by Floriane Lavaud, ArbitralWomen, Counsel at Debevoise & Plimpton, New York.

## ArbitralWomen Contribute to the ICC Institute Advanced Seminar on Settlement Facilitation by Arbitrators on 3 March 2019 in Abu Dhabi

In a fascinating and well-researched keynote address at this year's ICC MENA conference, **Yas Banifatemi** provided an historical perspective on the development of the ICC, reminding us that the ICC was created in 1919 by a handful of entrepreneurs who referred to themselves as 'merchants of peace'. It is perhaps not inappropriate that a century later, the ICC Institute of World Business has developed a seminar devoted to the role of arbitrators in settlement facilitation, a topic on which there is currently no consensus among arbitration practitioners.

The seminar programme was developed by Professor **Klaus Peter Berger**, University of Cologne and Arbitrator, who has written extensively on this topic, and **Patricia Peterson**, Independent Arbitrator, Paris. The first edition of the seminar, co-chaired by Professor Berger and Ms Peterson, took place in Miami prior to the ICC Miami conference, with contributions from ArbitralWomen members **Julie Bédard**, **Edna Sussman** and **Cecilia Azar**.

A second edition of the seminar took place in Abu Dhabi prior to the ICC MENA conference. The Abu Dhabi programme was co-chaired by **Michael Schneider**, Partner, Lalive, Geneva and Ms Peterson

and featured five women as speakers: **Nadia Darwazeh**, Partner, Clyde & Co in Paris, **Sana Belaïd**, Senior Counsel, CISCO, UAE, **Catherine Kessedjian**, Professor Emerita, Arbitrator and Mediator, Paris, **Nagla Nassar**, Partner, Nassar Law, Cairo and **Asli Yilmaz**, Counsel, ICC International Court of Arbitration, Paris. **Peter Thorp**, Independent Arbitrator, Paris, provided an Asian perspective on the topic at both seminars, on the basis of his extensive experience in the region.

The aim of this ICC Institute seminar was to explore what Professor Berger has described as the 'arbitrator's role continuum' in settlement facilitation, which can range from no involvement at all to direct involvement. The objective is to examine this issue from all perspectives, looking at different modes of settlement facilitation, relevant texts, difficulties, possible advantages and party expectations. The seminar reviewed indirect methods of settlement facilitation, focusing on widely accepted case management techniques and their potential impact on settlement negotiations that may be conducted by the parties in parallel to arbitration proceedings (Catherine Kessedjian and Nagla Nassar led this part of the programme). Moving further along the role continuum, one of

the panels was devoted to more direct settlement facilitation, providing examples of techniques used in Germany and Switzerland as well as in Asia (presented by Michael Schneider and Peter Thorp). A panel at the end of the seminar took a practical look at awards by consent, both from the perspective of the arbitrator and the practice of the ICC International Court of Arbitration (Asli Yilmaz and Patricia Peterson presented this topic).

The seminar was structured as a combination of presentations to introduce the various topics and sessions, during which participants worked on case scenarios, which were then discussed in a plenary session. One of the highlights of the Abu Dhabi seminar was a very lively debate, moderated by Michael Schneider, between Nadia Darwazeh and Sana Belaïd in which they presented opposing views as to whether arbitrators should have any involvement in settlement facilitation. With excellent contributions from participants and speakers throughout the day, the seminar met its objective of exploring this controversial topic from many angles.

Submitted by Patricia Peterson, ArbitralWomen Member, Independent Arbitrator.

## Cyber Security and Data Protection in Transatlantic Disputes – A CPR Y-ADR and DIS40 Seminar, on 6 March 2019 in Frankfurt

**A complex web of data protection** regulations to meet the growing cybersecurity threats are imposing new challenges and affecting the way in which we resolve transatlantic disputes. These challenges – along with the best practices to handle them – were discussed in Frankfurt on 6 March 2019 by **Vanessa Alarcón Duvanel**, White & Case, **Hugh Carlson**, Three Crowns, Jeremy Hannah, GE Power, **Elizabeth Hincapié**, Leica Camera and **Lukas Schultze-Moderow**, Gleiss Lutz in a debate moderated by **Yael Ribco Borman**, Shearman & Sterling.

The event was co-organised by CPR Y-ADR and DIS40, supported by the CPR European Advisory Board and hosted by Shearman & Sterling. The discussion was also made available via live webinar.

**Esther Jansen**, Shearman & Sterling, delivered welcome remarks, followed by **Markus Altenkirch**, Baker McKenzie, on behalf of DIS40 and **Olivier André** on behalf of CPR Y-ADR, who also presented the new 2019 CPR Rules for Administered Arbitration of International Disputes in force as of 1 March 2019.

All panelists agreed that cybersecurity and data protection regulations are becoming increasingly relevant for international arbitration. Disputes often involve high-profile parties, high damages claims, issues that are often economically or politically sensitive, and a large amount of data transferred and stored across borders. All of these elements trigger data protection questions and cybersecurity risks.

The panel shared various examples of (too) frequent practices that increase the risk of data privacy and cybersecurity threats. These include the use of non-encrypted memory sticks, the download of arbitration

material (pleadings, exhibits, procedural orders) on public Wi-Fi (such as in airport lounges, hotels and coffee shops) and the use of unsecured email addresses. Basic measures could easily mitigate these risks.

Some measures are being adopted in order to address the new challenges related to compliance with data protection regulation and cybersecurity threats. For example, the panel mentioned the guidelines developed by the ICCA-NYC Bar-CPR Working Group on Cybersecurity in International Arbitration, designed to raise awareness and assist counsel, arbitrators, and arbitral institutions in addressing cybersecurity matters. Some arbitral institutions, such as CPR and DIS, have also included cybersecurity provisions in their most recent arbitration rules.

