

Emilie Gonin

YEAR OF CALL: ENGLAND AND WALES: 2015; PARIS: 2011

"Emilie is a superb lawyer, tactician and advocate, and is an absolute delight to work with. Her drafting skills are impeccable."

Legal 500 2024

Clerk's Email: TonysClerkingTeam@brickcourt.co.uk



Practice Overview

Emilie is a leading barrister specialising in commercial and international disputes including international commercial arbitration, commercial litigation, investment treaty arbitration and public international law.

She is ranked in the legal directories, which describe her as a "brilliant lawyer, thorough in her analysis, precise in her drafting and clear in her thoughts", "a massive intellect", "an excellent and committed junior who is a great team player and a joy to work with" and a barrister whose "enthusiasm is matched with a razor-sharp mind".

Emilie represents parties in complex and high value disputes before arbitral tribunals and the English Court both as sole and junior counsel. She has experience of disputes in a wide range of sectors including hospitality, mining, oil and gas, telecommunications, financial services, real estate, aviation, shipping taxation and commodity trading.

She has considerable experience in international commercial arbitration having represented parties in several dozen arbitrations under all major procedural rules (ICC, LCIA, UNCITRAL, Swiss Rules, SCC, LMAA and HKIAC). Emilie is also vastly experienced in investment treaty arbitration, which she lectures at Sciences Po Paris. She has acted as counsel in over a dozen such cases representing both states and investors, primarily under the ICSID and UNCITRAL Rules, and is recognised in the directories as "exceptionally competent in investor-state arbitrations."

Emilie further has a broad commercial litigation practice and is particularly thought after for her expertise in (i) arbitration related court proceedings, including challenges to arbitral awards (s. 68 and s. 69), anti-suit injunctions, s. 44 applications and enforcement of arbitral awards, (ii) matters raising issues of public international law, including sovereign immunity and (iii) conflict of laws, including service out of the jurisdiction.

Emilie also has significant expertise of appearing before international courts on the basis of her experience in public international law. These include the International Court of Justice, the European Court of Human Rights and the Court of Justice of the European Union.

Emilie regularly sits as arbitrator. She has been appointed in almost a dozen arbitrations where she has sat as sole arbitrator, co-arbitrator as well as presiding arbitrator under various arbitration rules, including the ICC Rules, the Swiss Rules and the UNCITRAL Rules.

Emilie's instructions involve a wide range of regions including Africa, the Caribbean, Europe, the Middle East, Asia and the Americas. Given her bilingualism in French and her qualification as *Avocate à la Cour* at the Paris Bar, she is in demand in cases with francophone and/or civil law elements and has experience of advocacy in French before arbitral tribunals and international courts; directories note that she "*can work equally well in English and French*" and "*works seamlessly across French and English*". She is also fluent in Italian and German.

Commercial Arbitration

Emilie has extensive experience of representing parties in international commercial arbitration either as part of a counsel team or as sole advocate. She has long been recognised in the directories as a leading barrister in this field. She has experience of a wide range of arbitrations rules, including the ICC Rules, the LCIA Rules, the UNCITRAL Rules, the Swiss Rules, the SCC Rules, the LMAA Rules and the HKIAC Rules. Highlights of her recent instructions include:

- Acting for an Irish commodity trader in a dispute arising out of one party's failure to make payments under back-to-back sale and purchase contracts of thermal coal on the basis of the alleged applicability of sanctions (LCIA Arbitration, London seat).
- Acting for a Caribbean Government in its dispute with the concession holder of a freeport zone (UNCITRAL Rules, Nassau seat).
- Acting for a Mauritian bond holder in the context of a dispute arising out of the borrower's failure to repay the loan on which the bond emission was secured (Swiss Rules, Geneva seat).
- Acting for an international automobile sports federation in its dispute with an aspiring new entrant into the championship (LCIA Rules, London seat).
- Acting for an Irish hotel developer in his dispute with the hotel owners relating to the payment of his uplift in the value of a portfolio of luxury hotels *inter alia* in London (LCIA Rules, London seat).
- Acting for a Turkish hotel owner in a dispute with the hotel manager arising out of a hotel management agreement in respect of an Istanbul five-star hotel (ICC, London seat).
- Acting for a Mauritian bank in a dispute arising out of the sale of its Kenyan subsidiary (LMAA, London seat).
- Acting for an auction house in a dispute arising out of the sale by auction of luxury real estate (LCIA, London seat).
- Acting for a French producer of malt in a dispute arising out of a charterparty with a Belgian

