



PAW2026: ICC Conference places arbitrator judgement under the spotlight

Natasha Doris , 24 March 2026



This year’s Paris Arbitration Week has kickstarted by asking lawyers to examine if they are safe from internal bias.

The ICC European Conference on International Arbitration fired the starting gun for the 10th Paris Arbitration Week (PAW), and encouraged its audience of arbitration specialists to look in the mirror and ask – How biased do you think you are?

The conference, held yesterday (23 March), led the day of introspection with an introduction to “myside bias” – in which individuals process information through the lens of their existing opinions and beliefs – from King’s College London lecturer and director of professional skills Mihael Jeklic, who opened the session with some bad news for the arbitration lawyers in the room: You cannot have both a “zealous advocate” and an impartial advisor – a statement which drew resigned chuckles from the audience.

He assured the lawyers that their bias was not a matter of ethics or intelligence. The human brain, he noted, was wired to filter a lawyer’s honest opinion to one side. “The general issue with bias is that it doesn’t leave any traces in the brain,” he remarked.

Jeklic set a query which panellists throughout the conference attempted to answer: If bias is wired in the human brain, how can a lawyer examine and tackle this bias to present a clear-headed, strong and holistic case?

Confidence is key?

ICC International Court of Arbitration (ICC) President Claudia Salomon examined a difficult hurdle for lawyers applying judgement: tackling the fine line between confidence and overconfidence in a dispute. The discussions of the day appeared engineered to ground the room in a sense of humility, cautioning lawyers to avoid flying too close to the sun.

Salomon asked a panel of seasoned arbitration lawyers, why do even experienced advocates fall to myside bias? Jeklic had earlier warned the audience that “experience is a double-edged sword” – the more you think you know from experience, the less likely you are to inspect your judgement.

LALIVE partner Noradèle Radjai pointed out that confidence was essential for a lawyer to win a case – tossing aside their bias that favoured the argument they constructed for their client was not a viable option. “You have to be body and mind and soul in the game to be convincing”, she said.

However, it was also acknowledged that throwing oneself into an argument led lawyers to overlook where their case could be exploited and cut down.

It’s a fine line for a lawyer to walk, the panel agreed. However, the experts found agreement that advocates were neglecting a key strategy to strengthen their arguments. Three Crowns founding partner Todd Wetmore urged lawyers to take the opposing side and tear apart their arguments to find the weaknesses and blind spots, emphasising the necessity of playing devil’s advocate.

Radjai warned that excessive, unearned confidence from a lawyer could lead to giving too much weight to the evidence favourable to their argument, and not enough weight to evidence for the opposition, therefore creating blind spots that risk undermining the case. It could also lead to giving a client bad advice, even failing to acknowledge when it was time to settle or take an alternative option.

TotalEnergies legal and compliance, gas and LNG head Gauthier Vannieuwenhuyse commented that once a lawyer barges in with overconfidence that they will win a case, “the nuance disappears, and it disappears instantly”.

Triple threat

Along with myside bias, panellists examined the role of biases baked into the brain since childhood. Notably, cultural bias was front of mind for the cross-cultural audience.

The ICC works to avoid cultural bias unduly swaying decisions by ensuring tribunals do not give excessive weight to one cultural background or another. ICC counsel Stella Leptourgou pointed out that arbitrators with the same cultural background might also share the same views, creating an asymmetry.

Vanguard International Dispute Resolution founding partner and chair for the ICC Commission on Arbitration and ADR, Melanie van Leeuwen, remarked that diverse panels made arbitrators work harder for the outcome. However, she added: “It enhances comprehensive analysis of the arguments that have been presented and reduces the risk of group thinking.”

Stein Arbitration independent arbitrator Erica Stein agreed, highlighting that the file itself would act as the unifying factor between arbitrators once background aspects were stripped away.

Dissent, while it was a delaying factor and possibly annoying over the discussions, did tend towards a stronger judgment in the outcome.

However, dissent was also seen as a negative element as much as a positive one in tribunal discussions. Dissent for the sake of dissent was not an aspect which strengthened an arbitral decision. Van Leeuwen raised the issue of the “contentious dissenter” who, in her experience, was often selected by parties for their strong bias on issues, noting it as a trend she had seen especially among investor-state arbitrations, with an arbitrator selected for either their serious pro-state or pro-investor stance.

Dissent conducted in bad faith to derail a decision despite consensus among other arbitrators risked delaying the judgment and irritating the rest of the tribunal.

Armesto & Asociados partner Juan Fernández-Armesto acknowledged the issue, however he commented that, irritating though it was, in his experience, “it’s very rare that you have an obnoxious arbitrator”.

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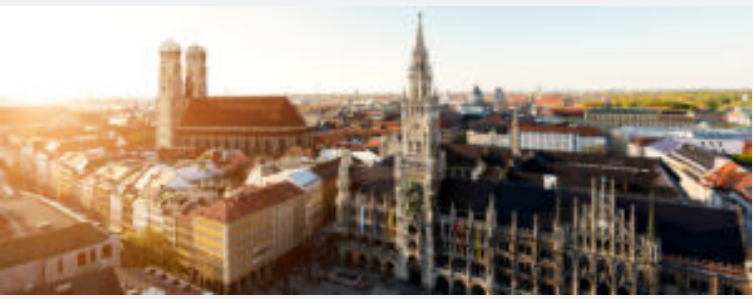
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