These are invaluable first steps, but the panelists agreed that more needs to be done. To date, there is no minimal standard of cybersecurity and data protection measures applicable to all international arbitration proceedings around the world and a “one-size fits all” approach would be inappropriate. Rather, the appropriate measures must be determined individually in each par-

ticular case, taking into consideration the relevant circumstances including, in particular, the risks involved and the parties’ budget. This requires awareness and pro-activeness on the part of all players in transatlantic disputes: the parties, their respective counsel(s), the institutions and the arbitral tribunals. Indeed, the risks are diffused among all actors involved and the panel agreed that data protection and cybersecurity should not be the responsibility of only one of them. A collective effort is the solution, at least for now, while data protection and cybersecurity awareness grows to become a factor that everyone in an international arbitration will inevitably think about on day 1.

Until we get there, events such as this one, alerting the arbitral community of the threats of cybersecurity and the data protection issues arising out of a transnational dispute, will remain the right tool for the future.

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Submitted by Yael Ribco Borman, Associate, Shearman & Sterling, Frankfurt and Vanessa Alarcón Duvanel, Associate, White & Case, Geneva



L to R: Markus Altenkirch; Olivier André, Lukas Schultze-Moderow, Hugh Carlson, Vanessa Alarcón Duvanel, Elizabeth Hincapié, Jeremy Hannah, Yael Ribco Borman.

## Live Debate ‘Increasing Diversity in International Arbitration?’ on 8 March 2019 in Shanghai, China



L to R: Shi Lei, Lin Yanhua, Yang Xiaofu, Hu Ke, Yang Lin, Zhou Rui, Arthur Ma, Ye Weina, Sophia Feng.

**On a beautiful afternoon in** Shanghai, China, ArbitralWomen members **Weina Ye**, Senior Associate at Herbert Smith Freehills, as one of the debaters, and **Stella Hu**, Senior Associate at Herbert Smith Freehills, as a representative of HK45, participated in a Hong Kong International Arbitration Centre (HKIAC) Women in Arbitration (WIA) and HK45 joint event featuring a debate entitled ‘Increasing Diversity in International Arbitration’ with 8 young and bright Chinese international arbitration practitioners, a topic that fits perfectly with International Women’s Day.

**Yang Lin**, HKIAC Deputy Secretary General, founder of HKIAC WIA, chaired the event. In her opening remarks, Ms Yang said that the topic of this event was inspired by valuable feedback from the participants in WIA’s 2018 events encouraging gender equality and diversity in international arbitration, one of which was whether emphasising gender equality in itself indicates an unconscious bias. WIA therefore invited debaters and commentators from different nationali-

ties, genders, ages and backgrounds to discuss the topic.

Ms Ye was the second debater in a team of four debating for the need to increase diversity in international arbitration. Her teammates were **Sophia Feng**, Allen & Gledhill, **Arthur Ma**, Dahui and **Zhou Rui**, SHIAC. The team started the debate by inviting the audience to consider whether they agree that the stereotype of international arbitrators being ‘male, pale and stale’ exists and whether they are also unconsciously biased by this stereotype. The team relied on abundant statistics and research results to demonstrate that the number of successful and leading female arbitrators is out of proportion to the percentage of female law students in schools. They used the famous metaphor of the ‘leaky pipeline’ to demonstrate that as their careers progress, female legal practitioners gradually drop out of the career ladder due to various reasons including marriage, family, children or simply an unconscious bias that leadership and career achievement are more important

for men than women. The team identified a pressing need to increase diversity, not limited to gender, age or culture, in international arbitration in order to meet the demand of the users, in particular in the ever-changing commercial world.

The team debated against the proposition that most by no means disagree that diversity is important in international arbitration. Their position, demonstrated loud and clear by four team members consisting of **Hu Ke**, Jingtian&Gongcheng, **Yang Xiaofu**, HuiZhong, **Lin Yanhua**, Fangda and **Shi Lei**, Clifford Chance, was that the pursuit of a highly professional group of arbitrators and arbitration practitioners, with expertise and experience, as a whole is the everlasting goal in international arbitration, instead of a mere pursuit of diversity. They believe that what the users of international arbitration are looking for is not diversity or gender equality, but simply qualified and experienced arbitrators as the decision makers for their disputes. Diversity is one of the important developments that has evolved with the demand of the market and there is nothing in the modern international arbitration practice preventing it from developing and evolving. *‘International arbitration is not just one restaurant offering limited dishes; instead, it is a street full of restaurants with various international cuisines with new dishes constantly being added onto their menu’* said the team.

90 minutes quickly passed by in the course of the inspiring and heated debate. The topic and the teams’ performances won critical acclaim from the commentators, including Peking University Law School Professor **Fu Yulin**, **Sun Binbin**, Zhonglun, **Qin Yuemin**, Llinks and **Anton Ware**, Arnold & Porter, as well as from the audience. It was a successful debate as it raised awareness of the importance of diversity in international arbitration, just as in all other aspects in today’s world.

*International arbitration is not just one restaurant offering limited dishes; instead, it is a street full of restaurants with various international cuisines with new dishes constantly being added onto their menu*

Submitted by Stella Hu and Weina Ye, ArbitralWomen Members, Senior Associates at Herbert Smith Freehills.

## Columbia Arbitration Day, on 8 March 2019 in Columbia



L to R: Caroline Richard, Julissa Reynoso, Erin Thomas, Dana MacGrath, Emily Slater, Alex Spiro.

**Columbia Arbitration Day, held** on 8 March 2019, which date coincided with International Women's Day, featured a discussion about diversity and inclusion in international arbitration entitled 'What does diversity bring to arbitration?' in partnership with ArbitralWomen.

Moderator: **Caroline S. Richard**, Freshfields

Speakers: **Julissa Reynoso**, Winston & Strawn, **Erin Thomas**, Covington & Burling, **Dana MacGrath**, Bentham IMF and ArbitralWomen, **Emily Slater**, Burford Capital, **Alex Spiro**, Quinn Emanuel and **Mirèze Philippe**, ICC Paris and ArbitralWomen.