- shipowner (LMAA, London seat).
- Acting for an Australian gold mining company in its dispute with a francophone African government regarding the revocation of certain tax exemptions under a concession agreement (ICC, Paris seat).
- Acting for an oil company in a dispute arising out of a joint venture agreement with two other oil companies (ICC, London seat).

Commercial Litigation

Emilie is regularly instructed on a range of complex commercial disputes. She has particular expertise in arbitration-related court applications, cases involving issues of public international law and conflict of laws. Highlights of Emilie's recent instructions before the Commercial Court include:

- *Naftogaz v Russia*. Acting for Naftogaz in the enforcement of US\$5 billion investment treaty award against Russia over the seizure of Naftogaz' assets in Crimea.
- *A v B*. Acting for a Mauritian Bank seeking an anti-suit injunction against court proceedings in East Africa in breach of an arbitration agreement providing for a London seated LCIA arbitration.
- *Radisson Hotels Aps Danmark v Hayat Otel*. Acting for Hayat in its successful defence of a s. 68 challenge to an ICC award brought by Radisson on grounds of alleged serious irregularity. Hayat obtained permission to cross-examine Radisson's witness of fact and disclosure from Radisson and was successful in demonstrating that Radisson waived its right to challenge the award under s. 73 of the Arbitration Act 1996.
- *A v B*. Acting for the defendant to a s. 68 challenge to an arbitral award in its challenging the service of arbitration claim form. The claimant was found to have breached its duty of full and frank disclosure.
- *A v B*. Acting for the claimant in an ICC arbitration in the context of a s. 44 application to the English Court for measures to protect its privileged and confidential information.
- *Fibula Air Travel v Just Us Air*. Acting for Just Us Air, an aircraft leasing company and airline, in a dispute relating to a wet-lease agreement. The case is still ongoing and has involved successfully resisting an application for a freezing injunction against the defendant and obtaining summary judgment against the claimant's claim.
- *Lutfi v Choudhury & Ors*. Acting for a high net worth individual in a civil fraud case relating to the misappropriation of assets in the context of the development of luxury properties in London. The case involved applications for freezing orders and other relief.
- *National Iranian Oil Company v Crescent Petroleum Company*. Acting for NIOC in its s. 69 challenge against a US\$ 2 billion award. The case involved (*inter alia*) deciding important issues as to the jurisdiction of the Court in light of the wording of the arbitration agreement.
- *A v B*. Acting for an individual claimant against his insurance company in a s. 67 challenge to an arbitral award. The challenge related to the scope of the arbitration agreement in the template insurance contract.

Investment Treaty Arbitration

Emilie has considerable expertise in investment treaty arbitration, which she has been lecturing for 9 years at Sciences Po Paris. She has been ranked in the legal directories for her expertise in the field for many years. Highlights of her recent instructions include:

