



Yas Banifatemi

SHEARMAN & STERLING LLP
7 rue Jacques Bingen
75017 Paris
France
T: +33.(0)1.53.89.70.00
F: +33.(0)1.53.89.70.70

ybanifatemi@shearman.com

Yas Banifatemi is a partner in Shearman & Sterling's International Arbitration Group and leads the firm's Public International Law Practice.

Experience

Yas Banifatemi regularly sits as Chair, sole arbitrator and co-arbitrator in international arbitration proceedings under the Arbitration Rules of the International Chamber of Commerce (ICC), the International Center for Settlement of Investment Disputes (ICSID), the Arbitration Institute of the Stockholm Chamber of Commerce (SCC), the London Court of International Arbitration (LCIA), the Cairo Regional Center for International Commercial Arbitration (CRCICA), and, the Swiss Rules of International Arbitration, as well as in *ad hoc* proceedings (in particular UNCITRAL Arbitration Rules).

She represents States, State entities and companies in international arbitration cases under the ICSID, UNCITRAL, ICC, LCIA, SCC, CRCICA, DIS and Swiss Arbitration Rules, with particular focus on international investment, oil & gas, disputes arising from mergers & acquisitions and joint ventures, and general commercial matters. She also advises States, State entities and corporations on a variety of public international law issues, including law of treaties, State responsibility, State contracts, immunity of States and international organizations, international boundaries and law of the sea.

Experience as Arbitrator

Chair, sole arbitrator and co-arbitrator in international arbitration proceedings under the Arbitration Rules of the ICC, ICSID, SCC, LCIA, CRCICA, the Swiss Rules of International Arbitration, as well as in *ad hoc* proceedings.

Arbitrations in the public domain include:

- *Michael Dagher v. Republic of the Sudan* (President of the Tribunal, appointed by ICSID, ICSID Case No. ARB/14/2). Dispute relating to a wireless internet service enterprise.
- *Joseph Houben v. Republic of Burundi* (Co-arbitrator, appointed by the Claimant, ICSID Case No. ARB/13/7). Dispute relating to a real estate project.

Yas Banifatemi

- *Mamidoil Jetoil Greek Petroleum Products Societe Anonyme S.A. v. Republic of Albania* (Co-arbitrator, appointed by the Respondent, ICSID Case No. ARB/11/24). Dispute relating to and oil storage and distribution project.
- *China Heilongjiang International Economic & Technical Cooperative Corp., Beijing Shougang Mining Investment Company Ltd., and Qinhuangdaoshi Qinlong International Industrial Co. Ltd. v. Mongolia* (Co-arbitrator, appointed by the Claimants, PCA Case No. 2010-20).

Selected Professional Affiliations and Business Activities

Visiting Lecturer in Law, Yale Law School

Lecturer on International Investment Law, Panthéon-Sorbonne University (Paris I) (since 2006)

Lecturer in Written Skills in International Arbitration Workshop, Sciences Po (since 2012)

Director of Studies, Public International Law Session, The Hague Academy of International Law (Summer 2004)

Lecturer on Public International Law, Panthéon-Assas University (Paris II) (1994-1996 and 1999-2000)

Vice-President, ICC International Court of Arbitration (2015-)

Member, ICC Commission on arbitration and ADR (2015-)

Member, LCIA Court (2015-)

Founding member and Co-Secretary-General, International Academy for Arbitration Law (2011-13)

Chair, Georgian International Arbitration Center (GIAC) Commission for Final Revision of the GIAC Arbitration Rules

Member, SCC Rules Revision Committee

Member, Editorial Board, ICSID Review, Foreign Investment Law Journal (2012-14)

Member, Editorial Board, Yearbook on International Investment Law and Policy

Member, Program Committee, 2016 ICCA Congress

Member, World Bank's Investment Across Borders (IAB)

Member, ILA Study Group on the Soft Law Instruments in Foreign Investment Law (2008-2014)

