



#letsgetREAL!
REAL
Racial Equality for
Arbitration Lawyers

R.E.A.L. NEWSLETTER

Issue #5

March 2024



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MESSAGE FROM THE EDITORS



Dear Friend and Colleague,

Welcome to the fifth issue of the Racial Equality for Arbitration Lawyers (“R.E.A.L.”) Newsletter! It has been a while since our last newsletter but we are positive it has been worth the wait!

Earlier this year marked the beginning of the Year of the Dragon. According to Chinese astrology, 2024 is meant to be a year marked by “*growth, vitality and, the blossoming of wisdom*”. However, to navigate through such good fortunes, one needs to make their way through a “*tapestry of opportunities and challenges*”. This resonates with many people’s journeys through the world of international arbitration. Behind every success story is a tale of persistence, courage and determination given that each person’s path is paved with different opportunities and challenges.

This Newsletter (with the R.E.A.L. Blog) aims to amplify the many voices of underrepresented international arbitration professionals, increase accessibility to the arbitration field, and continue to lay the groundwork to making arbitration more equal for new generations of international arbitration practitioners and scholars.

In support of this goal, this issue features (i) #REALSpotlight on two incredible arbitration practitioners from Eastern Europe; (ii) summary of a R.E.A.L. collaborative event during New York Arbitration Week; (iii) the inaugural episode of the #REALPodcast which considers the progress made in the field in enhancing diversity; (iv) short reflections from three R.E.A.L. Scholarship recipients; and . . . wait for it . . . Yes! . . . Your favorite! . . . (v) #R.E.A.L. Trivia!

As always, R.E.A.L. is grateful for the efforts of each of the contributors to this edition of the Newsletter as well as our diverse member base for their continuing interest and support of the work of R.E.A.L.

Please consider contributing to the next issue! If you are interested in submitting content or providing feedback on the R.E.A.L. Newsletter (or the R.E.A.L. Blog), please feel free to contact us at newsletter@letsgetrealarbitration.org.

Forever grateful,

R.E.A.L. Newsletter & Blog Committee



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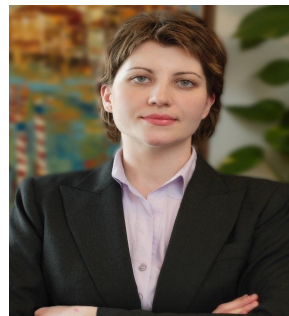
#REALSPOTLIGHT – ARBITRATION IN EASTERN EUROPE



One of the many inspiring aims of R.E.A.L. is to create a platform for access to knowledge in international arbitration. In furtherance of this aim, the R.E.A.L. Newsletter & Blog Committee will be featuring a regional interview series – #REALSpotlight – in its upcoming newsletters. In this series, arbitration practitioners from selected regions across the globe will be sharing insights on their career journeys and the latest trends in their relevant jurisdictions. This interview showcases two (2) well-regarded practitioners from Eastern Europe – Velislava Hristova (“Velislava”) and Dr Cristina Alexe (“Cristina”) – both of whom share key insights into their remarkable international careers. Excerpts from their interview can be found below.



Velislava Hristova



Dr Cristina Alexe

1. *What inspired you to become a lawyer? If not a lawyer, what would have you been?*

Velislava: In my second-to-last year of secondary school, my history teacher approached me with a compelling opportunity – to take part in a nationwide competition on Bulgarian history. Without hesitation, I jumped at the chance and teamed up with a few other students. The competition had two parts – written and oral. I found that I really enjoyed both writing and public speaking, and it was then that I realised that I wanted to build my career around these passions. I ultimately decided to attend law school and become a lawyer. Though the journey has been challenging, I am excited to see where it has been taking me.

Interestingly, my two favourite subjects in school were mathematics and painting,

and I had once dreamed of becoming a fashion designer. However, I later realised that I wanted to pursue a more intellectually challenging profession.

Cristina: Having lived until my teen years in Cold War Central and Eastern Europe where studying law and the legal professions, especially that of a lawyer were considered “occidental” and bourgeois and were discredited or controlled by the State, after the fall of communism there was an amazing appetite amongst our young generation to rediscover this amazingly noble profession. Therefore, I pursued it with passion (managing to get admitted at the University of Bucharest Faculty of Law at that time via an extremely competitive selection, i.e. 28/1 chances). So that was how high the level of interest was in those years, interest that is currently reflected in the high-quality legal professionals in Romania from our generation. If not a lawyer I would have



most probably been a judge, which in a way I am since during the past decade I have continuously acted as arbitrator in domestic and international arbitration.

2. *Why did you choose to pursue a career in international arbitration?*

Velislava: My exposure to dispute resolution first started as a legal trainee in some of Bulgaria's largest state courts, where I trained for around two years. This experience equipped me with the skills necessary to conduct a meticulous legal analysis and evaluate facts with precision – competencies that have proven to be indispensable throughout my career, and I continue to leverage them to this day. However, while I enjoyed my time in the state courts, I found the litigation proceedings to be somewhat monotonous. This is what led me to explore other avenues within the legal field that could offer me more diversity and challenge.

From the moment I entered law school, I knew I wanted to combine my legal expertise with an international element. But despite my passion, I could not find the right opportunity to make it happen. That is, until a fellow student from my law school asked me to join a team for the Frankfurt Investment Arbitration Moot Court. As the first team from our country to participate in the competition, we were in uncharted territory – no one knew anything about international arbitration. Through this experience, however, I discovered the fascinating world of international arbitration, and I knew I had found my calling.

Nowadays, I truly enjoy every aspect of practising international arbitration. The most exciting part of our work is that the

field is constantly evolving, and there is always something new to learn.