- Acting for a Hong Kong investor in the telecommunication sector in *PCCW Cascade (Middle East) Ltd. v. Kingdom of Saudi Arabia* (ICSID Case No. ARB/22/20), an arbitration commenced under the China–Saudi Arabia BIT.
- Acting for a major telecommunication company in its dispute against a European country in an UNCITRAL arbitration (details not public).
- Acting for the main creditor of an electricity company in an arbitration against a European country arising out of measures taken in the context of the increase in electricity prices, commenced under the Energy Charter Treaty (details not public).
- Acting for a Dutch investor in the banking sector in *Jochem Bernard Buse v Panama* (ICSID Case No. ARB/17/12), an arbitration commenced under the Netherlands–Panama BIT relating to the conduct of the banking regulator in the context of allegations of misconduct by the investor.
- Acting for two Cypriot investors in the real estate sector in *Alverley Investments Limited, German Properties Ltd v Romania* (ICSID Case No. ARB/18/30), an arbitration commenced under the Cyprus–Romania BIT involving the confiscation of assets through criminal proceedings.
- Acting for an Indian investor in the construction sector in *Patel Engineering Limited v The Republic of Mozambique* (PCA Case No. 2020-21), an UNCITRAL investment treaty arbitration commenced under the India–Mozambique BIT relating to the construction of a railway and harbour in Mozambique.
- Acting for a British investor in the real estate sector in *Shokat Mohammed Dalal v United Arab Emirates* (ICSID Case No. ARB/19/10), an arbitration commenced under the UK–UAE BIT relating to an investment in a real estate project offshore from Dubai.
- Advising an Australian mining company in the context of an arbitration against a European country regarding a concession for a coke mine (details not public).
- Providing an expert opinion in relation to a challenge against two UNCITRAL investment treaty awards on jurisdiction brought by an Eastern European Government at the seat of arbitration (details not public).

Public International Law

Emilie has appeared before several international courts on the basis of her experience in public international law. She is ranked in the directories in this area. Highlights of her recent instructions include:

- Acting for the NGO WWF in the context of the ICJ matter *obligations of States in respect of Climate Change (Request for an advisory opinion)*.
- Acting for the African Union in its intervention before the ICJ in the matter of *Legal consequences of the separation of the Chagos Archipelago from Mauritius in 1965 (Request for Advisory Opinion)*.
- Acting for Wallonia and Brussels in the context of Belgium's request for an opinion of the CJEU on the dispute resolution mechanism in the CETA between the EU and Canada (*Opinion 1/17*).
- Advising the Hungarian Helsinki Committee in the context of the ECtHR Grand Chamber case of *Ilias and Ahmed v Hungary* (Application no. 47287/15).
- Advising a Middle Eastern government on the strength of its position, as a matter of international law, in the context of a high-profile dispute with neighbouring countries (details not public).
- Advising the Government of Somalia on international remedies available in relation to Illegal, Unregulated and Unreported fishing by foreign vessels in the territorial waters of Somalia and on the redrafting of its domestic fisheries law.
- Advising the Government of Senegal on international remedies available in relation to Illegal, Unregulated and Unreported fishing by foreign vessels in the territorial waters of Senegal.
- Acting for Fininvest, an Italian media company in its claim against Italy before the ECtHR.

Arbitrator

Emilie is regularly appointed as arbitrator. Her recent appointments include:

- Chair of a tribunal in an *ad hoc* arbitration seated in France arising out of a shareholder dispute.
- Claimant's appointee in an ICC arbitration seated in Riyadh arising out of a partnership agreement for the provision of services in Saudi Arabia.
- Sole Arbitrator in an ICC arbitration seated in London arising out of a helicopter lease agreement.
- Sole Arbitrator in an ICC arbitration seated in London relating to an international commodity

sale.

- Claimant's appointee in an ICC arbitration seated in Oman arising out of a contract for the sale of hydrocarbons.
- Respondent's appointee in an UNCITRAL arbitration seated in Geneva arising out of a contract between a French blue-chip company and an African State.
- Sole Arbitrator in a Swiss Arbitration Centre arbitration seated in Geneva relating to an international commodity sale.

