
Kluwer Arbitration Blog

A Snapshot of ICSID Arbitrators in Pending Cases

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In 2006, I conducted a review of the most frequently selected arbitrators in the then-pending 103 ICSID cases. (See “Precedent in Investment Treaty Arbitration: A Citation Analysis of a Developing Jurisprudence” (2007), 24 J. Int’l Arb 129). My 2006 review of the 103 pending ICSID cases (ranging from cases registered in February 1997 to November 2006) revealed that 137 arbitrators accounted for the possible 284 appointments in pending cases. Of these 137 arbitrators, 32 of them accounted for 153 of the possible 284 appointments (54 percent). In fact, of the 32 arbitrators most frequently selected, the top 19 accounted for 114 of the 284 appointments (40 percent).

Now more than three years on, a review of the 126 pending cases at ICSID, as of 3 September 2009, reveals similar trends.

2. Overview of Pending Cases

As of 3 September 2009, the ICSID registry lists 126 pending cases. Of these 126 pending cases, there are 108 original arbitration proceedings, 17 annulment proceedings (2 of which also include revision proceedings), and 1 interpretation proceeding.

In light of the different appointment mechanisms under the ICSID Convention for these proceedings, each is considered separately below.

3. Original Arbitration Proceedings

A review of the 108 pending original arbitration proceedings reveals that tribunals have been constituted in 93 of the cases, while in 15 of the cases tribunals are not yet constituted. Three-member tribunals predominate amongst the 93 pending cases, as only 2 of the 93 cases are being heard by a sole arbitrator.

Turning now to the arbitrator appointments in these cases, in total, there are 275 possible appointments across the 93 pending cases where tribunals have been constituted. The appointments as Tribunal President and the arbitrator appointments made by parties in the 93 pending cases are each considered in turn below.

a. Appointment of Tribunal Presidents

As to the appointment of Tribunal Presidents in pending ICSID cases, there are 56 different arbitrators acting as Tribunal President, and 24 of these arbitrators are acting as Tribunal President in multiple pending cases. A breakdown of the top 24 arbitrators presently serving as Tribunal President in pending ICSID cases is as follows:

Name of Arbitrator Number of Appointments as Tribunal President in Pending ICSID Cases

Fortier (Canadian) 4
 Lowe (British) 4
 Tercier (Swiss) 4
 Briner (Swiss)* 3
 Kaufmann-Kohler (Swiss) 3
 Danelius (Swedish) 3
 Fernández-Armesto (Spanish) 3
 Park (US) 3
 van Houtte (Belgian) 3
 Veeder (British) 3
 Alexandrov (Bulgarian) 2
 Berman (British) 2
 Böckstiegel (German) 2
 Dupuy (French) 2
 Guillaume (French) 2
 Kessler (US) 2
 Kettani (Moroccan) 2
 Lalonde (Canadian) 2
 Möller (Finnish) 2
 Oreamuno (Costa Rican) 2
 Orrego Vicuña (Chilean) 2
 Sacerdoti (Italian) 2
 Salacuse (US) 2
 Simma (German) 2

* Robert Briner has recently resigned from his role in all three pending cases, but new Tribunal Presidents have not yet been appointed in these cases.

b. Party-Appointed Arbitrators

In terms of arbitrators appointed by the parties, there are 91 different individuals acting as party-appointed arbitrators across the pending ICSID cases. Again, unsurprisingly, a number of these individuals, 36 in total, are acting as party-appointed arbitrator in multiple pending ICSID cases. A breakdown of the top 36 arbitrators presently serving as party-appointed arbitrator in pending ICSID cases is as follows:

Name of Arbitrator Number of Appointments as Party-Appointed Arbitrator in Pending ICSID Cases

Stern (French) 17
 Brower (US) 10
 Kaufmann-Kohler (Swiss) 7
 Lalonde (Canadian) 6
 Orrego Vicuña (Chilean) 6

Böckstiegel (German) 4
 Bernardini (Italian) 4
 Cremades (Spanish) 4
 Fortier (Canadian) 4
 Sands (British/French) 4
 Thomas (Canadian) 4
 Berman (British) 3
 Abi Saab (Egyptian) 3
 Álvarez (Canadian) 3
 El-Kosheri (Egyptian) 3
 Grigera Naón (Argentine) 3
 Nikken (Venezuelan) 3
 Vinuesa (Argentine) 3
 Alexandrov (Bulgarian) 2
 Bello Janeiro (Spanish) 2
 Cancado Trindade (Brazilian) 2
 Crawford (Australian) 2
 Derains (French) 2
 Donovan (US) 2
 Hanotiau (Belgian) 2
 Herrera Marcano (Venezuelan) 2
 Hobér (Swedish) 2
 Hossain (Bangladeshi) 2
 Landau (British) 2
 Lowe (British) 2
 Magallon Gomez (Mexican) 2
 McRae (Canadian) 2
 Paulsson (French) 2
 Reisman (US) 2
 van den Berg (Dutch) 2
 Williams (New Zealand) 2
 4. Annulment, Revision and Interpretation Proceedings

Pursuant to Article 52 of ICSID Convention, ad hoc annulment committees are three-member tribunals appointed by ICSID to hear applications for annulment of ICSID arbitration awards. A review of the 17 pending annulment proceedings reveals that 16 ad hoc committees have been constituted, while 1 committee has yet to be constituted. As to the lone interpretation proceeding, it is being heard by the same arbitrators from the original proceeding, as contemplated in Article 50 of the ICSID Convention.

In pending annulment proceedings, a review of ICSID's appointments to the ad hoc committees reveals that 26 different arbitrators are presenting serving on ad hoc committees and 12 of these arbitrators are serving on more than one ad hoc committee. The top 12 arbitrators appointed to ad hoc committees by ICSID in pending annulment proceedings are as follows:

Name of Arbitrator	Number of Ad Hoc Ctee Appointments in Pending ICSID Annulment Proceedings
Tomka (Slovak)	5
McLachlan (New Zealand)	5

Hascher (French) 3
Schwebel (U.S.) 3
Söderlund (Swedish) 3
Griffith (Australian) 3
Ajibola (Nigerian) 2
Bernardini (Italian) 2
El-Kosheri (Egyptian) 2
Jacovides (Cypriot) 2
Kettani (Moroccan) 2
Silva Romero (Colombian) 2


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