

VIAC – Questionnaire for Arbitrators

1. Name: Ema Vidak Gojkovic

2. Citizenship: Croatian

3. Contact information:

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4. Current position: Independent Counsel & Arbitrator

5. Education: Harvard Law School (LL.M.)
Faculty of Law of the University of Zagreb (LL.M., Mag.lur.)

6. Practiced experience in arbitration

- How many arbitrations have you participated in (domestic/international); under which Rules?

Over thirty arbitrations (ICC, LCIA, SCC, AAA, ICSID, UNCITRAL, SAS HGK, HKIAC)

- How often have you acted as Chairman? -
- How often have you acted as Sole Arbitrator? **One**
- How often have you acted as Co-Arbitrator? **One**
- How often have you acted as Counsel? **Thirty-five**
- How often have you acted in a different function (e.g. Administrative Secretary)?

7. Publications and other activities in arbitration (e.g. training sessions, seminars, conferences, articles and others):

Selected Publications

- *The COVID-19 Revolution: The Future Of International Arbitration Is Not Over Yet* (co-authored with Michael McIlwrath) in Scherer, Bassiri and Abdel Wahab (eds), *International Arbitration And The COVID-19 Revolution*, Kluwer Law International (2021)
- *The ICC's Guidance Note On Mitigating The Impact Of COVID-19*, Practical Law (Apr. 23, 2020)
- *WikiLeaks And Beyond: Discerning An International Standard For The Admissibility Of Illegally Obtained Evidence* (co-authored with Cherie Blair QC), 32 ICSID Review – Foreign Investment Law Journal, Issue 3 (2018)
- *The Medium Is The Message: Establishing A System Of Business And Human Rights Through Contract Law And Arbitration* (co-authored with Cherie Blair QC), 35 Journal of International Arbitration, Issue 4 (2018)
- *An Unlikely Tandem Of Criminal Investigations And Arbitral Proceedings: A Case Study Of The INA – MOL Oil & Gas Proceedings*, Kluwer Arbitration Blog (Jan. 26, 2017)
- *Puppies Or Kittens? How To Match Arbitrators With Parties' Expectations* (co-authored with Lucy Greenwood and Michael McIlwrath), Austrian Yearbook on International Arbitration 61 (2016)

Selected Conference Presentations

- *Arguments That Matter When Asking An Investment Arbitration Tribunal To Stop Local Criminal Proceedings*, Mute Off Thursdays – Women’s Arbitration Forum, New York (Jan. 2021)
- *The Fragmentation Of International Law: Resolving The Conflict Between EU Law And International Investment Law*, ABILA International Law Weekend, NY City Bar and Fordham Law School, New York (Oct. 2019)
- *Force Majeure & Hardship Clauses In Arbitration*, ICC YAF, Paris Arbitration Week (April 2019)
- *The Art Of Advocacy: Tips, Tricks And War Stories*, ICDR Y&I, YAWP and WilmerHale, London (Sept. 2018)
- *Does Investment Arbitration Demand Different Rules And Principles To That Used In Commercial Arbitration*, Cambridge Arbitration Days, Cambridge (March 2018)
- *International Arbitration Of Business And Human Rights Disputes*, Vienna Arbitration Days, Vienna (Jan. 2018)
- *Arbitrator Appointments And Parties’ Expectations*, NY City Bar, New York (Sept. 2017)
- *Harvard Negotiation Method & Women Leadership*, Croatian Commerce Association, Zagreb (May 2017)
- *Google Inspire: From A Bosnian Refugee To An International Arbitration Lawyer*, Keynote Talk, Google HQ, London (Jan. 2017), available at: <http://www.theinspiremovement.com/stories/>
- *Mandatory Rules and the Public Order – Comparison of Common Law and Civil Law Approaches*, ICAC/UNCITRAL III. International Arbitration Readings, Kiev (Nov. 2015)

8. Membership in arbitral institutions / functions in arbitral institutions/organizations:

- Founding member of Young Croatian Arbitration Practitioners (YCAP)
- Founding Steering Committee member of Young ArbitralWomen Practitioners (YAWP)
- Co-founder of the international arbitration forum for women, “Mute Off Thursdays”
- Member of ArbitralWomen, YAAP, YIAG, ICC YAF, ICDR Y&I

9. Languages

Mother tongue: **Croatian-Serbian-Bosnian-Montenegrin**

Working languages (i.e. languages in which you have both a spoken and written command so that you may conduct arbitral proceedings in this language): **English, Spanish**

In which legal systems have you trained?

