

# Kluwer Arbitration Blog

## Interviews with Our Editors: South Africa in the Spotlight with Svetlana Vasileva-Stratenwerth, Secretary General at the Arbitration Foundation of Southern Africa (AFSA) International

Ibukunoluwa Owa (Assistant Editor for Africa) (International Arbitration Lawyer) · Friday, January 12th, 2024



*Svetlana Vasileva-Stratenwerth is the Secretary General of the [Arbitration Foundation of Southern Africa \(AFSA\) International](#). She manages the AFSA International Secretariat, where she oversees the administration of international arbitrations. Her professional journey spans over two decades, specialising in international trade, investment, and commercial disputes.*

*She is passionate about championing alternative dispute resolution across Africa and beyond and fostering a culture of cooperation, efficiency, and excellence among the diverse stakeholders involved in dispute resolution. She is also actively involved in the development of the [China-Africa Joint Arbitration Centre \(CAJAC\) Johannesburg](#) and the [AFSA-Southern African Development Community \(SADC\) Alliance](#).*

*Welcome to the Kluwer Arbitration Blog, Ms. Vasileva-Stratenwerth! We are grateful to have the opportunity to showcase AFSA, one of Africa's top five arbitral centres, as highlighted in the [SOAS 2020 Arbitration in Africa Survey Report](#). We look forward to you sharing your unique perspective of managing one of the foremost arbitral centres in Africa and AFSA's vision for the future with our readers.*

**1. *Could you please briefly introduce your background and the path that led to your role as Secretary General at AFSA International?***

My journey to this role has been a rich tapestry of academic and professional experiences across different legal systems and jurisdictions. I began my legal career by obtaining an LLM in European Community Law, Administration of Justice, and Economic Law from Burgas Free University in 1995, followed by a brief tenure as an academic associate specialising in Criminal Procedure.

In 1997, I was admitted to the Bulgarian Bar, where my legal practice was predominantly centered around commercial law and privatisation.

In 2008, my career trajectory shifted towards the international dimension, culminating in 2012 when I joined Victoria Law Firm in Seychelles. Here, I worked on complex anti-money laundering matters with global clients. During my tenure in Seychelles, I was involved with the [Seychelles International Financial Services Association \(SIFSA\)](#), contributing to drafting the International Business Companies (IBC) Amendment Bill and reviewing the International Corporate Service Provider Act in 2017.

In 2018, I embarked on a new chapter in South Africa, where I furthered my academic pursuits with an LLM in International Economic Law from the University of the Witwatersrand, where we won the African Regional Round of the 19th John H. Jackson Moot Court Competition 2021 with my peers. I am in the final stage of obtaining my license to practice in South Africa. This achievement will mark an important milestone in my professional career as I will become the first licensed to practice in both Bulgaria and South Africa.

My expertise in civil law, common law, and mixed legal systems, combined with a strong interest in international arbitration, has guided my career towards my current role at AFSA International. In this capacity, I am dedicated to making a significant contribution to international arbitration, drawing upon my extensive experience to bolster AFSA's position in the industry.

**2. *Can you please tell us more about AFSA, its structure, users, and what sort of disputes it generally administers?***

AFSA is an independent arbitration institution guided by its Board of Directors, under the leadership of Adv Michael Kuper SC as Chairman. AFSA sustains its operations through administrative fees without relying on any external funding. Its organisational structure encompasses various divisions, including AFSA International, AFSA-SADC, AFSA Domestic, AFSA Construction, AFSA SARIPA Business Rescue, AFSA Municipal, AFSA Mediation, Young AFSA, and Training, as well as the CAJAC Johannesburg subsidiary. Adv Patrick Lane SC – the Chairman of AFSA International and AFSA Vice-Chairman is also instrumental in shaping AFSA International's strategy and directions.

AFSA users range from multinational corporations and small and medium-sized enterprises to government bodies involved in industries such as mining, energy, oil and gas, construction, engineering, technology, international trade, cargo, and haulage. AFSA manages both international and domestic arbitrations, handling a wide range of commercial disputes involving business

transactions, services, sales and purchase agreements, share sales, rentals, loans, sureties, partnerships, and other general contractual matters. Additionally, AFSA administers disputes related to engineering, architecture, cession, supplies, distributions, consulting, and joint venture agreements. AFSA ensures efficient and structured arbitration proceedings for commercial disputes by implementing six distinct sets of rules.

**3. AFSA has established numerous strategic partnerships with international arbitral institutions and organisations, such as the Permanent Court of Arbitration (PCA) and a few others. AFSA also recently became a member of the International Federation of Commercial Arbitration Institutions (IFCAI), established in 1985 with 52 member organisations worldwide, including top arbitral institutions worldwide. How do these collaborations strengthen AFSA's presence locally and globally? Have they contributed to an increased demand for AFSA's services?**

AFSA's strategic partnerships with prominent international arbitral institutions significantly expand our global and local impact. Additionally, AFSA's support for the [Campaign for Greener Arbitrations](#) and recent membership in IFCAI further amplify our international reach. With these alliances, AFSA not only gains access to global best practices but also aligns its services with international standards.

These strategic partnerships also showcase AFSA's recognition and have significantly boosted our attractiveness to international stakeholders, resulting in a surge in demand for our services.

**4. In 2020, the SOAS 2020 Arbitration in Africa Survey Report identified 91 arbitral centres in Africa, although not all carry out the functions of an arbitral centre. Despite the growing number of African arbitral centres, many continue to work on attracting international cases. However, AFSA, in 2021, recorded an impressive number of international arbitrations (102, in fact). What factors contribute to AFSA's ability to attract international cases?**

Since its establishment in 1996, AFSA has developed a reputation for professionalism and efficiency, overseeing 6,000 domestic and 144 international arbitrations by 2023.