Cristina: My profile is a particular one since I practiced as a transactional lawyer for many years whilst in parallel doing my doctoral research and teaching in Civil Procedure, without being a litigator, studying civil procedure, private international law and comparative law. Following the financial crisis of 2008-2009 the number of disputes significantly increased, including a high number of (mostly ICC) international arbitrations in Romania. Since many involved large clients I was working for as a transactional lawyer, knowing the business, being conversant in civil procedure, having issued many legal opinions involving multi jurisdiction transactions and private international law, I started studying international commercial arbitration via its fundamental resources and doing work as counsel in international arbitration. It was incredibly familiar plus intellectually invigorating at the same time and the passion still lasts.

3. *What has been the most memorable experience in your arbitration career to date?*

Velislava: There are two experiences that are particularly memorable.

The first was when I was approached for my first investment arbitration mandate on my own. It was a significant milestone for me, as it was a clear indication that my hard work and dedication had paid off.

Second, I enjoy sharing my knowledge with students participating in the Willem C. Vis International Commercial Arbitration Moot, and I have been involved in several capacity-building initiatives for young practitioners and state court judges from Eastern Europe. As Lewis Carroll once said,



“One of the deep secrets of life is that all that is really worth the doing is what we do for others.” This has been my simple way of paying it forward.

Cristina: That would be the ICC Advanced Arbitration Academy for Central and Eastern Europe, a unique two-year basis advanced level training designed for professionals pursuing a career as an international arbitrator held under the auspices of the ICC Institute of World Business Law and ICC International Court of Arbitration. A remarkable, hands on, super applied and substantive programme I had the chance to be part of alongside peers from Central Eastern Europe which generated lasting friendships and amazing networking amongst senior level participants and led to my first appointment as arbitrator by the ICC Court very soon after having completed it.



Image of Peleş Castle, Romania courtesy of Shutterstock.com

4. *In your opinion, what sort of cross-cultural differences should practitioners be aware of when second-chairing or otherwise participating in arbitral proceedings in Eastern Europe?*

Velislava: In my experience, I have observed certain cross-cultural differences in the conduct of the arbitral proceedings,

mainly when participants come from different legal traditions. One notable difference is that in some civil law countries, in particular in Eastern Europe, greater emphasis is placed on written submissions rather than oral defence. Additionally, there are differences in the manner of advocacy, particularly when comparing common law and civil law lawyers. During an arbitration event, I recently heard that common law qualified lawyers are generally better advocates. However, I believe that being a good advocate is not solely dependent on one’s legal background. It is about having the right skills, temperament, and attitude to represent your client’s interests effectively while maintaining professionalism and treating the opposing counsel with respect, regardless of their legal background and any cross-cultural differences.

Cristina: Central Eastern Europe is ripe with incredibly smart and experienced international arbitration practitioners being a geographical area that has already generated a significant percentage of both investment arbitration cases (some being pivotal to the ISDS world) as well as a large number of international commercial arbitration cases, from all industries. What I think stands out when one considers a CEE counsel or arbitrator (particularly in our generation) is the organic need to support the rule of law and know when it is bent, the ability to identify red flags more easily and fight corruption and to quickly perceive professional imposture (including any lack of ethical standards), the will to protect the so fought for freedom and to really know the meaning of the "right to a fair trial". All these traits were brought by naturally in the past three decades after the collapse of communist regimes in our countries.



5. *What sort of challenges, if any, did you encounter when trying to get your first break in international arbitration? What steps did you take to address and/or overcome these challenges?*

Velislava: When I was trying to get my first break in international arbitration, I faced many challenges that I believe are typical for anyone coming from an “unconventional” background. My interest in international arbitration was sparked by participating in a moot competition. However, after the competition was over, I had more questions than answers. I did not have anyone around me who had done or was doing what I wanted to do and who could provide me with guidance. As a first-generation university graduate and lawyer, I was used to relying solely on myself and never thought of seeking help as an option.

In Bulgaria, where I am from, mentorship was not a thing, and I was not aware that international organizations offered mentorship programs. At the time, there were also fewer such programs available, and some were location-specific. Additionally, there was not as much information available about the steps to take if you want to pursue a career in arbitration.

To get involved in arbitration-related initiatives, I started searching for opportunities abroad since there were no such initiatives happening in Bulgaria. This was a challenge, but I was determined to pursue my passion for international arbitration. I attended certificate programs, courses, and conferences and travelled in numerous countries from the US to Australia to broaden my knowledge and experience. I invested everything I earned back then in such initiatives.

Eventually, I realized the value of mentorship and participated in a few mentorship programs, which proved to be very helpful.

Cristina: An important challenge was at that time the need to find your way through the “male, pale and stale” domination in international arbitration. In Eastern Europe, there was the ever too often incidence of repeat arbitrator appointments, particularly of arbitrators from an extremely limited group of law professionals who were not necessarily formally trained in international arbitration and were not always familiar with the real life economic realities that are inherent to this alternative method of dispute resolution. The steps I took were simple and straightforward: formal training in international arbitration, continuous practice, living my values with respect to ethical standards and doing the best job I could in each of my arbitrations whilst not losing contact with the amazing networking opportunities nowadays available for our community.



Image of the Budapest Parliament, Hungary courtesy of Shutterstock.com



6. *A commonality between the two of you is that you have each been educated and/or have developed your arbitration careers outside your home jurisdictions. What value do you believe studying or working outside your home jurisdiction adds to developing a career in international arbitration? How did you use the skills you acquired to forge an arbitration career in Eastern Europe?*

Velislava: In addition to working in Bulgaria, I had the chance to practice in three of the leading arbitration hubs in Europe, which gave me the opportunity to handle high-profile disputes involving parties from three continents and under different governing laws. This experience has helped me to further hone my arbitration skills, working alongside some of the most skilled professionals in the field. It has also helped me to expand my career prospects and access opportunities that I might not have otherwise had. Although my career plans extend beyond Eastern Europe, I remain fully committed to contributing to the development of my home country and the region.