- Civil Law
 - Common Law (UK and US)
 - Austrian Law
 - Hungarian Law
 - Swiss Law
 - Czech Law
 - Polish Law
 - Ukrainian Law
 - German Law
 - Slovakian Law
 - European Law
- Other Croatian Law

10. What is your main jurisdiction of practice?

Croatia, USA, UK

11. In which jurisdictions are you admitted to the bar?

England and Wales (Solicitor), New York (Attorney-at-Law), Croatia (not an active member of the Bar)

12. Special expertise or specializations (please list a maximum of five):

- Antitrust/Unfair competition
- Damages
- Insolvency
- Power plants
- Aviation
- Distribution
- Insurance
- Private Intern. Law
- Banking & Finance
- Domain name disputes
- Public Intern. Law
- Intellectual property (IP)
- Capital markets
- Employment
- ISDS/ Foreign invest.
- Real estate
- CISG
- Energy
- Joint ventures
- Shipping
- Civil fraud disputes
- Engineering
- Licensing
- Sports
- Commercial disp. / transactions
- Entertainment
- Life sciences
- State/Public contracts
- Commodity market
- Healthcare & Pharmac.
- Maritime arbitration
- Technology
- Company/Corporate/M&A
- Hotel/Gastro./Tour.
- Media
- Telecommunication
- Construction
- Inform. technology (IT)
- Mining
- Transport
- Contract law
- Infrastructure
- Natural resources
- Other _____

13. Date of birth: 17 August 1986

VIAC offers arbitration practitioners the possibility to present themselves on its website. VIAC reserves the right to publish any presentations submitted and to remove it as the case may be. Parties are free to nominate an arbitrator of their choice and so is the VIAC Board when appointing an arbitrator. These presentations do not constitute recommendations but may assist the parties in choosing an arbitrator willing to conduct proceedings according to the Vienna Rules. The fact that an arbitration practitioner appears on this list, does not authorize this person to use the title "VIAC-arbitrator".

- I have completed this questionnaire to the above to the best of my knowledge and believe they are accurate.
- I hereby consent that the data provided in this questionnaire may be processed for the appointment of arbitrators and published by VIAC. This includes in particular publication on the website of VIAC as well as use in any presentations, etc. This consent may be withdrawn at any time by contacting VIAC at our general contacts, in particular by email addressed to office@viac.eu. The consequence of any such withdrawal will be that my data will no longer be processed by VIAC. For further information, see our privacy statement at <http://www.viac.eu>.

7 October 2021
Date

and

Signature

Ema Vidak Gojković



Ema Vidak Gojković

Independent Counsel & Arbitrator

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New York, USA

Ema is an independent counsel and arbitrator, specializing in international arbitration and public international law. Before going independent, Ema practiced in leading international law firms including King & Spalding (London and New York), Baker McKenzie (Vienna), and Omnia Strategy – Cherie Blair QC (London).

Ema is triple-qualified in New York, England & Wales, and Croatia. She holds degrees Harvard Law School (with honors) and Zagreb Faculty of Law (*summa cum laude*). She is fluent in English and Croatian-Serbian-Bosnian.

Throughout her career, Ema has advised and represented clients in international disputes under civil, common, and international law. She has acted in around 40 complex, high-stakes, commercial and investment arbitrations under various arbitral rules, including ICC, LCIA, SCC, AAA, HKIAC, ICSID, UNCITRAL and SAS HGK. Ema also sits as arbitrator in both *ad hoc* and institutional arbitrations.

As an independent counsel, Ema works either directly with clients to manage disputes and provide written and oral advocacy, or she partners with law firms to add high-impact, high-value additional capacity to their existing teams. Colleagues and clients value her exceptional combination of intellect and pragmatism, energy and efficiency, and candor and humor.

