

# VAN BAEEL & BELLIS



## ICSID Administers Record Number of Cases in 2022 Fiscal Year

| 3 Nov 2022

## BACKGROUND

On 14 October 2022, the International Centre for Settlement of Investment Disputes (ICSID) published its annual report (Annual Report) reviewing the Centre's activities over the past fiscal year from 1 July 2021 to 30 June 2022. Although the most significant development in the fiscal year 2022 was undoubtedly the adoption of the amended ICSID arbitration rules (Arbitration Rules) (see our analysis of the new ICSID Arbitration Rules [here](#)). The 2022 Annual Report also confirms that ICSID arbitration is still in high demand with the Centre administering a record number of cases in the 2022 fiscal year.

We set out the key findings of the Annual Report below.

## 1. TRENDS IN ICSID CASES

In 2022, ICSID's services remained in high demand, as the Centre registered 50 new cases and administered a record number of 346 cases. This marks the largest number of cases ever administered at ICSID in a single fiscal year. ICSID remains the global leader in administering international investment disputes, having administered more than 70% of all known international investment cases.

The Annual Report notes that 48 of the Centre's 50 cases registered in the 2022 fiscal year were instituted under the 1966 Convention on the Settlement of Investment Disputes between States and Nationals of Other States (the ICSID Convention). The remaining two cases were registered on the basis of the ICSID Additional Facility Rules. Moreover, 18 cases administered by the Centre applied non-ICSID rules, with 13 of them proceeding under the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL). In the latter group of cases, ICSID supplied full administrative services.

Moreover, ICSID recorded the second highest number of hearings held in a single year, out of which 90% were held remotely. It also concluded 77 proceedings overall. 56 of these were original arbitrations, 20 were post-award proceedings, and the remaining case was a conciliation proceeding

## 2. STATE PARTIES TO ICSID PROCEEDINGS

States from all regions of the world were involved in ICSID proceedings in the past financial year. Most represented were States in South America (22%) and in Eastern Europe and Central Asia (20%).

New ICSID cases involve States from Central America and the Caribbean (12%), the Middle East and North Africa (12%), and the Sub-Saharan Africa regions (12%). The remaining 22% of new cases comprised States from South and East Asia and the Pacific region (8%), Western Europe (8%) and North America (6%).

### 3. ECONOMIC SECTORS INVOLVED IN NEW ICSID CASES

ICSID disputes took place in a diverse range of industries this fiscal year. The energy and extractive sectors continue to comprise the highest percentage of cases registered by the Centre. In particular, 24% of ICSID's disputes were in the electric power and other energy sources sector, and 22% of the Centre's disputes were in the oil, gas and mining sectors.

Another significant share of ICSID's cases took place in the construction and the information & communication sectors, accounting for 12% and 10% respectively of ICSID's disputes.

The tourism sector comprised the smallest number of ICSID disputes – 4%.

### 4. GENDER AND GEOGRAPHICAL DIVERSITY IN ARBITRAL APPOINTMENTS

Of all the arbitral appointments made in ICSID cases in the 2022 fiscal year, 24% of appointees were women. This marks a decrease from last year, where women accounted for 31% of all appointees.

However, this year women represented 45% of first-time appointees. In addition, ICSID appointed the highest percentage of women in 2022 (55%), while respondents appointed 14% and claimants 9%. Another 16% of appointments were made jointly by the parties and the remaining 6% of female arbitrators were appointed by co-arbitrators.

Individuals of 42 nationalities were represented amongst the arbitrator appointments of this fiscal year, representing the second largest number of different nationalities appointed in a single fiscal year at ICSID. The largest proportion of arbitrators originate from Western Europe (41%), whilst arbitrators from the Middle East and North Africa account for only 1% of arbitrators in this fiscal year.

### 5. THE CONTINUED IMPACT OF THE COVID-19 PANDEMIC

ICSID prides itself in having managed the challenges of the COVID-19 pandemic skilfully, with the Secretariat having "clearly demonstrated that even the largest, most complex hearings can be effectively conducted remotely", according to the Secretary-General of ICSID, Meg Kinnear.

The possibility of holding remote hearings has allowed ICSID to proceed without interruption, and has led to the reduction of the time, costs, and carbon footprint of investment cases. Whilst ICSID's hearing centre in Washington, D.C. and the World Bank offices in Paris have reopened, marking a return to in-person hearings, the number of hybrid hearings has increased. In addition, the Secretary-General of ICSID's view is that "the use of remote hearings shows little sign of dimming".

## 6. NEW INSTRUMENTS OF RATIFICATION

The Annual Report recalls that Ecuador deposited its Instrument of Ratification of the ICSID Convention on 4 August 2021. In addition, the Kyrgyz Republic deposited its Instrument of Ratification on 21 April 2022. As such, ICSID now comprises 157 Member States.

## CONCLUSION

ICSID clearly remains a global leader in administering investment disputes, with investors continuing to choose ICSID's framework for the resolution of their investment disputes. This is no doubt connected to the fact that, as the Secretary-General of ICSID has also observed, ICSID continues to make efforts to adapt to the needs of relevant stakeholders. Its release of its new and updated rules, and continued efforts to achieve diversity and environmental sustainability, are all part of ICSID's efforts to adapt and evolve in line with the needs of the participants in the ICSID arbitration process.

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