Member, ILA Study Group on the Use of Private Law Principles for the Development of International Law

Member, IBA Investment Treaty Sub-Committee

Member, IBA Recognition and Enforcement of Arbitral Awards Sub-Committee

Member, Advisory Board, Africa International Legal Awareness (AILA)

Panel member, UNCTAD *ad hoc* Expert Group meetings

Member, International Arbitration Institute (IAI), Comité Français de l'Arbitrage (CFA), Swiss Arbitration Association (ASA) and London Court of International Arbitration (LCIA)

Advisory Board Member, Institute for Transnational Arbitration (ITA)

Member, American Society of International Law (ASIL), European Society of International Law (ESIL) and French Society of International Law (SFDI)

Yas Banifatemi

Education

Panthéon-Assas University (Paris II), Ph.D. in International Law, 1997 (with highest honors; Dissertation honored with a prize at the *Concours de Prix de Thèses* of Panthéon-Assas University (Paris II))

Harvard Law School, LL.M., 1997

Publications

Yas Banifatemi has written numerous articles on international arbitration and international law. She also regularly appears as a speaker, particularly on issues of investment arbitration and international law. Her publications include:

- *Jurisdiction in Investment Arbitration*, *IAI Series on International Arbitration No. 8* (Editor, Juris Publishing, forthcoming)
- *Precedent in International Arbitration*, *IAI Series on International Arbitration No. 5* (Editor, Juris Publishing, 2008)
- *Annulment of ICSID Awards*, *IAI Series on International Arbitration No. 1* (Co-editor, Juris Publishing, 2004)
- “The Long March towards a *Jurisprudence Constante* on the Notion of Investment, *Salini v. Morocco*, ICSID Case No ARB/00/4,” in *Building International Investment Law – The First 50 Years of ICSID* 97 (M. Kinnear et al. eds., Kluwer, 2015) (with E. Gaillard)
- “Compétence et recevabilité dans le droit de l’arbitrage en matière d’investissements” in *Droit international des investissements et arbitrage transnational* 773 (C. Leben ed., Pedone, 2015) (with E. Jacomy)
- “The Impact of Corruption on ‘Gateway Issues’ of Arbitrability, Jurisdiction, Admissibility and Procedural Issues,” in *Addressing Issues of Corruption in International Commercial and Investment Arbitration* 16 (D. Baizeau and R. Kreindler eds., ICC Publication No. 768E, 2015)
- “France,” in *Commentaries on Selected Model International Investment Treaties* (C. Brown and D. Kirshnan eds., 2014) (with A. von Walter)
- “Consistency in the interpretation of substantive investment rules: is it achievable?,” in *Prospects in International Investment Law and Policy*, Proceedings of the World Trade Forum 2011, at 200 (R. Echandi and P. Sauvé eds., Cambridge University Press, 2013)
- “La regla de prioridad: ¿Una prioridad en América Latina?,” in *Cuestiones claves del arbitraje internacional* 81 (E. Gaillard and D. Fernández Arroyo eds., 2013)
- “Unresolved Issues in Investment Arbitration,” in *Modern Law for Global Commerce – Proceedings of the Congress of the United Nations Commission on International Trade Law held on the Occasion of the Fortieth Session of the Commission, Vienna, 9-12 July 2007*, at 416 (United Nations publication No. V.09-8930, 2011)
- “Provisional Application of the Energy Charter Treaty: The Negotiating History of Article 45,” in *Energy Dispute Resolution: Investment Protection, Transit and the Energy Charter Treaty* 191 (G. Coop ed., Juris, 2011)

