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# 100

The guide to specialist  
arbitration firms 2015

Fully revised and updated 8th annual edition

## White & Case

People in <i>Who's Who Legal</i> :	14
Pending cases as counsel:	303
Value of pending counsel work:	US\$88 billion
Treaty cases:	39
Current arbitrator appointments:	53 (of which 24 are as sole or chair)
Lawyers sitting as arbitrator:	23

### *At the top of its game*

White & Case has regularly appeared in the top two or three of the *GAR 30* table since the first edition. Like Freshfields Bruckhaus Deringer (which it resembles), White & Case has big name individuals, lots of offices, and history as a pioneer in this area.

Unlike Freshfields, and several other leading international arbitration practices, White & Case is looking much the same in terms of personnel this year as it always has. It hasn't suffered any major defections to new entrants. As such, it's shining rather more than usual. So how did it get to this enviable position?

White & Case was one of the first US law firms to do extensive work overseas. During the First World War, it handled all the legal work for the supply of munitions to Britain and France (France made founding partner Justin DuPratt White a Knight of the Legion of Honour in gratitude). Today's international arbitration practice can be seen as growing from those origins. As a result of its early foreign work, international disputes began to arrive on its doorstep. In the 1950s, it worked on the famous *Saudi Arabia v Aramco* dispute (a young associate named Stephen Schwebel took part). This was followed by other cases.

In the 1970s, things kicked off after one Charles N Brower (today a renowned international arbitrator) founded an office in Washington, DC, leading to early ICSID work (the firm worked on one in three of the early ICSID cases, and has now worked on more than 100 cases there). Indeed, the practice has proved a particular pioneer in investor-state work. Its credits include:

- the first ICSID case against a Latin American state (*Santa Elena v Costa Rica*);
- one of the largest awards on record (US\$877 million in *CSOB v Slovakia*);
- defending the first Energy Charter Treaty case (*AES v Hungary*) and the first ECT case to reach a merits award (*Plama v Bulgaria*); and
- bringing one of the earliest NAFTA cases – *Mondev v United States*.

The practice is now more than 160 lawyers strong, working around the globe (including a number of spots where rivals aren't on the ground).

Though a lot of work is for sovereigns, there are some niche areas associated with particular offices. In Paris and London, there's a heavy focus on project and construction work. Christopher Seppälä in Paris is long-standing legal adviser to the International Federation of Consulting Engineers (FIDIC), and Phillip Capper in London is also revered on construction matters.

Meanwhile, in Washington, DC, and Mexico City, areas of special interest are investor-state work and Latin America. Jonathan Hamilton, a partner in DC, edits a website on Latin American arbitration law.

Rivals will occasionally suggest it's a bit peculiar that White & Case offices seem to have a narrow focus, adding that they "don't see them in the market" as a competitor in the way they see some of the other

practices in this book. But that is a discussion for another day. Few would dispute that White & Case is a formidable opponent whatever the type of arbitration. And there's some evidence that individual White & Case offices are broadening their sphere of activity. Paris now spends a lot of time on energy work, thanks to Michael Polkinghorne, while London (aided by other relevant offices) is building a name in Russia-related work, thanks to David Goldberg. The Latin American element of the US offices is also – from the figures we see – growing.

It's also worth noting that, of the top practices, White & Case is one of the least male dominated: senior female partners include Carolyn Lamm (a recent past president of the American Bar Association), Abby Cohen Smutny, Andrea Menaker and Ank Santens.

### Network

Twenty of the firm's 39 offices are home to international arbitration names. In addition to the usual centres – London, Paris, New York, DC, Stockholm and Singapore – the list includes Mexico City.

### Who uses it?

Or reuses it. White & Case is blessed with a list full of clients that return. That's partly down to working for so many states, as they tend to be loyal. But, still, it's a useful quality to have.

Some regular government clients are Bulgaria, the Philippines, Peru, Uzbekistan and Georgia, as well as various Ukrainian state entities including Naftogaz. On the corporate side, it's done work for Hochtief, Alstom, Eni and India's Jindal Steel & Power, among many others.

In recent years, the practice has picked up more of a following in eastern Europe and Latin America, including one of the world's richest individuals (in eastern Europe) for whom it was conducting a monumental dispute (now settled). The practice is also very popular with big construction firms. In that realm, clients have it acting on one of the world's largest current disputes (about a next-generation nuclear reactor) as well as on some of the bigger issues arising from the project to enlarge the Panama Canal.