### 'It's a man's, man's, man's world'

*As the first woman in my family to pursue higher education, International Women's Day has always felt personal and meaningful to me. Little did I know that as a woman aspiring to pursue a career in international arbitration, my chances of ever accessing to the highest positions in the field are, statistically speaking, limited.*  
— Lucia Gruet

Despite awareness of diversity issues for several years now, the pool of typical international arbitrators is, with

very few exceptions, still composed of 'male, pale, and stale' profiles. As James Brown once sang, it is a 'man's, man's, man's world', and the long-term effects of this are significant.

During our Columbia Arbitration Day nearly 10 years ago, panelists addressed the problem of diversity when appointing arbitrators for the first time. Since then, discussion about gender parity in the dispute resolution field have gained popularity around the world.

**Mirèze Philippe** co-founded ArbitralWomen 25 years ago and has been a witness of the progress made in increasing gender representation in the world of arbitration. She has been publishing statistics about women nominated in ICC arbitrations and at the International Court of Arbitration for years. The key metrics that she shared during the conference were quite telling and traced the progress made thus far. Before 2010, there were no statistics. In 2010, she found that 7.2% of arbitrators were female and this percentage grew to 16.7% in 2017. As for nominations of female court members, Mirèze Philippe pointed out the disparity in a survey she published: there were 1 to 7% between 1980 and 2003; from 2003 and 2015, the percentages vary

between 10 and 16% and then rose to 23% in 2015. Thanks to this wake-up call, in 2018, the ICC Court achieved strict gender equality for the first time.

This is a great example showing that while we still have a long way to go, there are positive signs of evolution. Those changes are happening not only in the arbitration field but also in society as a whole. **Dana MacGrath**, President of ArbitralWomen, pointed out that last year the US Congress saw an historical number of women, African-American and Hispanic, members elected into office. A new congress is looking like the people it serves. Likewise, it is important that arbitration reflects the diversity of its users. All the more so because the legitimacy of arbitration is currently being questioned.

Recently, Jay Z got the attention of the media on the lack of diversity in the profession. **Alex Spiro**, his counsel, explained that the inability to find an African-American arbitrator to hear the dispute was perceived as unfair (or to quote Jay Z, 'too white to be fair').

### Why is diversity important?

This may sound like a rather provoc-

ative question. Yet, it is far from being obvious to everyone. There is a false belief that ‘increasing diversity would dilute the quality of arbitrators’. Some counsel even argue that when appointing arbitrators, the primary goal is to appoint the best person and that diversity is thus, secondary. Yet, as **Erin Thomas** pointed out, the evidence is overwhelming that diversity — gender, racial, ethnic — is good. Among other favorable attributes, studies show that a diverse group tends to make better decisions, have positive results, involve fewer risks, and be more productive. As Julissa Reynoso mentioned, diversity can also provide greater competition and, thus, greater efficiency. People who thrive in time of adversity tend to be more resilient and better problem solvers.

One of the main issues is that it is hard for new arbitrators to get appointed. Counsel tend to appoint arbitrators based on word-of-mouth or familiarity with the candidate’s background. This tendency leads to a system which is not diverse or representative, and where the same few people tend to be reappointed again and again.

Another cause of under-representation of diversity in the senior ranks is due to the ‘pipeline leak’. This issue is not limited to international arbitration. It is also visible across the legal profession. The proportion of diverse law students and junior associates is far higher compared to partners. The high dropout rate means that those lawyers never reach the level of experience necessary to serve on tribunals.

### Contributing to change

The need for change appears to be widely accepted and many key players in the field recognise the need for greater diversity in arbitration. Yet, acknowledging the issue is only the first step.

In the investor-State arbitration field, when ICSID is the appointing authority, potential arbitrators listed on ICSID’s panels are nominated by Member States. In this particular case, member states could make sure to present a diverse pool of candidates. Thus, they can make sure to present a diverse pool of candidates. Amongst arbitral institutions, the

increasingly diverse character of institutional appointments already demonstrated real commitment towards a greater diversity of profiles. Counsel also have their fair share of responsibilities by putting together and proposing list of arbitrators to their clients and advocating for their appointments. Law firms can also collect and analyse data about their own appointments.

As **Emily Slater** explained, funders have also a role to play in the equation. As the party holding the purse strings, they can put the money where their mouth is by incentivising a greater focus on what they value, including diversity. Burford’s Equity is one those projects: they provide an economic incentive in support of diversity.

Other initiatives directed at improving diversity in international arbitration exist. As **Caroline Richard** mentioned, the Equal Representation in Arbitration Pledge features an arbitrator search tool. The ArbitralWomen’s Diversity Toolkit, and the more recent ABA Resolution 105 are also amongst those initiatives.

When it comes to fixing the leak in the pipeline, women’s organisations such as ArbitralWomen, mentorship programs and seminars are also particularly effective in creating role models for the next generation.

Submitted by Lucia Gruet, LL.M. Candidate (expected in May 2019), Columbia Law School, New York.

Columbia Law School COLUMBIA INTERNATIONAL ARBITRATION ASSOCIATION

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[www.law.columbia.edu/columbia-arbitration-day](http://www.law.columbia.edu/columbia-arbitration-day)

## International Women's Day 2019, on 8 March 2019 in London

On 8 March 2019, The Chartered Institute of Arbitrators (CI Arb) celebrated International Women's Day with an evening lecture delivered by **Lucy Greenwood** entitled 'Why I don't have a boiling tap: the effect of social conditioning on careers in the law'. The event was generously hosted by Pinsent Masons LLP. The lecture was very well attended and marked one of many CI Arb initiatives in promoting diversity and inclusion in ADR.

