

March 31 - April 1, 2022

Clash of Cultures? Civil & Common Law Traditions in International Arbitration

8th Harvard International
Arbitration Conference

Conference Co-Chairs



Dr. Claudia Annacker
Dechert



Dietmar W. Prager
Debevoise & Plimpton



Mohamed Shelbaya
GBS Disputes

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<http://www.canalarbitragem.com.br/HIAC/>



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8th Harvard International Arbitration Conference (HIAC)

The HIAC is an annual conference hosted and organized by the Harvard International Arbitration Law Students Association (HIALSA). Harvard Law School has a vibrant and growing community of students and academics interested in international arbitration. Every year, the HIAC is a point of reference to arbitration practitioners around the world and widely regarded as one of the most important arbitration conferences in the United States. For the 8th HIAC, HIALSA has opted to focus on a conference title that is emblematic of arbitration's international nature: "Clash of cultures? Civil & Common Law traditions in international arbitration."

About Harvard International Arbitration Law Students Association

HIALSA is the only student organization at Harvard Law School that focuses exclusively on the exciting field of international arbitration. Established in 2014, our mission is to promote the study of arbitration on campus and to connect students and arbitration practitioners.

HIALSA Executive Board 2022

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Welcome from the VPs of Conference

Dear Harvard International Arbitration Conference participants:

Our world is presently in flux. It has always been, but in recent times, there has been a notable acceleration. It is undisputable that globalization has shaped an increasingly interconnected world, while, at same time, provoking new cultural tensions and increasing the number of international disputes. Recent events in Eastern Europe have reminded us of the fragility of the rule of law and of international institutions.

However, we refuse to think about the interactions between cultures in terms of pure confrontation. The title of this year's conference, "Clash of Cultures? Civil & Common law traditions in international arbitration", is an invitation to analyze the constructive ways in which legal cultures interrelate through the lens of international arbitration. If there is one takeaway that we would love everyone to have from this conference, it is that international arbitration – with all its defects and glitches – stands to maintain that even the most complex disputes can be settled peacefully.

Paradoxically, the power of international arbitration resides in its simplicity and flexibility. International arbitration is nothing else than a common language between different cultures. In these complex times, instead of propelling a rhetoric of a "clash of cultures", we should advocate for cosmopolitanism: the simple and powerful idea that we all are citizens of the world. When disputes arise – either involving States, corporations, or foreign investors – the language of arbitration and of the rule of law should be the only available dialect.

It suffices to say that with 21 speakers of over 16 different nationalities, the 8th Harvard International Arbitration Conference is emblematic of this spirit. We are extremely grateful for the participation and support of our co-chairs, speakers, sponsors, and institutional supporters. A special thanks also goes to Harvard Law School and all the members of the Executive Board of HIALSA.

We hope that each of you will find this conference worthwhile and thought-provoking.

Kind Regards,



Karim Zein



Sebastián Briceño



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8th Harvard International Arbitration Conference Program

March 31, 2022

- 9:00 - 9:10** **HIALSA Welcome** | Karim Zein and Sebastián Briceño
- 9:10 - 9:50** **Keynote Speech - Co-Chair**
Dr. Dietmar W. Prager (Debevoise & Plimpton)
- 10:00 - 11:00** **Panel 1: Good faith in civil and common law traditions – antagonistic doctrines?**
Panelists: Nigel Blackaby QC (Freshfields Bruckhaus Deringer)
 Roland Ziadé (Linklaters)
Moderator: Sarah Vasani (CMS)
- 11:00 - 11:30** **Break**
- 11:30 - 12:30** **Panel 2: Arbitrators' powers to review contracts – hardship and force majeure in comparative perspectives**
Panelists: Nicole Duclos (Covington & Burling)
 Elie Kleiman (Jones Day)
Moderator: Sven Volkmer (White & Case)
- 12:30 - 14:00** **Lunch Break**
- 14:00 - 15:00** **Panel 3: Taking of evidence in international arbitration – mix of traditions**
Panelists: James Hosking (Chaffetz Lindsey)
 Patricia Saiz (ESADE Law School)
Moderator: Ari MacKinnon (Cleary Gottlieb Steen & Hamilton)
- 15:10 - 15:50** **Keynote Speech - Co-Chair**
Mohamed Shalbaya (GBS Disputes)

April 1, 2022

- 8:50 - 9:00** **HIALSA Welcome** | Karim Zein and Sebastián Briceño
- 9:00 - 10:00** **Panel 4: Quantification of damages in international arbitration – inherent differences between civil and common law jurisdictions?**
Panelists: Juliette Fortin (FTI Consulting)
 Peter Rosher (Reed Smith)
Moderator: Deva Villanúa (Armesto y Asociados)
- 10:10 - 11:10** **Panel 5: Interim measures in commercial and investment arbitrations – where do we stand today?**
Panelists: Philippe Pinsolle (Quinn Emanuel Urquhart & Sullivan)
 Rafael Rincon (Zuleta Abogados)
Moderator: Isabel Fernández de la Cuesta (King & Spalding)
- 11:10 - 11:30** **Break**
- 11:30 - 12:30** **Panel 6: Enforcement of awards and local courts - dialogue between traditions and the New York Convention**
Panelists: Adrián Magallanes (Von Wobeser y Sierra)
 Eva Y. Chan (Skadden)
Moderator: Leah Njoroge-Kibe (ICSID)
- 12:30 - 13:10** **Keynote Speech - Co-Chair**
Dr. Claudia Annacker (Dechert)
- 13:10 - 13:20** **HIALSA Closing remarks**
Maryan Hassan, HIALSA President

Keynote Speech

Clash of civilizations? The role of international arbitration in maintaining peace

March 31, 2022 | 9:10 - 9:50 EST



Dr. Dietmar W. Prager
Debevoise & Plimpton

Dr. Dietmar W. Prager is a litigation partner who focuses his practice on international arbitration and litigation. He co-leads Debevoise & Plimpton's Latin America Practice Group. Dr. Prager has represented parties in numerous arbitrations throughout the world. He was also one of the youngest lawyers ever to argue before the International Court of Justice.