### Track record

Some of its "greatest hits" were mentioned above. As those would indicate, White & Case has a reputation around the market as a fearsome and creative opponent. In fact, in ICSID work, a survey by Credibility International (a damages consulting firm) recently assessed White & Case as the "winningest" law firm at ICSID. Although the survey can be critiqued (a couple of firms from eastern Europe do surprisingly well in its methodology), White & Case's record is hard to argue with.

Looking at the recent past, big White & Case wins include:

- establishing jurisdiction for 60,000 Italian bondholders to bring a collective treaty claim against Argentina at ICSID, in the famous *Abaclat* sovereign debt case (a decision on the merits is pending);
- a US\$740 million ICSID win for Canadian mining company Gold Reserve against Venezuela;
- helping Commisimpex, a Lebanese company, win US\$550 million against the Republic of Congo;
- winning a US\$500 million award for Siemens and SK Engineering against Mexican state oil company Pemex;
- a US\$40 million win for SGS against Paraguay thanks to a treaty's "umbrella clause" (the company had failed in two similar cases against Pakistan and the Philippines, using other counsel);
- the first dismissal of a treaty claim at ICSID because of corruption (*Metal-Tech v Uzbekistan*); and
- helping Peru to bring the first ICSID case by a Latin American state, part of a larger dispute that ended with a US\$40 million payout to the government.

## Recent events

White & Case picked up a GAR Award for “large IA practice that impressed in 2013” on the back of the remarkable run of victories detailed above. This winning streak showed no sign of abating in 2014.

As mentioned, it won an eye-catching award for Gold Reserve against Venezuela (which the state is now challenging in the French courts). For Hungary, it won the complete dismissal of a €322 million ICSID claim concerning a lakeside casino resort that never got built. Meanwhile, it helped the Philippines triumph again in a long-running dispute over an airport terminal: German investor Fraport lost a resubmitted claim for US\$425 million at ICSID, seven years after the original case was thrown out.

It also won US\$22 million for India’s Jindal Steel & Power against a Bolivian state entity in a dispute over an iron ore project (a parallel claim is pending).

The firm consolidated its win in *Commisimpex v Congo*, with the state failing to overturn the award in the French courts by alleging that the underlying contract was procured through corruption.

In a gas pricing arbitration, it achieved one of the largest settlements so far seen in Europe for its client, Eni, in a dispute with a major supplier. Michael Polkinghorne – the partner who led the work on that dispute – moderated a panel on gas-pricing disputes at GAR Live Paris in November (which he co-chaired). In July, the firm completed the merits phase of the *Abaclat* case.

For the first time in several years, the practice made up no new partners, but it did mint five new counsel: Eckhard Hellbeck and Matthew Leddicotte in Washington, DC; Elizabeth Oger-Gross in Paris and New York; Artem Doudko in London; and Luke Rrobotom in Abu Dhabi.

Meanwhile, Ank Santens continued in her role as legal adviser to former world chess champion Gary Kasparov, in his efforts to bring change to chess’s governing body. Recently, Santens attended the FIDE’s elections as Kasparov’s observer to the electoral commission. She and a small team brought and defended challenges before the various FIDE bodies that were widely reported.

## Client comment

Ivan Kondov from Bulgaria’s Ministry of Finance says he’s used White & Case on “the eight most important international arbitration matters involving Bulgaria in the last 10 years”. In all of those he was impressed by the firm’s “good strategic judgment, strong argumentation and diligent approach to every matter”. The firm is “simply the best [we] have worked with”.

Doug Belanger of Gold Reserve interviewed six firms before selecting White & Case for its hard-fought expropriation claim against Venezuela.

How does he feel about his choice? Good, it seems: “What they promised,” says Belanger, “is what they delivered.”

In particular, their level of professionalism “was unparalleled in my 40-plus years of experience dealing with the legal profession”.

He adds: “The completeness of the prosecution of the case for us was superb from the beginning to the end... They argued the case as if they were the client.”

Belanger estimates the company spent “over US\$20 million” to received an award of US\$740 million, “which is one of the largest ICSID arbitral awards in history”.