At the beginning of the event, **Marion Smith QC** welcomed the attendees and briefly described CI Arb's actions and policies reflecting its commitment to diversity. She underlined that although the main focus of the night was on women, the true point of events like this was about embracing inclusivity. She further referred to functions of an arbitrator, such as the capacity to decide, to inspire trust, capacity not to need approval and manage the proceedings and emphasised that these skills are not exclusive to any specific gender, race, nationality or social class. Ms Smith then introduced the speaker Lucy Greenwood and reflected on Ms Greenwood's significant achievements and a great contribution to CI Arb.

Ms Greenwood started by mentioning the centenary of the *Sex Disqualification (Removal) Act 1919 (UK)*, which enabled women to become barristers, solicitors, jurors and magistrates. She then quoted the current statistics which indi-



Lucy Greenwood during her lecture entitled 'Why I don't have a boiling tap: the effect of social conditioning on careers in the law'

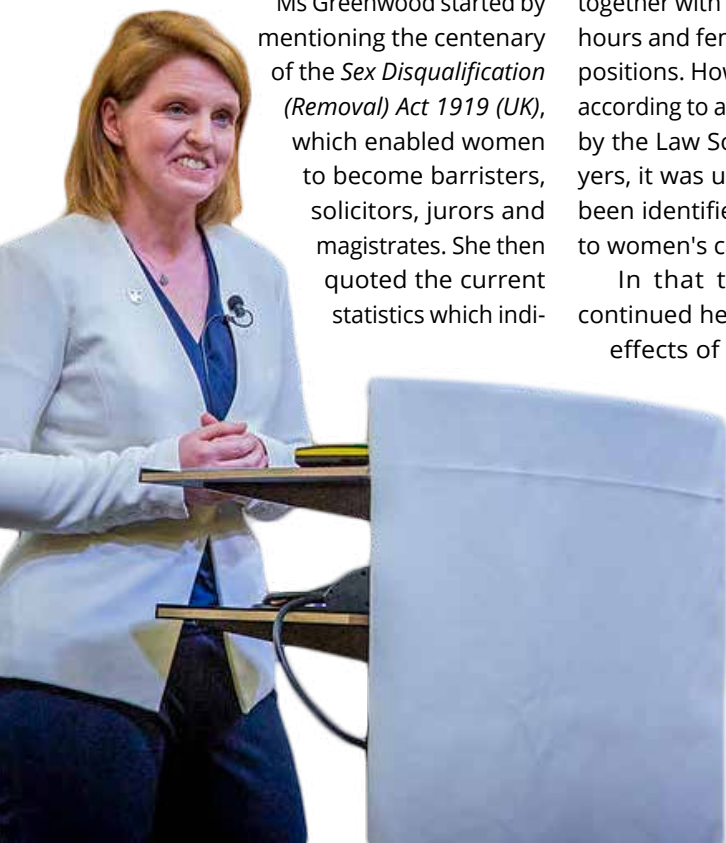
cated that although females constitute 68% of current law students and 62% of trainees there are only around 20% of female equity partners in law firms. These statistics are similarly alarming at the bar, where only 29% of barristers are women and only 13% are Queen's Counsel. She described the phenomenon of a pipeline leak which refers to women leaving the profession before reaching senior ranks. As reasons for this situation, Ms Greenwood listed difficulties in managing careers and child care, together with the lack of flexible working hours and female role models in senior positions. However, as she pointed out, according to a survey conducted recently by the Law Society among female lawyers, it was unconscious bias that had been identified as the greatest barrier to women's careers.

In that theme, Ms Greenwood continued her speech focusing on the effects of unconscious biases and possible ways to address challenges arising out of them. According to the studies, people act differently to babies based on their sex, which resonates in their future behaviour and occupation. Social conditioning

and gender stereotypes further lead to unconscious bias which holds women back in their careers. Our behaviour is not entirely under our conscious control but it is driven by learned stereotypes.

Ms Greenwood further clarified the origin of the title of the lecture. She explained the decision not to install a boiling tap in her kitchen which would have provided her with immediate access to hot water instead of a need for boiling it, was a deliberate choice she had made. This decision granted her five minutes of waiting for the water to boil during which she is able to complete multiple small tasks and chores. She then referred to the unequal division of the so-called mental load in the majority of couples where usually the women are burdened with the significantly greater proportion of family chores that are difficult to outsource. Ms Greenwood further explained that she did not make a decision to become a multitasker and burden herself with this mental load, but she was socially conditioned to behave in this way and so are other women.

Ms Greenwood continued the topic of social conditioning and unconscious bias by providing some further examples of this phenomenon. For instance, resumes with female names are rated lower in comparison to male resumes





with the same qualifications. Moreover, replacing a woman's name with a man's one on the resume can increase the chances of getting hired by 60%. Furthermore, there are different responses to the same situations faced by men and women. She referred to an example in the book by Sheryl Sandberg, *'Lean In: Women, Work, and the Will to Lead'*, where a couple of lawyers working at the same law firm had a baby. After the mother had returned from her maternity leave she was continuously sent home at 5 pm as a parent who had a baby to look after, whereas her partner was regularly kept late as a person who had a family to support.

Ms Greenwood noted that there is an increased awareness of the unconscious biases and their implications. As the initiatives undertaken to combat gender stereotypes and increase diversity, she mentioned Equal Representation in Arbitration Pledge and ArbitralWomen's Diversity Toolkit. In her opinion, the most significant progress made so far is raising awareness that gender inequality is not only a women's issue.

As a reasonable solution which can be undertaken by anyone Ms Greenwood recommended taking a critical look at messages sent to the younger generations. Ms Greenwood urged the audience to be conscious about the way they are approaching children, as the gender stereotypes set in their childhood resonate broadly on their future careers. It is also important not to make assumptions, but instead to try to re-program our brains to fight unconscious bias. When it comes to practical steps to fight unconscious biases she suggested providing access to flexible working hours, creating networking opportunities and mentoring younger practitioners.

