

Monica Feria-Tinta

(BARRISTER, ENGLAND & WALES) CALL: 2014

Languages: Spanish (fluent); French (fluent); Portuguese (reading and listening competence)

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Monica is a barrister at the Bar of England and Wales and practises from Twenty Essex, a leading commercial barristers' chambers in London. Monica is a specialist in public international law and international arbitration. She is featured in The Lawyer Hot 100 2020 and was 'Barrister of the Year' Finalist in The Lawyer's Awards 2020. She is recognised as a leading practitioner in public international law in the main legal directories which describe her as a *'highly respected international lawyer'* possessing *'amazing brainpower'*, as a barrister with a *'sharp intellect, dedication and excellent knowledge of the law and experience, willing and able to think outside the box'*; *'incredibly hard working with a fine eye for detail'* *'who will take Silk before too long.'*

Monica's practice in public international law is substantial and covers the full spectrum in the field.

Regularly instructed in complex and high-profile cases, Monica acts as counsel for Sovereign states and private parties in cases before English courts, international courts and arbitral tribunals under a variety of rules and applicable laws. She has acted and advised in cases before the Court of Appeal, the High Court, the International Court of Justice (ICJ), Permanent Court of Arbitration (PCA), International Tribunal for the Law of the Sea (ITLOS), regional courts (including the East African Court of Justice), OECD procedures, ICSID, SCC and SIAC tribunals, International Criminal Tribunal for ex-Yugoslavia (ICTY), UN Special Procedures and diplomatic fora. She is admitted before the International Criminal Court (ICC). Increasingly, she is instructed to appear also in foreign courts. Prior to the Bar, Monica trained as a lawyer in a civil-law jurisdiction, prior to becoming a barrister in a common-law jurisdiction. She is comfortable with legal technical language in Spanish and working with different legal systems and applicable laws (i.e. Colombian, Guatemalan, Mexican, Venezuelan, Peruvian, Ecuatorian, Hong Kong, Honduran, Singaporean, Indian, Australian). Monica advises in English, Spanish and French.

In addition to counsel work, Monica also accepts appointments as arbitrator. She recently sat as Arbitrator (Chair) in a €1.2 billion+ claim investment arbitration with a seat in The Hague (in the energy sector) and is currently sitting as co-arbitrator in an USD \$70 million+ LCIA arbitration. Monica has been a guest lecturer at the LCIL Executive Course on Investment Law and Arbitration, University of Cambridge, and is currently in the UK-Korea FTA and the UK-Japan CEPA dispute

resolution lists of arbitrators (proposed by the UK), She was also appointed by the government of Malaysia to the Advisory Council of the Asian International Arbitration Centre (AIAC).

Monica has been involved in both investment and commercial international arbitrations across a range of sectors (including the construction, telecommunications, energy (oil & gas, renewables) and the garment sectors) governed by a variety of arbitration rules (ICSID, UNCITRAL, SCC, LCIA, SIAC, ICC Rules) and applicable laws. She also acts and advises in Inter-State arbitration cases. Examples of cases in which she has been recently involved include:

- ITLOS Inter-State arbitration (for the claimant) – acted in a matter relating to an arbitration under Annex VII of UNCLOS.
- **PCA Arbitration**- *The Enrica Lexie Incident (Italy v India)*, an inter-State arbitration under Annex VII of UNCLOS. Permanent Court of Arbitration No. 2015-28
- **ICSID Arbitration**- Advising a Sovereign State on the meaning of the word “territory” in a BIT and jurisdictional issues, the moving-treaty frontier rule, interpretation of Article 15 and 29 of the Vienna Convention on the Law of Treaties, and issues of reciprocity.
- **LCIA Arbitration** – Arbitrator (three-member tribunal), appointed by the LCIA, in an USD \$70 million+ commercial dispute under several agreements for the supply of oil (several arbitrations consolidated in one single arbitration proceedings), under English Law, with a seat in London.
- **SCC Arbitration** - *Investment Arbitration under the Energy Charter Treaty*– Acted as Presiding Arbitrator in a multi-million-pound arbitration with a seat in The Hague between a Sovereign State and an investor alleging breaches of the Energy Charter Treaty (details confidential).
- **ICC Arbitration**- Commercial arbitration raising competition law issues, in the telecommunication sector, under ICC rules, seated in London (English law).
- Advising a newly appointed administration in an Asian State on its BITs liabilities by reference to other conflicting duties under international law.
- **SIAC Arbitration**- Commercial international arbitration arising from a JVA agreement in the garment industry, under the SIAC Rules, with seat in Singapore (Indian law).
- **ICSID Arbitration** - Investment Arbitration case in the construction sector under the Turkish-Turkmenistan BIT.