Cristina: International arbitration practice intrinsically involves not only a high-level practice in one's own legal system, be it civil law or common law, but also at least a decent familiarity with the concepts and good practice of the other legal system, crucial in carrying out any international arbitration proceedings from start to finish. Gaining training and exposure to other national laws definitely adds to experience and knowledge and is continuously encouraged. Stepping out of one's legal system "comfort zone" with comparative undertakings and with due respect to

unfamiliar legal concepts is well worth it in this field, all the more so for the Central Eastern European (CEE) region that is still missing a level playing field. A skill that would also describe most CEE peers would be the ability to manage extremely frequent changes in legislation, as we had to do in the past during our transition to market economy and accession to the European Union.

7. *You are both actively involved in promoting alternative dispute resolution across Eastern Europe. What change to the arbitration landscape have you witnessed during your time and what more do you think needs to happen ensure arbitration thrives in Eastern Europe?*

Velislava: I have always tried to distance myself from politics, but there is a quote from a speech of Barack Obama that fully resonates with me: "Change will not come if we wait for some other person or some other time. We are the ones we have been waiting for. We are the change that we seek." It is a great reminder that sometimes we have to take charge and create the change we aspire.

In recent years, there has been a growing number of arbitration-related initiatives in Eastern Europe, spearheaded by ambitious young practitioners from across the region. These initiatives have a common goal of promoting alternative dispute resolution, offering education, training and networking opportunities, with the ultimate aim of reducing the gap between Eastern Europe and more developed regions.

However, the thriving of arbitration in Eastern European countries depends on the collective efforts of all stakeholders. It is



essential for the states to commit to developing a robust legal framework for arbitration that is aligned with international standards. The legal framework should also be supported by a judiciary that is well-versed in arbitration proceedings. This will ensure that the environment for dispute resolution is safe, conducive, and reliable.

While domestic arbitral institutions have a steady caseload and seem preferred by parties from the region, they should be proactive in keeping track of international best practices to remain competitive and relevant. By doing so, they can stay updated and provide services that meet the ever-changing needs of arbitration users.

Cristina: There is still a lot of work to be done in supporting and promoting arbitration in Central and Eastern Europe. From my side I have been engaging in this venture as Editor in Chief of the Romanian Arbitration Journal, a Wolters Kluwer law journal, the only one in the region that is available with its entire archive in Kluwer Arbitration database. For the past decade, I have also been a Lecturer at the University of Bucharest Faculty of Law for the LL.M. in International Arbitration degree taught in the English language. Recently, I had the honour of acting as founding member of ArbCEE which is a not-for-profit organisation whose purpose covers the free exchange of ideas, knowledge and initiatives related to the evolution of international arbitration and ADR in CEE, uniting, promoting and serving this community.

The main future steps that I dream being part of are substantive workshops on arbitration for judges in each of our national systems, lobbying for increased arbitration friendly legislative framework and

convincing by good practice examples for the numerous small and middle-sized enterprises (SMEs) of the commercial advantages of arbitration.

8. *What are your thoughts on racial equality in arbitration for current or aspiring practitioners from Eastern Europe?*

Velislava: Despite the steady caseload originating from Eastern Europe, the region remains highly underrepresented in international arbitration. Talking with figures and taking investment arbitration as an example, it is noteworthy that to date, there have been 933 cases registered before the ICSID applying the ICSID Rules or the Additional Facility Rules. Eastern Europe and Central Asia together account for the highest percentage of the entire caseload at 25%. However, it is concerning to see that only 3% of arbitrators, conciliators, or annulment committee members are of Eastern European and Central Asian origin. In contrast, Western Europe accounts for only 8% of the ICSID's caseload, but 46% of the appointments are of Western European origin (see link [here](#)). This is a frightening disparity that speaks for itself and that, I believe, needs to be addressed, with the appointments being better aligned with the caseload.

Upon closer examination of the issue of regional representation in international arbitration, however, it becomes clear that the previously mentioned figures do not provide us with accurate data. While those statistics show the nationalities of the appointed arbitrators, the issue of regional representation is much more complex than that. Many arbitrators have no connection to the region beyond their nationality, having been educated, trained, qualified, and practicing elsewhere. Therefore, simply measuring regional representation



based on one's nationality and disregarding other relevant factors fails to provide a complete picture of the issue at hand. It is vital to examine this issue thoroughly and address it accordingly.

To use REAL's own slogan – Let's get real!

Cristina: Racial equality, gender and geographical diversity are crucial for the well-being of any democracy and their protection are the true reflection of the rule of law in practice. There is still a long way to go. Conversely one must admit that in the past decade serious progress has been made especially at the institutional level in the world of international arbitration. The legal community no longer has the excuse for lack of such equality since it has been measured time and time again. I would quote here the ending from the keynote speech of Dr Yas Banifatemi (one of my role models) on diversity in international arbitration at the 7th edition of the Paris Arbitration Week in 2023 stating that: “[T]he problem will be solved when it is understood that diversity is a proxy for equality; equal access: but getting access and having a seat at the table is not enough; equal consideration: being considered based on skills and talents not what category of population one is part of; equal visibility: we will have achieved diversity - in fact, equality- the day diversity is no longer noticed.”

9. What role do you believe organizations such as R.E.A.L. can play in bridging the racial diversity gap in international arbitration?

Velislava: I think that R.E.A.L.'s name captures well the essence of what is truly needed for a lasting change – real efforts that lead to a meaningful change and have a measurable impact, to the extent that can be measured, of course.

One of the biggest challenges that should be addressed to bring about racial diversity and equality is the socioeconomic disadvantages. It is crucial that students and young practitioners, regardless of their socioeconomic backgrounds, are provided with equal access to education and training. This will not only help bridge the gap, but also create a level playing field for those who may have been left behind due to their background and family circumstances.

Addressing unconscious biases is another important initiative I believe organisations should be investing in. We all have unconscious biases sometimes, but it is essential to be aware of them and prevent them from influencing our actions or decisions. Organisations can leverage their platforms to educate and raise awareness about unconscious biases in the community.