However, Ms Greenwood remarked that one of the main challenges is to 're-wire our brains' to counteract our subconscious biases. She illustrated this point with a humorous video clip of people trying to learn how to ride a so-called 'backwards bike' (a bike that works in reverse — if you turn the handlebars left, the front wheel will turn right, and vice versa). All the participants in the experiment failed to adjust their brains to learn how to ride the backwards bike and

it took the researcher eight months to master it. Lucy noted that if re-learning a discrete skill such as riding a bike was this difficult, the challenge of re-learning our subconscious prejudices would likely be even greater.

In the end, Ms Greenwood invited the delegates to review their behaviour and refrain from making assumptions as talent is not predicated by gender.

The lecture was followed by a lively Q&A session after which the discussions were continued during a drinks reception generously sponsored by Pinsent Masons LLP.

To view Lucy Greenwood's International Women's Day Lecture, please, go to CI Arb's Facebook page.



[Click here to view Lucy Greenwood's Lecture.](#)



[Click here for the photo gallery of the event.](#)

Submitted by Natalia Otlinger, Arbitral Women Member, PR & Engagement Executive, CI Arb



Marion Smith QC



## International Women's Day Celebration by ICC World Business Women, on 8 March 2019 in Paris



Mirèze Philippe



Valentine Chessa

### On 8 March 2019, the World

Business Women's initiative hosted a lunchtime discussion at the International Chamber of Commerce (ICC) headquarters to celebrate International Women's Day (IWD) and the official launch of their '100 Ways Women make Business Work' campaign to mark the centenary of the ICC. The main speakers were **Valentine Chessa**, Partner at CastaldiPartners and ArbitralWomen Board Member, and **Mirèze Philippe**, Special Counsel, Secretariat of ICC International Court of Arbitration, ArbitralWomen co-founder and Executive Committee Board Member.

**Alex James**, committee member of World Business Women (WBW) and moderator of the event, opened the discussion with a reflection on this year's IWD theme: Balance for Better. He stressed that to build a gender-balanced world was not just a women's issue but a business issue. This year's theme is very much in keeping with the WBW initiative, which strives to ensure that ICC contributes a stronger, more exemplary voice of global business on gender inclusive values.

Staff members of ICC saw a short video message from ICC Secretary General **John Denton**, in which he emphasised his own com-

mitment to gender parity as the WBW Ambassador. Referring to the 100th Anniversary of ICC, he drew a contrast between the male founding members of the World Business Organisation and the next 100 years of ICC which will see more women being championed in ICC governance.

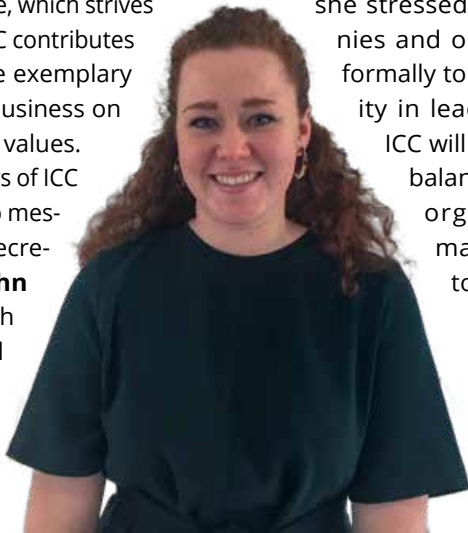
WBW then took the opportunity to update the staff on their progress. Committee members, **Emily Harris** and **José Godinho**, highlighted the commitment to change across ICC departments with the support of statistics gathered since the launch of the ICC Gender Balance Pledge in October 2018 ([click here](#) to read the report on 'The Time is Now! — ICC World Business Women on 17 October 2018 in Paris).

Committee member, **Timea Suto**, praised the ICC leadership for their accountability to the Gender Balance Pledge. Citing a study carried out by IBM Institute for Business Value (IBV), she stressed that 79% of companies and organisations are yet formally to prioritise gender parity in leadership. In contrast, ICC will now consider gender balance as a metric of the organisation's performance, with John Denton providing statistics

at the bi-annual executive board.

On this note, **Rachel Dignam** officially launched the '100 Ways Women make Business Work' awareness-raising campaign to celebrate the centenary of ICC. She outlined the spirit of the collaborative campaign, which will see member companies, National Committees, chambers of commerce and other key stakeholders come together to showcase women in trade. The campaign will identify individuals who have championed women in business and highlight key milestones for women in global trade. It will also explore ICC initiatives to support women on the ground and efforts from the larger business community to make business work for everyone. Lastly, the campaign aims to outline actions that can be taken by all stakeholders to increase women's participation in trade.

Mirèze Philippe then took the floor to highlight five organisations dedicated to gender parity, and which cooperate or promote each other as they share the same objectives. She outlined the work of ArbitralWomen founded in 1993, which has made huge progress in bringing women in arbitration forward; World Business Women founded in 2012, an ICC staff-driven initiative which recently implemented the ICC Gender Balance Pledge; Equal Representation in Arbitration Pledge founded in 2015, which gathered key stakeholders to identify solutions to the problem of under-rep-



Meghan Hennessy

resentation and created a pledge which was signed by 3000 individuals, firms and organisations, including the ICC; GQUAL founded in 2015, which stands for gender equality and which acts anywhere where women are discriminated against; and the Bufford Equity Project launched in 2018, which has committed US\$50 million to women-led litigation. She declared that every initiative matters, and that uniting and co-promoting initiatives has a much stronger impact on change.

Moderator Alex James then posed several engaging questions to guest speaker Valentine Chessa, about her experience in the male dominated world of arbitration and the milestones reached by her law firm in championing women. Valentine, one of two female partners at Castaldi, is one of the biggest achievers in terms of gender diversity in her firm. She believes that the decision to promote women in leadership was not so much part of an affirmative action process but rather an acknowledgement of people who were performing well within the firm, regardless of their gender. However, Valentine remarked that the landscape has changed in recent years and that concerns which were not raised in the past have now gained legitimacy. Furthermore, Castaldi has actively supported ArbitralWomen, hosting events and giving

*‘If law firms and companies want to be diverse they need to encourage and support women through all stages of their lives’*

— Valentine Chessa

them access to their influential network.

