

MARIA VICIEN MILBURN

Independent Arbitrator

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Profile



Maria Vicien Milburn is an international judge and arbitrator, and former senior official of the United Nations. An Argentinian and Spanish national, she is a specialist in public international law with extensive dispute resolution experience in arbitration, conciliation and negotiation acquired through senior positions as General Counsel of UNESCO, Director of the General Legal Division of the United Nations Legal Office, and Registrar of the United Nations Administrative Tribunal.

Maria currently acts as arbitrator in cases involving sovereign States and their instrumentalities, including under the auspices of the International Centre for Settlement of Investment Disputes (ICSID), the Permanent Court of Arbitration (PCA), and the International Chamber of Commerce (ICC). She also sits as a member of the Sanctions Board of the World Bank, and a judge of the administrative tribunals of the European Bank for Reconstruction and Development (EBRD), the Inter-American Development Bank (IDB) and the International Monetary Fund (IMF). She is a member of the list of panelists of the Dispute Settlement Body of the World Trade Organization (WTO).

During her thirty-five-year career as an international lawyer at the United Nations and UNESCO, Maria provided legal advice on all issues relating to the operation of the two organizations worldwide. She oversaw all commercial contracting, directed the conduct of all litigation and arbitration, and advised on international treaties and conventions. Since retirement from the United Nations in 2014, Maria has continued to serve in multiple capacities as a special advisor to international organizations.

In her work as an arbitrator she has adjudicated disputes in a wide array of sectors including telecommunications, real estate, procurement, and aviation. Trilingual in English, Spanish and French, she regularly acts in arbitrations in all three languages and involving parties in Europe, the Middle East, and Africa. An active member of the arbitral community, Maria is an observer to UNCITRAL Working Groups II and III

on international arbitration, a member of the ICC Arbitration Commission, and an advisor to the Board of the Arbitration Court of Madrid.

Maria is a graduate of the University of Buenos Aires Law School (Argentina) and received a Master in Laws from Columbia University. She is admitted to practice law in New York and Buenos Aires.

Dispute Resolution Experience

Since 2015, María has acted as an arbitrator in investment and commercial disputes, particularly those involving sovereign States and their instrumentalities. Representative matters include:

- Co-arbitrator appointed by the State in Marko Mihaljevic v. Croatia (ICSID Case No. ARB/19/35);
- Co-arbitrator appointed by a West African State in an ICC Arbitration brought by a European claimant concerning a commercial contract in the aviation sector;
- Co-arbitrator appointed by a Middle Eastern State in an ICC Arbitration brought by a Middle Eastern claimant concerning a procurement contract;
- Co-arbitrator appointed by a State of the former Yugoslavia in an UNCITRAL arbitration under the auspices of the PCA brought by a German claimant concerning an investment contract;
- Sole arbitrator in an ICC arbitration between Middle Eastern parties in a dispute in the telecommunications sector;
- Sole arbitrator in an ICC arbitration between a European company and a North African company arising out of a procurement contract.

In her thirty-five-year career within the United Nations System, María acted as in-house counsel in the context of disputes across the globe, including several major arbitrations involving UN organizations.

María also currently serves as judge and adjudicator on multiple international tribunals:

- Administrative Tribunals of IDB, EBRD and IMF
- Sanctions Board of the World Bank;

United Nations Career

María joined the United Nations in 1976, where she served as a Legal Officer, first at UNCITRAL (United Nations Commission on International Trade Law) and beginning in 1978 at the General Legal Division of the Office of Legal Affairs of the United Nations (UN) in New York.

In 1985, she joined the UN Administrative Tribunal (UNAT) as a Registrar. She managed the Registry, was responsible for issuing more than 50 judgments per year and provided substantive, technical and administrative support to the UNAT judges in the adjudication of more than 500 cases.

María went on to serve as Deputy Director (1999) and Director (2005) of the General Legal Division of the Office of Legal Affairs of the UN where she managed and resolved a wide variety of commercial and construction disputes involving the UN through arbitration, conciliation and negotiation. She also negotiated major contracts between the UN and private contractors for the supply of goods and services to the UN; represented the UN in disputes related to the prosecution of fraud and the recovery of assets, which included supervising the conduct of internal investigations; and represented the UN in multiple jurisdictions to assert its privileges and immunities in the context of litigation instituted against the UN in national courts. In addition, she prepared the UN Secretary General's proposal of 7 December 2007 to the Security Council for a dispute resolution mechanism to resolve mass claims resulting from the "Oil-for-Food Program", a multi-billion-dollar humanitarian program to ease the sanctions imposed on Iraq. Last but not least, as member of the UN Justice Council in 2008, María advised the General Assembly of the UN on the establishment of a two-tier UN Internal Justice system, which included arbitration.

From July 2009 until October 2014, María acted as UNESCO's General Counsel in Paris. She provided legal advice to UNESCO, its Member States and its governing bodies on all issues arising from UNESCO's activities, particularly with respect to the interpretation and implementation of international treaties relating to education, science, culture and sport. At the same time, she managed and resolved disputes involving UNESCO through negotiation, mediation and arbitration in the sales, supply of goods and services, construction, and employment fields. She also provided advice on the establishment and implementation of rules of procedure for the resolution of disputes by mediation and conciliation under the auspices of the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation.