Image of the Dormition of the Mother of God Cathedral, Bulgaria courtesy of Shutterstock.com

Cristina: A vital one. R.E.A.L. is an amazing organization, timely created, that has done an excellent job in promoting its values starting with all the substantive webinars during the pandemic, going through the efforts of putting together members from all around the globe and now allowing so many young practitioners gaining access to major conferences and training events in international arbitration through its



scholarship opportunities. I see R.E.A.L.'s role also as a watchdog and a voice for diversity and I hope it will continue to keep a vigilant eye on the international arbitration developments on this, whilst keeping us all informed through statistics and regular reports.

10. In your opinion, in addition to legal writing and analytical skills, what other skills are necessary to succeed in international arbitration?

Velislava: While hard skills are undoubtedly important, it is essential to recognise the significance of soft skills like cultural awareness and emotional intelligence.

Despite efforts arbitration to be an international field, there are still instances where we fall short of this aspiration. It is crucial to recognise the importance of diversity in our work. In doing so, we can celebrate the unique strengths of arbitration, such as creating a welcoming space for all participants regardless of background. Rather than seeing differences as disadvantages, we must embrace them as opportunities to grow and improve our practice. By fostering a culture of inclusivity, we can ensure that everyone feels valued and appreciated.

While doing international arbitration can be an exciting and rewarding experience, it can also be quite demanding. The work often involves navigating tight deadlines, crafting lengthy submissions, and working across different jurisdictions while applying foreign laws. As a result, it is important to be emotionally intelligent and maintain a positive outlook in order to handle the

pressures of the daily workload.

Cristina: I see international arbitration being for legal practice what neurosurgery is for medical science. One of the treasured inventions in dispute resolution solving. One needs to fully master the procedure, be extremely creative, knowledgeable of the applicable substantive law matter of the dispute, with the thrilling interconnection of civil procedure, private international law, public international law and very good command of English language, The more foreign languages one speaks, the greater the chances of undertaking arbitration mandates. Soft skills involve an open mind, determination in upholding ethical standards and a sincere respect for the parties and their dispute, understanding and staying true to the honourable mission that both counsel and especially arbitrators have in serving the parties whilst doing justice.



Image of the Mir Castle, Belarus courtesy of Shutterstock.com



11. What is your one go-to tip for young practitioners who are keen to network at arbitration events?

Velislava: As someone who loves to read and write, I have a great appreciation for those who are pushing the boundaries in the field of international arbitration. Staying up-to-date with recent developments and publications are an excellent way to gain insights into the work of fellow practitioners and to then identify meaningful topics easily for discussion during arbitration events.

Cristina: Do not lose time chasing the most familiar figures if they do not seem willing to discuss. Simply engage with peers and those participants who are ready to lend an ear and actually engage in a true conversation, be it on international arbitration or on your legal culture in general. This is time well spent.

12. What advice would you give to young practitioners (particularly those from diverse backgrounds) who are looking to develop a career in this field?

Velislava: Each and every one of us has something unique and special to offer. However, sometimes, it can be challenging to showcase our individuality in a work environment that often values conformity. While it may seem easier to ignore our differences and try to fit in, it is crucial to recognize that our unique attributes are what make us stand out and can be our greatest strengths. Success is not just about the circumstances we find ourselves in but also about how we deal with them. It is important to embrace the circumstances we have been given and use them to our advantage rather than letting them hold us back. By doing so, we can shape our desired path and achieve the success we strive for.



Image of the Charles Bridge over the Vltava River, Czech Republic courtesy of Shutterstock.com

Cristina: Fundamental for any honourable result remains proper education and practice in international arbitration and at least in one-two substantive law areas allowing familiarity on substance, not only procedure. At an entry or mid-level phase, I think one can stand out easily by writing articles and comments on recent case law from one's jurisdiction, acting as arbitrator or helping as coaches with the moot teams at Willem C. Vis, Jessup and all other moot court competitions, accepting work as tribunal secretary and undertaking pro bono work in promoting arbitration through local events and conferences, all while never abandoning their own instruction.

About our interviewees

Velislava Hristova holds dual qualifications as an Attorney-at-law in Bulgaria and a Solicitor in England and Wales. She specialises in investor-State arbitration, complex commercial disputes, and public international law.

With over seven years of post-qualification experience, Ms Hristova brings a wealth of experience, having worked with the international arbitration teams of leading US law firms in three of the major arbitration hubs in Europe – London, Vienna and Stockholm – and two of the largest law firms in Bulgaria.



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Ms Hristova frequently publishes and speaks on international arbitration topics. Papers of hers have been published in some of the most prestigious journals and blogs on international dispute resolution. In 2022, she won first place in the Young Practitioners and Scholars Essay Competition of the European Federation for Investment Law and Arbitration, and in 2023, she won the CPR Institute's Outstanding Professional Short Article Award.

***Dr Cristina Alexe** is Partner of a Romanian law office having over 24 years of experience in legal matters. She is a Fellow of the Chartered Institute of Arbitrators and has graduated from the ICC Advanced Arbitration Academy for Central and Eastern Europe a unique two-year basis advanced level training designed for professionals interested in pursuing a career as an international arbitrator, held under the auspices of the ICC Institute of World Business Law and ICC International Court of Arbitration.*

She holds a PhD summa cum laude in Civil Procedure on "The Civil Trial Judge between a Pro-active Role and Arbitrariness". Dr Cristina Alexe acted and continues to act as an international arbitrator under the Rules of ICC, DIS, VIAC, CICA CCIR, UNCITRAL. Her arbitration experience is complimented by strong knowledge and continued practice as a transactional lawyer in M&A/Privatisation, Banking & Finance, Real Estate and Project Finance areas.

Dr Cristina Alexe is a Lecturer at the International Arbitration LLM Faculty of Law, University of Bucharest for the past 11 years. She is Editor in Chief of the Romanian Arbitration Journal a Wolters Kluwer/ Kluwer Arbitration publication in the field. She may be contacted at cristina@aceadvisor.ro.