According to Valentine, the biggest obstacle to achieving gender equity today is unconscious bias: social stereotypes which come from beyond our conscious awareness. She has observed that when a list of potential arbitrators is presented to a client ‘the obvious choice is always the man’. Tools such as the ArbitralWomen Diversity Toolkit™ enable clients to reveal this unconscious bias, but there is still a long way to go. ICC staff members were in agreement that the organisation could benefit from official training on the subject.

Furthermore, Valentine believes that there must be real intention in order to achieve gender balance: while female millennials benefit from the progress achieved and resources provided by previous generations, they must be actively encouraged to take up space in the arbitration world: *‘If law firms and companies want to be diverse they need to encourage and support women through all stages of their lives’*.

On the topic of young women finding their place in the industry today, both Mirèze and Valentine stressed the importance of confidence and visibility. Mirèze declared that women should never let themselves be intimidated but should never be aggressive, because people will remember a woman as being aggressive as opposed to a man adopting the same attitude who would be considered as being assertive! Moreover, Valentine is an advocate for the women in her entourage and believes that teamwork enables women to overcome deep-rooted biases. After all, in the spirit of ArbitralWomen, *‘when we help other women, we also help ourselves’*.

The engaging lunchtime discussion was attended by roughly 50 staff members from various departments within ICC. The audience was evidently passionate about this year’s IWD theme with members sharing their own experiences and impressions on gender balance in the legal and commercial profession.



[Click here to read IBM Study.](#)

*Women matter. Every gender diversity initiative matters and we must ensure continuity until equality is reached. Uniting and co-promoting initiatives has a much stronger impact to bring change.*

— Miréze Philippe

Submitted by Meghan Hennessy, Bilingual Assistant at the International Court of Arbitration.



ICC Staff members celebrating IWD

## Seminar on International Trade, Investment and Arbitration in Montevideo, on 11 and 12 March 2019, in Montevideo, Uruguay



L to R: Ignacio Torterola, Verónica Sandler Obregón, Pedro Melo, Alvaro Galindo, María Verónica Duarte García (chair)

### An important event in the field

of international commercial and investment arbitration in Latin America took place on 11 and 12 March 2019, in Uruguay, Montevideo. The event, organised by **Jenifer Alfaro**, brought together distinguished speakers from, among others, the United States, Spain, Brazil, Peru, Colombia, Argentina, and Uruguay, each of whom addressed cutting-edge topics

of academic and practical importance.

**Veronica Sandler Obregón**, a member of ArbitralWomen, was an invited speaker on the panel on 'New trends in Investment Arbitration'. Together with prestigious colleagues, she shared insights about the Argentine experience on the subject, and discussed current developments in the area. The event was organised by women professors of the

School of Law of the Republic University (**UDELAR**), and was supported by important institutions such as the International Chamber of Commerce (**ICC**), Chamber of Conciliation, Mediation and Arbitration **CIESP FIESP**, the Iberoamerican Center of Arbitration (**CIAR**) and the Spanish Club of Arbitration (**CEA**), among others.

Veronica Sandler Obregón noted after the event: *'In addition to the excellent choice of speakers and topics, I wish to underscore the organisers' efforts to shape the presentations with a view towards greater gender diversity, thus expanding the range of participants and showing great commitment to bringing new players into the arbitration field. Also, I commend the event for having added simultaneous workshops offering practical topics and case work aimed at young professionals'*.

Submitted by Veronica Sandler Obregón, ArbitralWomen Member.

## IWD Breakfast, Louise Barrington in Conversation with the Right Honourable Beverley McLachlin, on 9 March 2019 in Toronto, Canada

**Sixty eager arbitration/litigation specialists** gathered at Toronto's Arbitration Place to listen with rapt interest as Canada's former top Judge, the Right Honourable Beverley McLachlin, former Chief Justice of the Canadian Supreme Court and currently an arbitrator at Arbitration Place, recounted some of her experiences — as a litigator, professor, judge, appeals court justice, and ultimately as the longest serving Chief Justice of the Supreme Court of Canada.

The Chief Justice's advice to the audience?

1. Actively plan your career and then go after it — don't think you can



L to R: Honourable Beverley McLachlin and Louise Barrington

succeed by just 'waiting for the right thing to come along'.

2. Build your confidence — your delivery is key to persuading the Judges of your client's position.
3. Seek out mentors and sponsors where you find them — they will not always be women, but they do hold the keys to success.
4. Be resilient — the practice of law is not always pure joy, but pick yourself up when you fall, learn from your mistakes, keep your eye on your goal, and keep on working!

Submitted by Louise Barrington, ArbitralWomen Member, Chartered Independent Arbitrator, Toronto, Canada

# Women's Initiatives In Their Workplace

## The Mayer Brown Women's Committee

### Promoting Strong Actions by Inspiring Women event in Paris on 20 September 2018



L to R : Cécile Bastide, Mireille Faugère, Valérie Lombard, Sophie Vernay



L to R : Jessica Rheims, Audrey Pulva, Emily Pennec

**Women's initiatives at Mayer Brown** are governed by a global Women's Leadership Committee working in conjunction with the firm's global Management Committee. In each region or office, there is a Women's Committee which governs women's initiatives at the office level. On the occasion of its creation at the beginning of 2018, the Paris office Women's Committee has wished to promote strong actions taken by inspiring women. These messages were reinforced on 20 September 2018, when Paris partners, on the initiative of the Paris Women's Committee, brought together more than 300 clients for a reception dedicated to inspiring women. The event was held at the GoodPlanet Foundation, an organisation with which Mayer Brown has developed a warm relationship over the years, including

sponsoring the 2017 US West Coast debut of the foundation's documentary film 'Human'.