Key factors contributing to AFSA's success include:

- The enactment of the [International Arbitration Act 2017](#), aligning South Africa with global best practices, ensuring fairness and enforceability of arbitration outcomes.
- South African courts consistently respect private arbitration agreements with limited judicial interference.
- The stable political climate in South Africa provides a reliable backdrop for international parties.
- [AFSA International Rules](#), amended in June 2021, reflect international best practices.
- AFSA has a pool of diverse and skilled arbitrators comprising experts in various legal systems and industries.
- AFSA's adherence to global standards and linguistic diversity contributes to AFSA's international appeal.
- With branches in major South African cities, AFSA is strategically located in significant trade and business hubs.
- The use of AFSA services is cost-efficient for our clients. Based on the data for the years

2021-2023, the average cost of an AFSA international arbitration is ZAR 747,796.32, which equates to approximately USD 40,690.88. This competitive fee structure positions AFSA as a cost-effective and attractive option for international arbitrations without compromising the quality and speed of the services.

- AFSA’s arbitrations timeline is streamlined with an average of about a year from initiation to final award, comparable to leading global arbitral institutions.
- AFSA’s awards are generally enforceable, with no rejections to date.

**5. As you mentioned above, on 1 June 2021, AFSA amended its rules to align itself with international best practices and modern trends in arbitration, providing for expedited procedures, emergency arbitrations, joinder, confidentiality, and third-party funding, among others. How have these updated rules impacted AFSA’s caseload and its appeal as a preferred arbitral institution, both domestically and internationally?**

AFSA International’s newly revised rules have impacted our caseload and appeal both domestically and internationally. Between 2009 and 2017, AFSA administered only 20 international arbitrations, but this number escalated to 124 in the period between 2018 and 2023, with 49 arbitrations registered from June 2021 to December 2023 alone. This surge in the number of international arbitrations post-2021 indicates the positive reception of the revised AFSA International Rules. Moreover, there has also been a notable shift in the choice of rules post-2021, with a preference among users for the application of the 2021 version, reflecting again that parties have a favourable view of them.

**6. In your interview with Jonathan Ripley-Evans of Herbert Smith Freehills, published on 13 July 2023, you stated that “domestic arbitration procedures tend to mimic domestic court procedures, which are not as effective as international arbitration in resolving underlying disputes”. Could you please expand on this statement with examples?**

Arbitrations under the AFSA Expedited and Commercial Rules, often resembles court-like procedures, a common trend in South Africa. The AFSA International Rules 2017 also follow this practice. However, this approach tends to be less effective. A notable example is that these arbitrations adopt the extensive discovery process, akin to Rule 35 of the South African Uniform Rules of Court, which is standard in litigation but leads to longer arbitration durations, averaging about one year and seven months. Due to the lengthening of arbitrations, the cost of arbitration increases, and the primary benefit of arbitration — cost efficiency — diminishes.

Furthermore, the tendency of international arbitrations under the AFSA Expedited and Commercial Rules to mimic court proceedings reduces their flexibility and limits their adaptability. In contrast, arbitrations under the AFSA International Rules 2021 usually adopt a more streamlined and efficient approach, in line with global best practices, and these arbitrations typically conclude within about one year and use less exhaustive document discovery, instead choosing Redfern Schedules or witness statements and expert reports. This approach contributes to more cost-efficient and effective arbitrations.

In essence, arbitrations mimicking traditional court processes impact the efficiency of the arbitrations. Shifting to international arbitration practices demonstrates greater cost-efficiency,

flexibility, and effectiveness.

7. *AFSA recently launched the AFSA SARIPA Business Rescue Division offering expedited dispute resolution process through arbitration for businesses in the business rescue stage. How have businesses and creditors responded to this as a quicker and more effective means of dispute resolution?*

Businesses and creditors have positively received the AFSA SARIPA Business Rescue as a quicker and more effective means of dispute resolution. This AFSA division specialises in administering expedited arbitrations tailored for disputes that arise during business rescue stages (the stages of rehabilitation of a company that is financially distressed). Introducing a standardised Model Clause and tailored dispute resolution rules has been acclaimed as a major advancement in professionalising dispute administration in business rescue scenarios.

8. *Are there any upcoming developments that you would like to share with our readers, for example, the ongoing design for a dispute resolution mechanism for Brazil, Russia, India, China, and South Africa Organisation (BRICS), and the challenges in crafting this design?*

A significant recent advancement is the VII BRICS Legal Forum decision to establish a BRICS Dispute Resolution Framework utilising the modified AFSA Rules. This move is a substantial acknowledgment of the quality of our rules and demonstrates AFSA's dedication to aligning dispute resolution standards among BRICS nations.

Another recent development is the AFSA-SADC Alliance, a project reshaping the arbitration landscape within the Southern African Development Community (SADC) region. This project is pivotal in harmonising arbitration rules across SADC countries, establishing a regional panel of arbitrators, and enhancing intra-regional dispute resolution procedures. A crucial aspect of this initiative is encouraging member states of the AFSA-SADC Alliance to update their arbitration laws to align with international conventions and nurture local arbitration expertise. The collaboration involves SADC governments, legal bodies, businesses, and arbitration centers. A landmark achievement of the project is Malawi's recent enactment of the [International Arbitration Bill, 2023](#), which aligns Malawi with international best practices in resolving commercial and investment disputes.

*Thank you, Ms. Vasileva-Stratenwerth, for your time and perspective.*

*This interview is part of Kluwer Arbitration Blog's "Interviews with Our Editors" series. Past interviews are available [here](#).*

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