



Commercial Dispute Resolution

IP: 90.63.245.151

Free Newsletter

View Basket

Search

CDR

Essential Intelligence

Arbitration & ADR

Litigation

Competition & Business Crime

Third-Party Finance

Sign in

Subscribe

[People & Firms](#) | [Expert Views](#) | [AWAC Conferences](#) | [Directory](#) | [focus for arbitration's future](#)

PAW2023: Diversity concerns in focus for arbitration's future

Published by: [Andrew Mizner](#) at 27/03/2023

One of arbitration's leading lights challenged the arbitral community to tackle problems with legitimacy and representation as the largest-ever Paris Arbitration Week began.

Paris Arbitration Week began this morning (27 March) with stern words from **Yas Banifatemi** about the lack of progress on improving the diversity of arbitration, but also some hopes for real change in the future.

Giving [the opening address](#) to the seventh edition of what has become one of the arbitration world's largest events, Banifatemi, who left her role as joint head of **Shearman & Sterling's** international arbitration group [to found boutique firm Gaillard Banifatemi Shelbaya Disputes](#) in 2021, was blunt about how little had changed when it came to the diversity of arbitral appointments between 2016 and 2023.

She turned to hard data from [the 2023 annual statistics of the International Centre for Settlement of Investment Disputes \(ICSID\)](#), which revealed the worrying lack of change, despite much discussion of the issues over the past decade.

In 2016, 48% of ICSID arbitrators came from Western Europe and 21% came from North America. Those statistics now stand at 46% and 20%, respectively, and only South America of the other regions has improved its representation, by just 2%.

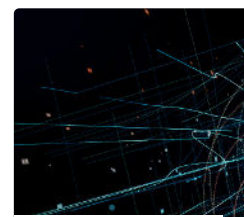
"The question is whether this geographic bias is baked into the arbitration system" asked Banifatemi, despite initiatives by arbitral institutions to improve representation among their appointments. The problem is that "the parties are ultimately responsible for the lack of diversity". Historically, parties have appointed 1095 Western European arbitrators, compared with just 396 by ICSID itself, and 549 from North America, compared with just 116 by the institution.

Related Articles



Private equity firm loses out oligarch

TPG ordered to resell its stake in Magomedov at well below the market value



NAFTA deadline looming

As the NAFTA sunset period comes to an end, replacement will have a considerable number of investor-state claims from Mexican and US parties.



The global growth in life sciences

Arbitration is rapidly growing in life sciences disputes, reflecting the impact of the pandemic, changing technology and the benefits which arbitration can offer.



More encouraging was that there has been some improvement in gender diversity at ICSID, but still only two women are in the top 10 appointees in ICSID disputes, although one of them, **Brigitte Stern**, is the most-appointed arbitrator.

Part of the battle is working towards proper representation of seats and "diversity will be when the best seat is not in Paris, London, Geneva or Singapore" Banifatemi argued. The increasing number of arbitral institutions in **Africa**, Asia and Latin America, among others, indicates some desire for that, although those newer, smaller centres struggle to attract cases and clients away from the established centres in major cities.

In a speech which referenced a wide range of cultural touchstones, including the 2016 'Oscars so white' controversy, Star Trek and the paintings of Kandinsky, she considered **the promise made by the organisers at the opening of the 2022 conference** that diversity would remain the topic of every year's keynote until it was no longer an issue, asking how the community would know if and when this point has been reached.

One of the difficulties is that "diversity is a moving target" and that as society changes, the goals of representation change, but "the problem will be resolved when it is understood that diversity is a proxy for equality" and she said that real diversity will have been achieved only when the presence of racially and gender diverse groups is unremarkable.

"Without diversity, arbitration lacks... legitimacy", asserted Banifatemi, as she closed by calling for equal access, equal consideration and equal visibility in international arbitration.

The **ICC International Court of Arbitration** European Conference followed Banifatemi's speech, at which ICC Court secretary general **Alexander Fessas** echoed the call for representation because "parties need to trust the arbitral institution unreservedly" to be sensitive and authoritative regarding local laws, languages and cultures. "This is how the ICC will safeguard legitimacy."

Improving its **presence in Africa** and Asia is **high on the agenda for the ICC's leadership**, as the institution enters its second century.

Paris Arbitration Week continues until Friday. The conference has grown over the past six years, with the 2023 edition having 95 partner organisations and 145 events, according to organising committee co-chair **Marilyn Parlika** of **Fieldfisher**, while her fellow chair **Raphael Kaminsky** of **Teynier** opened the event with mention of wider justice issues, by making a statement of solidarity with the people of Ukraine and the women of Iran.

Enjoyed this article?

Latest Print Edition



CDR Annual edition - 2022-2023

Subscribe to CDR

Subscribe now and access all of CDR's daily news and analysis, complete with a full archive of all articles and PDF back issues of CDR magazine.

[Subscribe](#)



SIAC and SVAMC unite to promote arbitration

The two institutions have joined forces to improve access to international arbitration.



UK to join mediation convention

Mediators and legal leaders welcome Justice's decision to join the Singapore Convention after it published a consultation on the benefits of mediation and the challenges of remaining an international dispute resolution.



Disposing of the double-hatting

An outright prohibition of the double-hatting in investor-state dispute resolution have been shelved, as a working group the framework draws closer to a conclusion.



Engie gets ready to rouble

Engie has become the latest energy company to join proceedings against Gazprom over its natural gas.





Dough firm won't Jus-Rol ove

French food company Cérélia has
regulator's decision "irrational", "i
"procedurally unfair".



Article Tags

- PAW2023Paris Arbitr
- ICC International Court of
Gaillard Banifatemi Shelbay
- ICSIDArbitration & AD

Latest News

DLA Piper adds director d



K&L Gates Straits poache
partner



FCA cracks down on Guar
for anti-money laundering



Judge throws shade at ba
dismiss



BSF lures DoJ fraud lawye



Fast fashion fields CMA s



Former HSBC sanctions c



O'Melveny continues Dall



Calculating damages in in
actions



BRG bolsters natural reso



**Quinn Emanuel launches i
with home-grown talent**



Rouse moves into Sweder



[CONTACT US](#)

CDR Magazine published by: Global Legal Group



59 Tanner Street, London SE1 3PL, UK
customer.service@glgroup.co.uk | +44 207 367 0720

© 2009-2023 Copyright: CDR-News.com | [Privacy policy](#) | [Cookie policy](#)

Follow us on LinkedIn

Cookie settings