*Image of Wawel Castle of Kraków, Poland
courtesy of Shutterstock.com*



#REALTALK – R.E.A.L. COLLABORATIVE EVENT DURING NEW YORK ARBITRATION WEEK 2023

On November 15, 2023, Linklaters LLP hosted a very well-attended panel in partnership with R.E.A.L., the RisingArbitrators Initiative (RAI), New York and London Arbitration (NYLON) entitled “*My First Arbitral Appointment: Breaking Barriers to Diversity and Inclusion in International Arbitration*”, during New York Arbitration Week. The distinguished panel of arbitrators, moderated by Charlene Valdez Warner (Linklaters), included: Amanda J. Lee (LML Arbitration), Carlos E. Martínez Bentanzos (Fonseca Rodríguez Perchemilian and Martínez Abogados), Frederico Singarajah (Gatehouse Chambers), and Ema Vidak Friedman (Vidak Arbitration).

The panel’s goal according to Ms. Valdez Warner, “*to discuss initial arbitral appointments, breaking barriers to international arbitration, approaches to diversity within international arbitration*” touched upon several key themes including: beginning one’s career as an arbitrator and methods to secure arbitral appointments; demonstrating qualifications and leveraging diversity to secure appointments; approaches to arbitrating as a diverse arbitrator; and what it means to “belong” in the field of international arbitration.

Each panelist was asked to describe how they received their first arbitral appointment. Mr. Singarajah spoke about how he leveraged his Brazilian background with his education as an English barrister to first receive appointments in Brazil, which eventually turned into appointments in the UK. Ms. Vidak Friedman emphasized the importance of having credentials that demonstrate your intelligence, whether through your education, your counsel work, or publications, and described her first appointment as a party-appointed arbitrator. Mr. Martínez Betanzos explained how he used his education and work experience in the United States as a bridge for his practice in Mexico for disputes involving international elements. Ms. Lee discussed seeking opportunities for appointments outside of the larger arbitral institutions and building your profile as an arbitrator.

Mr. Martínez Betanzos discussed the challenges surrounding arbitrating in Mexico, where in some cases, arbitration proves to be heavily male-dominated and noted that arbitrators “have an obligation to mentor others to ensure that there are no excuses to *not* appoint certain diverse arbitrators.” Similarly, the distinguished panelists were asked to provide guidance to prospective diverse arbitrators. The panelists emphasized the importance of studying and mastering industry vernacular ahead of industry-specific arbitrations, encouraging junior advocates to take on speaking roles early in their careers, leveraging one’s language and cultural competency to bridge the gap between cultural and legal issues, and remembering the importance of receiving and providing mentorship.



#REALPODCAST - DISCUSSING DIVERSITY IN INTERNATIONAL ARBITRATION

This edition of the R.E.A.L. Newsletter features the inaugural edition of the **R.E.A.L. Newsletter Podcast**. During the course of the next few editions of the R.E.A.L. Newsletter, we intend to feature links to conversations with arbitration practitioners from around the world to learn more about the latest trends and issues impacting international arbitration.

In this first episode of the R.E.A.L. Newsletter Podcast, we hear from:



Professor Catherine Rogers
Professor of Law at Bocconi
University in Milan, Italy



Amanda Lee
Arbitrator and Founder of
Careers in Arbitration

on the progress of diversity, equality and inclusion (**DE&I**) in international arbitration. This podcast was moderated by:



Christopher Campbell
R.E.A.L. Co-Chair, Senior Counsel
at Baker Hughes and Founder of
Tales of the Tribunal

The podcast can be accessed [here](#).



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KEY TAKEAWAYS

Room to improve: We have made some progress but we are still at the beginning of a long hard journey. The diversity spotlight is still heavily focussed on gender but this lacks nuance. We need to do a better job at look at diversity from an intersectional lens.

Shoutouts to changemakers: There are so many initiatives that are getting it right or making change with respect to DE&I, many of which are behind the scenes or a step back from arbitrator appointments. For example:

- ◆ **ASIL (American Society of International Law)** will not support or co-sponsor any event if there is not on each panel a degree of representation not only on gender but also in race and other intersectional categories.
- ◆ **ArbBalance** which focuses on well-being in arbitration, meaning both physical and mental health and the **ICC's Guide on Disability and Inclusion in International Arbitration and ADR**.
- ◆ **Arbitration Fund for African Students** which aims to provide financial support for students who are keen to develop their arbitration knowledge and expertise and **Africa in the Moot**.
- ◆ **ICCA 's Johnny Veeders Fellowship Programme** which provides micro-grants of up to EUR2,500 to qualified individuals to pursue study, internships, research and writing projects in international arbitration.

Opening of education: Greater investments should be made by law firms and universities to improve access to education and expand the pool of applicants who can bring diversity to international arbitration. This is relevant given the importance of obtaining a foreign LLM, or other higher degree in arbitration, to demonstrate the degree of international and multicultural competence that international arbitration law firms are looking for.

Metrics: We are still pretty rudimentary in the metrics. It would assist to **track individuals throughout their career** – this goes beyond the number of arbitrator appointments which only tells a very small part of a story. In law firms, for example, it is very difficult to get appointments as arbitrators if you do not have the support of your firm. This needs to be captured.

More and better quality data: We have statistics on the number of female arbitrators. However, we need more statistics on where these women are from, are they being appointed for the first time, how old are they, what languages do they speak, what legal traditions do they derive from, what races or ethnicities do they come from; what are their socio-economic backgrounds, are they from the LGBTIQ community, etc. Some of this information is sensitive and some people may not wish to provide such information, but we could do a better job!

Remember, diversity is everyone's responsibility and it is also an investment!



REFLECTION ON ATTENDING THE 18TH ICC NEW YORK CONFERENCE ON INTERNATIONAL



By Anirudh Gotety

As a South Asian, I have repeatedly been told that it is hard to break into international arbitration in the US. I always believed that I possessed the abilities and mindset to overcome these obstacles if I was granted the right opportunities. As a R.E.A.L. Member, the Scholarship to attend the 18th ICC New York Conference in International Arbitration (**Conference**) was exactly the platform I needed to further build myself up as an able ambassador for South Asian practitioners facilitating the cause for greater racial representation in international arbitration. In this reflection, I aim to share my experience and the learnings I gained from attending the Conference.