Career and Education

CAREER

2011:

- Paris Bar Avocate à la Cour
- Registered European Lawyer in England & Wales

2015:

- Call in England & Wales
- Lecturer at Sciences Po Paris teaching investment treaty arbitration in the Masters course "Litigation and Arbitration"

EDUCATION

LLM in International Business Law (Hons), London School of Economics and Political Science, 2010

Masters in English and North American Business Law (Hons), La Sorbonne, 2009

Masters in Economic Law with major in Litigation and Arbitration (Hons), Sciences Po Paris, 2009

Masters in Public Affairs (Hons), Sciences Po Paris, 2007

Double degree in German and History (Hons), Jussieu and La Sorbonne Nouvelle, 2005

LANGUAGES & PROFESSIONAL MEMBERSHIPS

French (native), Italian (fluent), German (fluent), and Spanish (basic)

Member of ICC YAF, Mute off Thursdays, YIAG, Supporting Member of the LMAA, the COMBAR

Publications

"Intra-EU Investment Protection and the Rule of Law", in C. Baltag, A. Stanic (eds.), *The Future of Investment Treaty Arbitration in the EU: Energy Charter Treaty, Intra-EU BITs and Multilateral Investment Court*, Wolters Kluwer, 2020

Commentary of Article 17 of the ICSID Convention, in J. Fouret, R. Gerbay, G.M. Alvarez (eds.), *The ICSID Convention, Rules and Regulations: A Practical Commentary*, Elgar Commentaries Series, 2019

"ICSID provisional measures v. extradition proceedings – the case of Nova Group Investments v Romania", Lexis PSL Arbitration, 12 December 2017

"How Effective are ICSID Provisional Measures at Suspending Criminal Proceedings before Domestic Courts: The English Example?", Kluwer Arbitration Blog, 30 September 2017

"CAFTA tribunal corrects award and terminates arbitration (Berkowitz v Costa Rica)", Lexis PSL Arbitration, 28 June 2017

"Spotlight on OHADA Arbitration following a Recent Decision of the Common Court of Justice and Arbitration", YAR, Ed. 21, April 2016

GAR Knowhow: Investment Treaty Arbitration – Rwanda chapter, 2015

"Barristers from the Same Chambers Appearing as Counsel and Arbitrator; Independence Revisited?", DRI, Volume 5, Issue 2, November 2011

Directory Quotes

- "Emilie is extremely knowledgeable on public international law and international investment disputes. She is very dedicated, diligent and careful in expressing her views, and does this very efficiently." (Chambers & Partners 2024: Public International Law)
- "Emilie is a superb lawyer, tactician and advocate, and is an absolute delight to work with. Her drafting skills are impeccable – she writes with great clarity and force, in both English and French, and is always mindful to take account of negative facts or law in a clever manner.' (Legal 500: International Arbitration Counsel: 2024)

- "She's a massive intellect and can work equally well in English and French." "She is exceptionally competent in investor-state arbitrations and she works really hard." (Chambers & Partners 2023: Public International Law)
- "Emilie is a rising super-star. She is strong across the board. Her written advocacy is always clear and compelling, and reflects very deep thought and insight into the core issues. Emilie's oral advocacy is truly superb. She is extremely poised, sharp, witty, flexible, charming and impassioned." (Legal 500: International Arbitration Counsel: 2023)
- "Emilie is a tremendous advocate and very knowledgeable, particularly on investment treaty arbitration." (Legal 500: Public International Law: 2023)
- "A brilliant lawyer, thorough in her analysis, precise in her drafting and clear in her thoughts. She is a pleasure to work with under any circumstance, including when faced with the stress of a filing deadline or hearing." (Legal 500: International Arbitration Counsel: 2022)
- "Emilie is a brilliant lawyer, thorough in her analysis, precise in her drafting and clear in her thoughts. She is a pleasure to work with under any circumstance, including when faced with the stress of a filing deadline or hearing." (Legal 500: Public International Law: 2022)
- "She is pragmatic and knows the process of investor-state arbitration well." "She can work comfortably in English, French and Italian on European cases with an international element." "She is on top of the law and shows great client management." (Chambers and Partners: Public International Law: 2022)
- "She is an excellent and committed junior who is a great team player and a joy to work with, she works seamlessly across French and English, and fights like a tiger for her clients" (Legal 500, Public International Law, 2021)
- A barrister whose "enthusiasm is matched with a razor-sharp mind" (Who's Who Legal, UK Bar: Arbitration, 2019).