Her litigation practice has recently involved both domestic cases in England and international cases raising contractual interpretation including issues of *force majeure*, oil spills both at sea (oil spill from an oil platform (for the claimant) and in land, by acts of third parties (i.e. terrorist attacks) (group litigation before the High Court, for the defendant), and contractual and non-contractual disputes concerning pipeline constructions, inter alia:

- Case before the East African Court relating to a pipeline construction and relevant industry standards
- *Bravo and others v Amerisur Resources plc [2020] EWHC 203 (QB)*, (for defendant) – a group litigation case concerning an oil spill and alleged pollution in waterways and land
- *OECD claim against Marsh* (for the claimants) acted in a claim alleging that insurance broker giant Marsh over its role as insurance broker for the US\$3.5 billion planned East African Crude Oil Pipeline (EACOP), the longest heated crude oil pipeline in the world. The claim is the first of its kind against an insurance company. (oil and gas).

- *In Amenas terror attack – BP*– Advising on a conflict of laws issues arising from a tort taking place overseas (Private International Law Act 1995, Rome II, and Brussels I) and due diligence duties owed by a company to its employees in the context of a terrorist attack at an Algerian gas plant.
- *OECD claims against BHP, Anglo American, Glencore and ESB* (for the claimants) (mining dispute)
- *Pedro Emiro Florez Arroyo and Equion Energia Limited (formerly known as BP Exploration Company (Colombia) (Ltd))*(In the matter of the Ocesa pipeline group litigation) before the Technology and Construction Court (for the claimants)
- *Montara Oil Spill case* (concerning transboundary harm/Australia), (for the claimants)– (state responsibility for transboundary harm (oil spill), law of the sea, precautionary principle, general international law). (oil & gas)
- *Jam v. International Finance Corporation* (586 U.S. 2019) (US Supreme Court) (*India/US*) – advised a State sitting on the board of the World Bank on the implications of this US Supreme Court judgment which denied absolute immunity to the IFC as an international organisation. The case was brought by Indian fishing communities and farmers from India against the IFC, a member of the World Bank Group over the adverse environmental impact of a power station (the Tata Mundra Ultra Mega coal-fired power plant in Gujarat, India) partly funded by the IFC. (coal-fired plant)
- *Deutsche Bank AG London Branch and Receivers Appointed by the Court, Central Bank of Venezuela, and The Governor and Company of the Bank of England and The Ad Hoc Administrative Board of The Central Bank of Venezuela and the Board of the Central Bank of Venezuela* [2020] EWHC 1721 (The High Court, Queen’s Bench Division Commercial Court) –(for the BCR of Venezuela)
- *R (Charles & Dunn) v Secretary of State for Foreign and Commonwealth Affairs* [2020] EWHC 3185 (*Admin*) – (for the claimants) acted in a high profile judicial review against the Secretary of State for Foreign and Commonwealth Affairs in the UK
- *Verica Tomanovic and others v FCO* (The High Court) – Led the defence of the FCO in this case concerning alleged vicarious liability of the contributing State to EULEX mission for acts/omissions of a secondee in Kosovo, raising issues on the rules of attribution for liability in the context of peace-building operations and immunities of international organisations.
- *MH17 case*– advised a Sovereign State on the ICAO Convention and on the law of international claims and mechanisms at inter-state level in cases of airplane downings in international practice.
- Currently acting for a Sovereign State before the International Court of Justice in *Obligations of States in Respect of Climate Change* (Advisory Opinion proceedings).

Monica has been a speaker on Investment Arbitration at different fora including at the invitation of the UK Embassy in Central America, and at Hong Kong Arbitration Week 2016, at the Stockholm Chamber of Commerce in an event jointly organised by SCC, IBA and ICC, at Russian Law Week 2016 (on enforcement of awards and State entities); and at Oxford University. Recent commentary on Investment Arbitration topics includes a piece on Yukos (‘Annulment of the Yukos award: a sore spot in investment arbitration?’). Monica has published extensively in the area of public international law (with recent contributions to the *Max Planck Encyclopedia of International*

Procedural Law, a Chapter in a seminal book on Deep Sea Mining together with Judge Kamga of ITLOS, and a Chapter on arbitration-related applications before the European Court of Human Rights in *International Arbitration and EU Law*). Her latest scholarship in investment law and arbitration was designated compulsory reading at the Hague Academy Private International Law course in The Hague. She is the author of the forthcoming book *Foreign State Immunity and Enforcement of Arbitral Awards in English Courts* to be published by Oxford University Press.

Monica holds an LLM (with merit) from the London School of Economics and the prestigious Diploma of the Hague Academy of International Law (2000). She has held academic positions at the Lauterpacht Centre for International Law (University of Cambridge) (Partner Fellow), and at the London School of Economics. In 2021, she was elected Visiting Fellow at Jesus College, University of Cambridge. During 2018-2019, Monica served as Assistant Legal Adviser to the Foreign and Commonwealth Office, in the United Kingdom. She is a member of the Chartered Institute of Arbitrators and a member of the Commercial Bar Association (COMBAR) African Committee. She is a bencher at the Honourable Society of the Middle Temple.