The Conference is widely regarded as one of the foremost conferences in international arbitration. Its 18th edition was held on 21–22 September 2023. It was a two-day event that featured experts in the field, as well as representatives from the ICC International Court of Arbitration, discussing hot topics in international arbitration and the role of the ICC in promoting international arbitration.

The Training event on 21 September was led by Georgetown Law's very own Faculty Director for the Program on International Arbitration and Dispute Resolution, Ms. Anne Marie Whitesell, along with other

highly regarded international arbitration practitioners and representatives of the ICC. The training deliberated on the involvement of non-signatories in international arbitration, the issues around it, and how the ICC Rules dealt with these issues. Perhaps the most enjoyable aspect was working in groups with the other attendees of the training on a challenging mock problem on non-signatory issues in international arbitration. I fondly remember my group as action and solution-oriented, consisting of law firm associates, senior and junior arbitrators, and students from different national and ethnic backgrounds and age groups. Our diverse group came up with creative solutions to the challenging mock problem, which demonstrated the value of diversity in problem-solving.

On the evening of 21 September, I attended the ICC-YAAF: Born in the USA event. At the event, I learned from the panelists about the impact of the Young Arbitrators and ADR Forum (YAAF) in the US and how its ideas changed the lives of individual practitioners and the arbitration & ADR community more broadly. At the reception, I had the opportunity to interact with fellow young arbitration practitioners where we discussed how the arbitration and ADR community can support young arbitration practitioners.



The Conference on 22 September covered various topics related to the latest international arbitration developments given the ICC's 100th Anniversary. I was particularly fascinated by the panel which discussed the impact of technology and artificial intelligence in arbitration. My biggest takeaway was that artificial intelligence will not replace lawyers but act as a competitive advantage for those lawyers who do utilize it. The Conference ended with an interactive session in which the panelists were reviewing a draft award as the ICC Court would. The panel invited comments on the mock draft award, which energized the audience right before the cocktail reception.

recognition and support of the R.E.A.L. community for my academic and professional achievements and potential. I am grateful to R.E.A.L. for providing me with this opportunity and covering the costs of attendance. I am also thankful to the ICC and the conference organizers for hosting such a high-quality and informative event. I hope to maintain and strengthen my connection with the R.E.A.L. community and participate in more events in the future. I hope my experience can inspire and support other aspiring arbitration lawyers from diverse backgrounds.

I learned a lot from participating in the conference, both from the speakers and fellow attendees. I gained valuable insights into the current trends and issues in international arbitration. The conference provided a prime opportunity for networking. I had the chance to interact with some of the leading practitioners and academics in the field, as well as the ICC representatives, all of whom generously shared their knowledge and time.

Prior to my LLM at Georgetown, I worked as an attorney in India's foremost law firms in litigation and international arbitration. Currently, I am pursuing an LLM in international arbitration at Georgetown University Law Center and I aspire to become a prominent arbitration practitioner. The Conference was therefore relevant to my academic and career aspirations especially because of the subject matter knowledge and personal relationships I built.

Being a R.E.A.L. scholarship recipient means a lot to me, as it reflects the

About the Author

Anirudh Gotety is an arbitration LLM student and Merit Scholar at Georgetown University Law Center. Prior to Georgetown, Anirudh worked as an international commercial arbitration and litigation attorney with Keystone Partners. Anirudh brings his unique expertise as a former M&A and Private Equity attorney to his commercial disputes practice. He is currently externing with the international arbitration practice group of Hughes Hubbard & Reed, Washington DC. Anirudh also serves as a columnist for The Economic Times exploring the intersection of law, technology, and public interest. He was granted the prestigious JN Tata Endowment scholarship to pursue his higher studies at Georgetown Law.

REFLECTION ON THE SEVENTEENTH JURIS ANNUAL INVESTMENT TREATY ARBITRATION CONFERENCE



By Lynn Fouad

On 12 October 2023, I had the privilege of taking part in the Seventeenth JURIS Annual Investment Treaty Arbitration Conference as a R.E.A.L. Scholar. This event was hosted by Crowell & Moring with the notable support of R.E.A.L., and co-chaired by Todd Weiler, Dr. Kabir Duggal, and Camilla Gambarini. Held in Washington DC, a major global hub for investment law and arbitration, the conference brought together a distinguished group of arbitration experts, scholars, and practitioners, and provided a space for highly enriching discussions on some of the most topical issues in the field. As a two-time recipient of the R.E.A.L. Scholarship, this was also a chance for me to reflect on the teachings of last year's Sixteenth JURIS Conference and to reconnect with arbitration professionals whom I had met at the same time last year.

The conference comprised of four thought-provoking panels, each delving into recent developments in investment arbitration.

Topics addressed revolved around (i) climate-change-driven justifications to withdraw from the ECT, as a matter of international investment law; (ii) US courts' decisions as to the enforceability of intra-EU awards post-Achmea/Komstroy in the Spanish renewables saga cases; (iii) the Paris Court of Appeals' ruling on the question of jurisdiction in the high-profile *Kiram et al.*

v. Malaysia case; and (iv) investor-State mediation's potential as the preferred mechanism over investor-State arbitration. The panels' unique format consisted of two speakers who, having been each assigned opposing stances to defend in a paper prior to the conference, presented their main findings and arguments to the audience. Then, a group of three or four eminent panelists provided further insights and offered their personal views, imparting a comprehensive and critical analysis of these complex issues. I greatly appreciated this format, which allowed for the most flourishing exchange of nuanced ideas on important topics in the field. The panels continuously demonstrated how the future of arbitration is inextricably linked to a wider web of contemporary global challenges such as climate change and sustainability, international relations and diplomacy, and alternative modes of dispute resolution (e.g., mediation).