“To say we were pleased would be an understatement,” he concludes.

Pericles Stroubos, senior legal counsel at Aegean Motorway, appointed White & Case because they wanted “one of the best legal firms in construction arbitration.” He was also impressed. He says that the “level of detail in their work” was particularly striking. “Nothing was left unchallenged, unattended or not discussed.”

The White & Case team also “tried really hard to involve all interested parties in the whole process – legal counsels of the firms, other external lawyers, experts, etc” and so find “the best common ground”.

Although the case isn’t over yet, and he notes the process isn’t cheap, Stroubos says he would “definitely” recommend the practice to a friend “without the slightest hesitation”.

Rank	Firm	People in Who's Who Legal	Pending cases (as arbitrator)	Merits hearings completed in two years	Jurisdictional hearings completed in two years	Bet-the-company hearings	Large hearings	Mid-sized hearings	Cases settled in two years	Value of current portfolio as counsel
1 (2)	White & Case	14	53	46	28	11	15	30	59	US\$88 billion
2 (1)	Freshfields Bruckhaus Deringer	15	51	47	17	9	12	32	21	US\$85 billion
3 (3)	Shearman & Sterling	2	12	33	5	9	14	14	20	US\$97 billion†
4 (4)	Hogan Lovells	6	37	44	18	7	9	23	65	US\$135 billion
5 (8)	King & Spalding	13	56	17	8	6	2	16	12	US\$47.5 billion
6 (7)	Debevoise & Plimpton	7	33	14	5	9	5	4	5	US\$214 billion
7 (16)	Quinn Emanuel Urquhart & Sullivan	7	27	19	3	7	5	9	18	US\$22 billion
8 (5)	Herbert Smith Freehills	14	32	33	6	4	4	23	52	US\$21 billion
9 (14)	Allen & Overy	6	46	31	2	5	1	21	14	US\$26 billion
10 (9)	Norton Rose Fulbright	8	51	48	6	4	1	21	120	US\$45 billion
11 (6)	Wilmer Cutler Pickering Hale and Dorr	7	72	10	17	4	2	4	26	US\$119 billion
12 (25)	Lalive	10	98	24	3	3	6	14	13	US\$24 billion‡
13 (10)	Baker & McKenzie	11	77*	102	2	1	4	65	54	US\$32 billion
14 (11)	Clifford Chance	9	76	51	13	1	4	40	32	US\$42 billion
15 (18)	Eversheds	4	19	30	9	3	5	15	25	US\$23 billion
16 (12)	Dechert	4	63	15	3	5	0	8	14	US\$60 billion
17 (17)	DLA Piper	4	15	26	9	3	5	13	14	US\$74 billion
18 (13)	Skadden Arps Slate Meagher & Flom	6	5	11	2	3	2	8	13	US\$100 billion
19 (20)	Cleary Gottlieb Steen & Hamilton	1	11*	12	2	3	3	3	5	US\$107 billion
20 (23)	Clyde & Co	1	45	32	9	1	7	29	24	US\$40 billion
21 (15)	Curtis Mallet-Prevost Colt & Mosle	6	16	16	10	2	7	11	10	US\$77 billion
22 (22)	Jones Day	3	42	26	1	2	3	14	8	US\$28.5 billion
23 (24)	Dentons	5	47	20	7	2	1	18	25	US\$22 billion
24 (19)	Derains & Gharavi	3	57	18	4	2	1	13	6	US\$9 billion
25 (-)	Linklaters	3	28	21	1	2	2	12	-	US\$37 billion
26 (-)	Latham & Watkins	2	30	14	2	1	5	7	17	US\$23 billion
27 (29)	Weil Gotshal & Manges	4	18	9	3	2	1	8	9	US\$7 billion
28 (28)	King & Wood Mallesons	5	64	46	5	1	0	21	16	US\$2 billion
29 (21)	CMS	4	56	42	2	1	1	16	3	US\$8 billion
30 (-)	Squire Patton Boggs	1	37*	16	3	1	3	8	24	US\$20 billion

Ranking also based on hours billed to arbitration (two-year period); small hearings omitted from ranking process

\* Excludes sports cases

† Excludes US\$50 billion Yukos set-aside proceedings

‡ Excludes a state-to-state matter worth US\$263 billion