In November 2014, María was one of the five individuals appointed by the UN Secretary General to the UN Board of Inquiry to investigate and report on specific incidents that occurred on UN property during the 2014 conflict in Gaza. The report was submitted to the UN Security Council in April 2015.

Since 2017, she has been a member of the Independent Advisory Oversight Committee of the World Intellectual Property Organization, and during 2019 its President. She has also acted as a consultant to the Office of the Registrar of the International Criminal Court.

Academic Pursuit

In 2003, Maria took a sabbatical from the UN to become a Visiting Fellow at Columbia University School of Law where she undertook research on the use of public international law in investment arbitration under the direction of Professors José Alvarez and Petros C. Mavroidis. She continues to work, publish and co-author articles in the field of commercial and investor-State arbitration.

In 2013, she received the Mayre Rasmussen Award for the Advancement of Women in International Law, granted by the International Law Section of the American Bar Association.

Conference & Teaching Experience

- Speaker at numerous international arbitration conferences, the most recent being: Institute for Transnational Arbitration Annual Workshop (Dallas, June 2015); International Chamber of Commerce (Miami, November 2015); Centre for International Legal Studies Arbitration Symposium (Salzburg, June 2016, 2018); Joint UNCITRAL-Ljubljana Arbitration Centre Conference on Dispute Settlement (Ljubljana, April 2017); V Seminar on ISDS Reform, Peruvian Institute of Arbitration (Lima, October 2017); Union Internationale des Avocats: Keynote Speech for the 60th Anniversary of the New York Convention (Bilbao, April 2018); International Seminar on International Commerce Investment & Arbitration (Montevideo, Uruguay, March 2019); Webinar on legal and contractual remedies involving force majeure and excessively onerous contract clauses: a practical vision from arbitration specialists (ICC, June 2020); Webinar on Covid-19 and standards of investment protection (ICC, July 2020)
- Chair and co-arbitrator at numerous Vis Moot sessions, Vienna
- Institut d'Etudes Politiques de Paris Law School (Sciences Po). Lecturer: Law and Practice of International Organizations (Fall 2017)

- Universidad Carlos III de Madrid. Lecturer: Law and Practice of International Organizations (November 2017 - present)

Selected Publications

- UNESCO's Role in the Resolution of Disputes Relating to the Recovery of Cultural Goods, with Asoid Garcia-Márquez and Athina Fouchard, *Transnational Dispute Management Review*, Special Issue on Art and Heritage Disputes, Vol. 10, Issue 5 (October 2013)
- UNESCO and Global Administrative Law, in Bories, C (ed.), *A Global Administrative Law? Actes du Colloque*, 16 et 17 juin 2011, *Cahiers Internationaux No. 28*, p. 317 (Pedone, 2012)
- Testing the Procedural Limits of the ICSID Annulment Regime in Cases against Argentina, with Yulia Andreeva, *Yearbook of International Investment Law and Policy*, p. 291 (Oxford University Press, 2010)
- New Developments in the "Argentine Crisis" Jurisprudence: ICSID Annulment Standards in Arbitral Practice, with Yulia Andreeva, *39 International Legal News No. 2* (2010)
- There is Nothing More Permanent Than Temporary - A Critical Look at ICSID Article 52(5) on Stay of Enforcement in Cases against Argentina, with Yulia Andreeva, *15 Arbitration News*, No. 1 (2010)
- Promoting the Rule of Law Within the United Nations, *43 The International Lawyer*, No. 1, p. 51 (2009)
- Independence of the Tribunals, in Papanicolau K & Hishaki, M, *Int. Administrative Tribunals in a changing world*. 2008

Professional Memberships

- Member of The Challenge Committee for Arbitrators of the Madrid Court of Arbitration (2020-present)
- Member of the Advisory Committee of Madrid Court of Arbitration (July 2018-present)
- Member of the International Centre for Dispute Resolution (ICDR) International Panel (2019 – present)

- Member of the Corte de la Cámara de Comercio de Lima (CCL) Panel
- Member of the AmCham Panel of arbitrators, Lima
- Member of Delegations (UN Office of Legal Affairs, UNESCO and CISG Council) at the UNCITRAL Working Groups II and III (Arbitration/Dispute Resolution/Investor-State Dispute Settlement Reform) in New York and Vienna (2008-present)
- Consultant for UNCITRAL, including on matters pertaining to current and future work
- Member of the IBA Sub-Committee on Investment Arbitration (since 2016)
- Argentine Member of the ICC Commission on Arbitration (2010 - present)
- Member of the ICC Institute of World Business Law (2011 - present)
- Director, Columbia Law School Alumni Association (2002 - 2012)
- Director, American Foreign Law Association (1976 – 2010)
- Member, New York City Bar Association, Committee on International Commercial Dispute Resolution (2003 - 2009)
- Member, New York City Bar Association, Committee on Foreign and Comparative Law (1999 - 2001)
- Member, New York City Bar Association, Committee on International Law (1996 -1998)
- Vice-Chair, Program Committee of the ILA International Law Weekend (1994 - 2001)