As an aspiring international arbitration practitioner, this conference has been a beacon of knowledge and inspiration, especially as my main interests lie at the intersection of investment arbitration, human rights, and sustainability. It served as a powerful reminder of the dynamic nature of investment law and arbitration and the importance of delving into its history



to comprehend present and future challenges. The panels encouraged us to cast our gaze forward, contemplating the future and legacy that we, as aspiring industry leaders, are collectively shaping in this fast-evolving field. Ultimately, the nature of the event and the questions it raised succeeded in laying the ground for conversations on these topics to be addressed beyond the conference itself.

As a French, Lebanese, and Egyptian woman entering the field, I was particularly touched by the event's emphasis on diversity. For instance, the conference brought together many renowned female practitioners, achieving gender parity in every panel. In addition, it accommodated younger members of the arbitration community, coming from diverse social and cultural backgrounds. I also benefitted greatly from the cognitive diversity of practitioners at the conference, with a rich tapestry of perspectives and experiences (counsels for investors, counsels for States, and institutions/policymaking) being represented. The panelists and audience were themselves a perfect reflection of how diverse the field of arbitration can be: hailing from a wide range of jurisdictions around the globe; speaking different languages; and working in various settings, whether it be a law firm, international organizations, government agencies, or academia.

I would like to extend my heartfelt gratitude to R.E.A.L. and JURIS for making my participation in this event possible once again and for their commitment to promoting diversity in all its forms. I was

truly humbled to represent Columbia Law School for the second time at this event, and to meet and learn from so many arbitration practitioners who have long inspired me in continuing my journey into the field. For these reasons, the R.E.A.L. Scholarship both represented an important support to access an event of invaluable quality, and a source of empowerment and inspiration, reaffirming the importance of diversity, inclusion, and equality of opportunity in shaping the future of international arbitration. As I look forward to giving back to the community, I am further emboldened to champion the values instilled by R.E.A.L. and contribute to a more diverse and inclusive legal profession, particularly in our field.

About the author

Lynn Fouad is an LL.M. Candidate at Columbia Law School. She holds a Master's degree in Economic Law from Sciences Po Paris with a Certificate of Achievement in Global Business Law & Governance from Sciences Po, Columbia Law School, and Sorbonne University. She has worked with the international arbitration practices of King & Spalding and Herbert Smith Freehills in Paris and is currently a legal intern at ICSID.

REFLECTION ON ATTENDING THE INTERNATIONAL ARBITRATION TRAINING COURSE 2023



By Fan Huang

From 20 to 26 June 2023, I attended the International Arbitration Training Course offered by Leiden Law School in cooperation with the Permanent Court of Arbitration (PCA). The course focused on the theory and practice of international arbitration as a distinct field of the law and legal practice.

The lecturers featured esteemed professors, independent arbitrators and international lawyers. The course gathered a diverse cohort of 27 participants including academics, lawyers, in-house counsels, and university students. The participants and lecturers came from diverse backgrounds, including China, Indonesia, Iran, India, the Philippines, Colombia, Mexico, Canada, the US, Nigeria, Czech Republic, Germany, Greece, Italy, Spain, the UK, and the Netherlands. The diverse backgrounds of the participants allowed for the exchange of perspectives on various arbitration practices in different countries.

Besides a general course on the principles and practice of international arbitration, the course offered several thematic sessions on certain aspects of international arbitration. Specifically, the course went through topics from a general introduction and types of arbitration to more in-depth discussions on arbitration agreements, the arbitral award, recognition and enforcement, constitution,

competence and challenges to the arbitral tribunal, the seat of arbitration, arbitral procedure, evidence, orders and interim measures, investment treaty arbitration, and cross-examination exercises.

The course included a well-organized and insightful visit to the PCA as well as a lunch. Brooks Daly, the Former Deputy-Secretary General of the PCA and also a lecturer of the course, provided a guided tour of the PCA. Dr. Hab. Marcin Czepelak, the Secretary-General of the PCA, kindly received the course participants and introduced the history of the institution.

The course also featured a welcome dinner and a closing dinner at local restaurants, providing opportunities for networking and enhancing the overall experience.

Following the completion of the course and my master's programme at Leiden, I have been working as a legal counsel at the International Cooperation and Development Department of the Shenzhen Court of International Arbitration (SCIA), which is a leading arbitration institution in China and was recently selected by the Global Arbitration Review in its "worth a closer look" list.



The course has definitely inspired me to engage with the practice of international arbitration, leading me to choose a career as a legal counsel at an arbitration institution. My daily responsibilities now include case management as a tribunal secretary and international cooperation with numerous international organizations, such as UNCITRAL, ICSID and the ICC International Court of Arbitration, as well as many well-known international arbitration institutions. In these regards, the course equipped me with the necessary knowledge for effectively handling arbitral procedures as a secretary and provided a global perspective and connections to foster international cooperation with institutions worldwide.

I received the R.E.A.L scholarship for the course when I approached the end of my master programme at the Leiden University. The Netherlands, particularly The Hague, serves as a hub of legal experts, notable facilities and world-known organizations relevant to international law. Being a recipient of the R.E.A.L. scholarship while studying in the Netherlands enabled me to maximize local educational resources and to connect with international arbitration experts. In short, participating in the course enriched my educational experience and encouraged me to further pursue a career in the field of international dispute settlement.

fields international dispute settlement from his role as an intern at the United Nations Commission on International Trade Law (UNCITRAL) and international law firms.

About the author

Fan Huang is the legal counsel at the International Cooperation and Development Department of the Shenzhen Court of International Arbitration (SCIA). He holds an LLB degree from the China University of Political Science and Law and a LLM degree in Public International Law from the Leiden University. Prior to working at SCIA, he gained practical experience in the



#REALINSIGHTS – UPDATES FROM OUR COMMITTEES

As each of R.E.A.L.'s wonderful committees delve into the New Year, they are each beginning to work on a broad range of initiatives to close the racial diversity gap. In this edition of the Newsletter, we take the opportunity to introduce the members of two of R.E.A.L.'s committees — the Newsletter & Blog Committee and the Academic Council.