After a keynote speech delivered by Paris office partner-in-charge **Jean-Philippe Lambert** and Women's Committee chair **Emily Pennec**, speakers included: **Danielle Mérian**, president of SOS African Women in Danger; Jessica Rheims, humanism and solidarity program manager of GoodPlanet Foundation, **Yann Arthus-Bertrand**, president and founder of GoodPlanet Foundation and co-director of the movie Woman; Anastasia Mikova, co-director of Woman; Claire Nouvian, president of the Bloom Association; and master of ceremonies **Audrey Pulvar**, journalist and president of the Fondation pour la Nature et l'Homme. Each speaker talked about the source of their commitment

and why they had decided to help advocate for those less privileged.

Following the moving testimonies, the audience heard presentations from humanitarian organisations, including those by: **Mireille Faugère**, AMREF Flying Doctors, **Sophie Vernay**, CARE, Valérie Lombard, Human Rights Watch, and **Cécile Bastide**, Association Petits Princes. The reception was an opportunity to raise awareness of, as well as funds for, their organisations.

No doubt that this event felt unique for all the attendees, proof being that we have never got such numerous positive feedbacks before.

Submitted by Mireze Philippe, Arbitral Women member, Special Counsel, ICC International Court of Arbitration, France.

[SOS African Women in Danger](#)

[GoodPlanet Foundation](#)

[Fondation pour la Nature et l'Homme](#)

[AMREF Flying Doctors - FR](#)

[AMREF Flying Doctors - EN](#)

[CARE](#)

[Human Rights Watch](#)

[Association Petits Princes](#)

# ArbitralWomen Partners' and Others' Initiatives



## Launch of AIQ Women Arbitrators Campaign on International Women's Day, 8 March 2019

We are excited to announce that ArbitralWomen is partnering with Arbitrator Intelligence (AI) on a joint AW-AI AIQ Women Arbitrators Campaign. The campaign was launched on 8 March 2019 – International Women's Day 2019.

ArbitralWomen is excited to partner with Arbitrator Intelligence in this campaign. We are optimistic that the campaign will result in the compilation of data regarding female arbitrators that will lead to AI Reports that promote diversity in the appointment of arbitrators by providing data-driven metrics on arbitral proceedings.

Please participate in the campaign by filling out an AIQ! To learn more and to complete AIQs on women arbitrators, please visit the Arbitrator Intelligence website [here](#).



## CPR Institute Launches New Compilation of CPR's Female Neutrals

The International Institute for Conflict Prevention and Resolution (CPR Institute) launched a compilation of CPR's Female Neutrals, many of whom are ArbitralWomen members, at CPR's 2019 Annual Meeting in Washington, D.C. The compilation is titled, 'Look Who's Joined ADR's Most Exclusive Club'.

This CPR initiative profiles a talented group of female individuals. The compilation contains reflections from many of CPR's female neutrals. Well beyond mere bios, female panelists in this book answer such

questions as 'Were you ever the first to do something? What makes your style of conflict resolution unique? What is the biggest mistake you see advocates make in an arbitration/mediation? How can parties help to ensure progress when they reach an impasse? And what do you see as the 'next big thing' in global dispute prevention and resolution?'

We are happy to be able to share a digital copy of this book with you. Click on the cover to download.



# ArbitralWomen Partners' and Others' Initiatives

## CIArbWomenInADR initiative



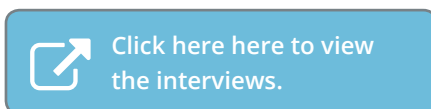
To celebrate International Women's Day, CIArb interviewed professionals from various jurisdictions, at different stages of their careers and asked them about their experiences as female practitioners in ADR. The interviewees talked about their incredible achievements as well as challenges they had to face. The excellent stories they shared can serve as an inspiration and empowerment for female practitioners around the globe.

It is worth noting that a number of the interviewees are proud members of ArbitralWomen. CIArb, a partner of ArbitralWomen, is delighted to support ArbitralWomen by presenting on its website inspiring profiles of its members.

CIArb is continuing to post interviews on its website and social media platforms; click the button below to view the interviews.

The CIArbWomenInADR initiative started at the beginning of March coinciding with CPR's Female Neutral initiative which was launched in Washington on 8 March 2019. ArbitralWomen had also launched on 8 November 2018 in New York the book on Women Pioneers in Dispute Resolution. These three initiatives about role models and female practitioners in dispute resolution sharing their experience will hopefully be inspirational to other female practitioners.

The CIArb initiative was spearheaded by the writer Natalia Otlinger.



Natalia Otlinger, CIArb PR and Engagement Executive, ArbitralWomen marketing committee member.

## Helping Women Create Better Outcomes: Take Charge Negotiations™

**Take Charge Negotiations™** is a consultancy that was founded by **Erin Gleason** to support women in negotiations through one-on-one consulting services and group training programs. Erin created this company after hearing too many stories from girlfriends, female clients and co-workers about how they are nervous about asking for things they're clearly entitled to in business negotiations.

This new and innovative firm will provide bespoke trainings that emphasise the importance of strategic planning, risk management techniques, and skills development to help women thrive in negotiations. By familiarising oneself with key techniques for better understanding the dynamics of a negotiation, and getting clear on priorities, you empower yourself and increase the likelihood of better outcomes.

More details about the original programming that Erin has created may be found on [www.takechargenegotiate.com](http://www.takechargenegotiate.com).

Erin is an accomplished arbitrator and mediator and a member of ArbitralWomen. She has worked in the dispute resolution field for nearly 20 years and trained thousands of people on negotiation skills and techniques. She speaks regularly at conferences and community organisations about negotiation and the unique challenges that women face in these conversations. For more information on Take Charge Negotiations, please email Erin at [erin@takechargenegotiate.com](mailto:erin@takechargenegotiate.com).