Yas Banifatemi

- “The Law Applicable in Investment Treaty Arbitration,” in *Arbitration under International Investment Agreements* 191 (K. Yannaca-Small ed., Oxford University Press, 2010)
- “Mapping the Future of Investment Treaty Arbitration as a System of Law – Remarks,” in *American Society of International Law – Proceedings of the 103rd Annual ASIL Meeting*, at 323 (2010)
- “Defending Investment Treaty Awards: Is There an ICSID Advantage?,” in *50 Years of the New York Convention, ICCA Congress Series No. 14*, at 318 (2009)
- “The Emerging Jurisprudence on the Most-Favoured-Nation Treatment in Investment Arbitration,” in *Investment Treaty Law: Current Issues III*, at 241 (A. Bjorklund, I. Laird and S. Ripinsky eds., BIICL, 2009)
- “Negative Effect of Competence-Competence: The Rule of Priority in Favour of the Arbitrators,” in *Enforcement of Arbitration Agreements and International Arbitral Awards – The New York Convention in Practice* 257 (E. Gaillard and D. Di Pietro eds., Cameron May, 2008) (with E. Gaillard)
- “Le ‘droit au juge’ et l’arbitrage commercial international,” in *Libertés, Justice, Tolérance – Mélanges en l’honneur du Doyen Gérard Cohen-Jonathan* (Bruylant ed., 2004)
- “Introductory note to ICSID: Salini Costruttori SpA & Italstrade SpA v. Kingdom of Morocco (Proceeding on Jurisdiction),” 42 *International Legal Materials* 606 (2003) (with E. Gaillard)
- “The meaning of ‘and’ in Article 42(1), second sentence, of the Washington Convention – The role of international law in the ICSID choice of law process,” 18 *ICSID Review* 375 (2003) (with E. Gaillard)
- “Le nouveau droit de l’arbitrage interne aux Etats-Unis (Revised Uniform Arbitration Act de 2000): La persistance des particularismes,” 2003(4) *Revue de l’arbitrage* 1195
- “La lutte contre le financement du terrorisme international,” 2002 *Annuaire Français de Droit International* 103
- “La restitution des avoirs juifs en déshérence sous l’angle du droit international public,” 1998 *Annuaire Français de Droit International* 76
- Collaboration with Emmanuel Gaillard on his International Arbitration column in the *New York Law Journal*:
 - “‘Bewater,’ Classic Investment Bases: Input, Risk, Duration” (Dec. 31, 2008)
 - “Court-ordered Measures in Arbitral Discovery” (Dec. 13, 2007)
 - “The Representations of International Arbitration” (Oct. 4, 2007)
 - “The Denunciation of the ICSID Convention” (June 26, 2007)
 - “Extent of Court Review of Public Policy” (Apr. 5, 2007)
 - “A Black Year for ICSID” (Mar. 1, 2007)
 - “Autonomy of International Arbitration” (Dec. 14, 2006)
 - “ICC Pre-Arbitral Referee: A Procedure Into Its Stride” (Oct. 5, 2006)
 - “Switzerland Says *Lis Pendens* Not Applicable to Arbitration” (Aug. 7, 2006)
 - “Amended Arbitration Rules Now in Effect for Investment Disputes” (June 1, 2006)

Yas Banifatemi

- “Prima Facie Review of Existence, Validity of Arbitration Agreement” (Dec. 1, 2005)
- “Treaty-Based Jurisdiction: Broad Dispute Resolution Clauses” (Oct. 6, 2005)
- “Establishing Jurisdiction Through a Most-Favored-Nation Clause” (June 2, 2005)
- “Energy Charter Treaty: International Centre for Settlement Decision” (Apr. 7, 2005)
- “The IBA Guidelines on Conflicts of Interest in International Arbitration” (June 3, 2004)
- “Arbitration-Agreement Recognition: N.Y. Convention, National Law” (Dec. 8, 2003)
- “*KBC v. Pertamina*’: Landmark Decision on Anti-Suit Injunctions” (Oct. 2, 2003)
- “The First Association of Southeast Asian Nations Agreement Award” (Aug. 7, 2003)

Bar Admissions/Qualifications

Paris

Languages

French, English, Farsi

Nationality

French, Iranian