Newsletter & Blog Committee

The current members of the Newsletter & Blog Committee are Stanislava Nedeva, Ernesto Hernández and Nivvy Venkatraman.



Stanislava Nedeva is a Lecturer in Law at Cardiff University, after having previously taught at Reading University. Her main research interests and passion lie in international arbitration (commercial and investment treaty), investment law, energy (oil and gas) and EU. She is a Young-OGEMID Rapporteur and since July 2023 also a member of the R.E.A.L. Newsletter & Blog Team.

Ernesto Hernández is a Co-Chair of the Newsletter & Blog Committee. He advises and represents clients in a broad range of complex international disputes, including representing sovereign States in investment treaty arbitrations and multinational corporations in international commercial arbitrations. He has represented clients in all-Spanish and bilingual international arbitrations across industries and under major arbitral rules and institutions, including ICSID, UNCITRAL, ICC, LCIA, and AAA/ICDR. In addition to his arbitration practice, Ernesto has represented individuals and corporations in complex commercial litigations, internal investigations, government investigations, and white-collar criminal and regulatory defense matters. He also maintains a highly active pro bono practice.



Nivvy Venkatraman is a Co-Chair of the Newsletter & Blog Committee. She is also an Associate at HFW Australia focussing on dispute resolution. Her experience includes disputes relating to construction, insolvency, property, shareholding, and general commercial and corporate disputes. She is well versed in litigation, arbitration, adjudication, mediation and expert determination proceedings. Prior to joining HFW Australia, Nivvy worked at a pioneering arbitral institution in the Asia-Pacific region. Nivvy is presently a steering committee member for the NSW Chapter of ACICA45.

In 2023, the Newsletter & Blog Committee published the July R.E.A.L. Newsletter, In 2024, the Newsletter & Blog Committee intends to publish further newsletters as well as launching the R.E.A.L. Blog.



Academic Council

The current members of the Academic Council are Charles Mak, Khushboo Shahdadpuri, Dr. Yağmur Hortoğlu, and Gustavo Favero Vaughn.



Charles Mak is presently a Lecturer in Law at Robert Gordon University and a PhD Candidate in Law at the University of Glasgow. Additionally, he holds fellowships at several esteemed institutions, including the Stanford-Vienna Transatlantic Technology Law Forum at the Stanford Law School and the Centre for Chinese and Comparative Law at the City University of Hong Kong.

In 2024, Charles hopes to enhance the Academic Council's engagement with technology law by proposing a series of events. These events will focus on the intersection of technology and arbitration, aiming to address current legal challenges and anticipate future developments in this rapidly evolving field. The proposed initiatives include symposiums, workshops, and panel discussions that foster interdisciplinary dialogue among experts in the sector.

Khushboo Shahdadpuri is a senior dispute resolution lawyer with Al Tamimi & Company. Ranked as a Rising Star in Legal500 and as a Future Leader Arbitration in Who's Who Legal, Khushboo focuses on construction, infrastructure and energy disputes.



As part of the Academic Council in 2023, Khushboo coordinated discussions on guidelines to be adopted by arbitral institutions; research undertaken on racial and national diversity in the appointment of arbitrators by various arbitral centres, as well as a webinar on culture in arbitration. In 2024, Khushboo will focus on publishing research and other guidelines and continuing the research initiative.



Dr. Yağmur Hortoğlu is a Co-Chair of the Academic Council. She is a Lecturer in Law at Maynooth University where she teaches arbitration law, private international law and contract law and directs the L.L.M. in International Business Law. She publishes regularly in arbitration law. She is fluent in English, French and Turkish.

In 2023, Yağmur led the Academic Council in organising a webinar on bias and diversity in international arbitration back in October. This webinar was hosted by Arbitration Channel. The panel was moderated by Yağmur and comprised Prof. Sarah Rudolph Cole (The Ohio State University), Prof. Won Kidane (Villanova University), Niamh Leinwather (Vienna International Arbitral Centre of the Austrian Federal Economic Chamber - VIAC), and Lédéa Sawadago-Lewis (Hogan Lovells - Paris).

In 2024, the Academic Council is planning to organise a seminar series on cultural bias.

R.E.A.L. ARBITRATION TRIVIA



Test your arbitration knowledge with the following R.E.A.L. Arbitration Trivia Questions!

Send your responses to newsletter@letsgetrealarbitration.org and the first five (5) correct responses received will be recognized in the next R.E.A.L. Newsletter.

Questions:

- Under which of the following rules is an appeal on a point of law available: (a) English Arbitration Act 1996, (b) Singapore International Arbitration Act 2012, (c) UNCITRAL Model Law on International Commercial Arbitration 1985 (with amendments in 2006), (d) ICSID Convention?
- According to Oxford University Press, what was the Oxford Word of the Year 2023? Hint: the answer is not arbitration-related.
- According to ICSID Caseload Statistics for 2023, which region(s) has the lowest percentage (6%) of distribution of all ICSID Cases Registered, by State Party Involved?
- What does the Latin phrase *clausula rebus sic stantibus* mean?
- As of January 2024, how many state parties have signed and ratified the AfCFTA?
- Which of the following instruments categorises situations which may give rise to 'justifiable doubts' as to the arbitrator's impartiality and independence: (a) ICC Arbitration Rules 2021, (b) UNCITRAL Rules on Transparency 2014, (c) IBA Guidelines on Conflicts of Interest 2014, or (d) UNCITRAL Draft Code of Conduct for Arbitrators in ISDS 2023?



Image courtesy of Shutterstock.com

Answers to Issue #4 Trivia

1. ICC Court of Arbitration.
2. Thumbs up emoji.
3. WIPO and Singapore.
4. Argentina and Uruguay.
5. (d)



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