# Mark your agendas

The following events will be held in various locations worldwide. Save the dates and follow us on our website for further information on such events and others that we regularly add.

Date	Venue	Event
<b>15</b> APR 2019	Vienna	Roundtable: Choice of Law in International Contracts
<b>17</b> APR 2019	Paris	Construction Arbitration in the East Mediterranean
<b>23</b> APR 2019	Singapore	CIArb Asia-Pacific Regional Conference 2019
<b>24</b> APR 2019	Lima	XIII Congreso Internacional de Arbitraje IPA – El arbitraje honesto: no solo debe serlo sino también parecerlo
<b>25</b> APR 2019	Prague	Prague Rules: Making Arbitration Great Again?
<b>26</b> APR 2019	Prague	Anti-Globalization and International Arbitration: Winds of Change and Protest in Europe?
<b>1</b> MAY 2019	Cardiff	The Society of Construction Law Seminar: Adjudication of construction professional negligence claims
<b>3</b> MAY 2019	Zürich	Young ICCA Skills Training Workshop Cross-examination in International Arbitration
<b>8</b> MAY 2019	London	London International Disputes Week 2019 Social Event for the Young and Young at Heart (YAYAH) featuring Law Rocks
<b>9</b> MAY 2019	London	Diversity Drinks Reception hosted by representatives of ArbitralWomen and the ERA Pledge team



<b>10</b> MAY 2019	<b>Geneva</b>	<b>Enforcement, Setting Aside and Related Treaty Claims: A View from Europe</b>
<b>13</b> MAY 2019	<b>Kyiv</b>	<b>Round table: Forging a career in international arbitration</b>
<b>14</b> MAY 2019	<b>Kyiv</b>	<b>Breakfast on Arbitration in Corporate/Post M&amp;A disputes</b>
<b>21</b> MAY 2019	<b>Washington DC</b>	<b>Book Launch at ICSID of Professor Susan Franck's Arbitration Costs</b>
<b>23</b> MAY 2019	<b>Warsaw</b>	<b>2019 Dispute Resolution in M&amp;A Transactions</b>
<b>23</b> MAY 2019	<b>Helsinki</b>	<b>15<sup>th</sup> IFCAI Biennial Conference – Roles and Responsibilities of Key Stakeholders in Conflict Resolution – Finding the Right Balance to Maximise Strategic and Effective Conflict Resolution</b>
<b>23</b> MAY 2019	<b>London</b>	<b>Arbitration and Mediation in Russia and the CIS</b>
<b>26</b> JUN 2019	<b>London</b>	<b>Full day conference about India disputes, new regulatory challenges and future opportunities with leading practitioners and experts</b>

## SPEAKING AT AN EVENT?

If you or other ArbitralWomen members are speaking at an event related to dispute resolution, please let us know so that we can promote the event on our website and mention it in our upcoming events email alerts!

If you wish to organise an event with ArbitralWomen, please send the following information to [events@arbitralwomen.org](mailto:events@arbitralwomen.org):

- Title of event or proposed event
- Date and time
- Names of ArbitralWomen members speaking at the event or who are potential speakers
- Venue
- Flyer or draft flyer which must be approved by ArbitralWomen Executive Board
- Short summary of the event for advertising purposes
- How to register/registration link

**ArbitralWomen thanks all contributors for sharing their stories.**

### Social Media

Follow us on Twitter [@ArbitralWomen](https://twitter.com/ArbitralWomen) and our LinkedIn page: [www.linkedin.com/company/arbitralwomen/](http://www.linkedin.com/company/arbitralwomen/)

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Time  
to renew  
your  
Membership  
for 2019



## Arbitralwomen Individual & Corporate Membership

ArbitralWomen website is the only hub offering a database of female practitioners in any dispute resolution role including arbitrators, mediators, experts, adjudicators, surveyors, facilitators, lawyers, neutrals, ombudswomen and forensic consultants. It is regularly visited by professionals searching for dispute resolution practitioners.



The many benefits of ArbitralWomen membership are namely:

- Searchability under [Members Directory](#) and [Find Practitioners](#): therefore please complete all criteria under your profile
- Highlight/promote your speaking engagements in our [Events section](#) if you speak at an event organised or co-organised by ArbitralWomen
- Visibility under [Publications](#) once your articles have been added under My Account / My Articles
- Showcase your news and events in [ArbitralWomen Newsletter](#)
- Exposure on the [News](#) page if you contribute to any dispute resolution related news and ArbitralWomen news
- Exclusive opportunity to contribute to ArbitralWomen's section under [Kluwer Arbitration Blog](#)
- Ability to **obtain referrals** of dispute resolution practitioners
- **Networking** with other women practitioners

We encourage female practitioners to join us either individually or through their firm. Joining is easy and takes a few minutes: go to '[Apply Now](#)' and complete the application form.

**Individual Membership:** 150 Euros.

**Corporate Membership:** ArbitralWomen Corporate Membership entitles firms to a **discount on the cost** of individual memberships. For 650 Euros annually (instead of 750), firms can designate up to five individuals based at any of the firms' offices worldwide, and for each additional member a membership at the rate of 135 Euros (instead of 150). Over **forty firms** have subscribed a Corporate

Membership: [click here](#) for the list.

ArbitralWomen is globally recognised as the leading professional organisation forum for advancement of women in dispute resolution. Your continued support will ensure that we can provide you with opportunities to grow your network and your visibility, with all the terrific work we have accomplished to date as reported in our Newsletters.

ArbitralWomen membership has grown to approximately one thousand, from over 40 countries. Forty firms have so far subscribed for corporate membership, sometimes for as many as 30 practitioners from their firms.



Do not hesitate to contact [membership@arbitralwomen.org](mailto:membership@arbitralwomen.org), we would be happy to answer any questions.