Dr. Prager's recent representations include disputes involving complex infrastructure projects, mining projects, shareholder disputes, investment treaties, oil & gas projects, energy projects, the retail sector, the finance sector, sovereign debt and distribution agreements. Dr. Prager also regularly sits as arbitrator.



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Keynote Speech

International arbitration between
legal cross-pollination and legal
acculturation

March 31, 2022 | 15:10 - 15:50 EST



Mohamed Shelbaya
GBS Disputes

Mohamed Shelbaya has represented companies, States and State-owned entities in more than 60 commercial and investment treaty matters, including many multibillion-dollar disputes involving novel questions of international law and geopolitical issues. He also advises energy companies regarding their contractual portfolio and on how to manage potential liability and mitigate litigation risk. He advises governments and State entities on the restructuring of their respective energy sectors.

Mohamed also regularly acts as arbitrator in commercial and investment arbitrations and teaches investment arbitration at Sciences Po Law School.



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Keynote Speech

Investment arbitration at the
crossroads of civil and common law

April 1, 2022 | 12:30 - 13:10 EST



Dr. Claudia Annacker
Dechert

Dr. Claudia Annacker focuses her practice on international arbitration and litigation and public international law matters, in particular investor-State disputes, inter-State disputes, disputes involving international organizations and human rights cases. She has represented states and investors in more than 30 investment treaty arbitrations.

Dr. Annacker also acts as arbitrator. She was appointed to the ICSID Panel of Arbitrators in 2020. She is also an adjunct professor at the University of Vienna, where she teaches advanced research seminars in international responsibility and international dispute settlement.



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Panel 1

Good faith in civil and common law traditions – antagonistic doctrines?

March 31, 2022 | 10:00 - 11:00
EST



Nigel Blackaby QC
(Freshfields Bruckhaus
Deringer)

Panelist



Sarah Vasani
(CMS)

Moderator



Roland Ziadé
(Linklaters)

Panelist



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Panel 2

Arbitrators' powers to review contracts – hardship and *force majeure* in comparative perspectives

March 31, 2022 | 11:30 - 12:30 EST



Nicole Duclos
(Covington & Burling)

Panelist



Sven Volkmer
(White & Case)

Moderator



Elie Kleiman
(Jones Day)

Panelist



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Panel 3

Taking of evidence in international arbitration – mix of traditions

March 31, 2022 | 14:00 - 15:00 EST



James Hosking
(Chaffetz Lindsey)

Panelist



Ari MacKinnon
(Cleary Gottlieb Steen & Hamilton)

Moderator



Patricia Saiz
(ESADE Law School)

Panelist



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Panel 4

Quantification of damages – inherent differences between civil and common law jurisdictions?

April 1, 2022 | 9:00 - 10:00 EST



Juliette Fortin
(FTI Consulting)

Panelist



Deva Villanúa
(Armesto y Asociados)

Moderator



Peter Rosher
(Reed Smith)

Panelist



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Panel 5

Interim measures in commercial and investment arbitrations – where do we stand today?

April 1, 2022 | 10:10 - 11:10 EST



Philippe Pinsolle
(Quinn Emanuel
Urquhart & Sullivan)

Panelist



**Isabel Fernández de la
Cuesta**
(King & Spalding)

Moderator



Rafael Rincon
(Zuleta Abogados)

Panelist



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Panel 6

Enforcement of awards and local courts - dialogue between traditions and the New York Convention

April 1, 2022 | 11:30 - 12:30 EST



Adrián Magallanes
(Von Wobeser y Sierra)

Panelist



Leah Njoroge-Kibe
(ICSID)

Moderator



Eva Y. Chan
(Skadden)

Panelist



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President's Note

Dear Friends of HIALSA,

A timely retrospective is in order as we not only look back at how far the organization has come, but we also take the time to pay tribute to those who helped make HIALSA what it is today. I would like to dedicate this note to our founding and previous executive board colleagues, faculty advisor (Prof. Mark Beckett) and the entire advisory board.

One founding advisory board member was the brilliant and inimitable late Prof. Emmanuel Gaillard. As a hugely popular visiting professor at Harvard Law School, Prof. Gaillard was a driving force and guiding light to students. HIALSA was created with his support, and he was renowned for staying in touch with students and keeping track of their careers post-graduation. When I was appointed as the youngest woman on the ICSID panels in 2016, he was the first to congratulate me. I feel truly honored to have known him.

Our conference's title theme, true to form, encapsulates Prof. Gaillard's broad scholarship and practice. Whether it was undertaking pro-bono work in civil law Djibouti or representing clients in common law New York, he would learn and honor the legal traditions of each place. He was a testament to the truly international nature of arbitration.

On behalf of the entire HIALSA Executive Board I would like to pay tribute to Prof. Gaillard.

With Appreciation,



Maryan Hassan



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