Ema was recognized by Who's Who Legal as a Future Leader – Arbitration in 2019, 2020, and 2021. She is described as “*one of the best arbitration lawyers of her generation*” and “*a brilliant lawyer*” who “*combines an impeccable knowledge of arbitration law and legal cultures with passion and ethics.*”

Ema regularly speaks and publishes on arbitration topics. She has taught university courses on arbitration, mediation and dispute settlement. She has spoken at Harvard Law School, American Society of International Law (ASIL) – International Law Weekend at Fordham Law School, Cambridge Arbitration Days, Paris Arbitration Week, Vienna Arbitration Days, Kiev Arbitration Days, and Zagreb Arbitration Days.

Ema has published on international disputes topics in leading journals such as ICSID Review and Oxford Journal of Int’l Arbitration. For her article on arbitrator appointment (co-authored with M. McIlwrath and L. Greenwood), Ema was shortlisted for the GAR Best Innovation Award (2017). Earlier this year, “Mute Off Thursdays” – a virtual forum for senior women in arbitration, which Ema co-founded, won GAR Pledge Award for the Best Diversity Initiative (2021).

Representative Experience

Commercial Arbitration

- Sole arbitrator in an LCIA arbitration under English law concerning the assignment of rights and repayment of loans agreed between a UK creditor and an Ecuadorian debtor
- Party-appointed arbitrator in a EUR 20 million shareholder dispute under Croatian law between European parties concerning a golf resort project in Croatia
- Representing a US company in a HKIAC arbitration under English law against their State-owned Chinese joint venture partner concerning a polymetallic mining project in the Republic of Congo
- Representing a US-UK mining conglomerate against Sierra Leone in a USD 1.7 billion dispute concerning expropriation of a mining license in an ICC arbitration under English law, including Emergency Arbitrator proceedings
- Represented US-UK investors against Tanzania in an ICC arbitration under English law regarding power purchase contracts, electricity transmission, and expropriation of a gas-fired power plant
- Represented a UK renewable energy company in an LCIA arbitration under English law against an East African State entity regarding an energy project of national strategic importance
- Represented a BVI entity against multiple European construction companies in an ICC arbitration under English law relating to a shareholders' agreement and privatization and operation of a port in Ghana, including settlement negotiations and mediation
- Represented a Spanish energy company in an ICC arbitration and in parallel criminal proceedings relating to investment fraud, tax evasion, and false accounting under Austrian law
- Advised a Middle Eastern investor on instituting Emergency Arbitrator proceedings under the SCC Rules for Expedited Arbitrations in relation to the cancelation of a mining license
- Represented an Italian infrastructure company against a State-owned entity in an SAS HGK arbitration under Croatian law concerning the construction of a highway tunnel with delay
- Represented an Indian pharmaceutical company against supply and distribution contractors in an *ad hoc* commercial arbitration under English law relating to contract performance, fraudulent transfer to a restricted person, and breaches of IP rights and trade secrets
- Represented a tech company in an *ad hoc* commercial arbitration under Croatian law relating to IP rights in program code and shareholder rights relating to a spin-off start-up organization
- Advised a Delaware company on instituting arbitration proceedings against its joint venture partner in New York under the AAA Rules and New York law
- Represented an Austrian group of companies in an *ad hoc* commercial arbitration under Austrian law concerning shareholders' profit-sharing agreement
- Advised a State-owned equity fund on enforceability and execution of any awards rendered against them and their treatment under the sovereign immunity legislation in the UK and the USA
- Represented a European car company in a shareholder dispute under German law against its Asian joint venture partner concerning R&D, market penetration and profit-sharing agreements

Investment Arbitration

- Representing a consortium of Canadian and Lebanese investors in an ICSID arbitration against Armenia concerning concession contracts for waste management in Yerevan
- Representing a US-UK mining conglomerate against Sierra Leone in a USD 1.7 billion dispute concerning expropriation of a mining license in an ICSID arbitration (including temporary restraining order and provisional measure proceedings)
- Represented Turkey in an ICSID arbitration brought by a UK investor claiming expropriation of media, distribution, real estate, and mining businesses valued at USD 5.5 billion, including advisory work on investment protection in the context of terrorism and national security
- Represented renewable energy investors against Italy and Spain in multiple ICSID arbitrations under the ECT relating to tariff agreement cancellation
- Represented US-UK investors against Tanzania in an ICSID arbitration relating to power purchase agreements, electricity transmission projects, and expropriation of a natural gas-fired power plant in Tanzania
- Represented an African State in an UNCITRAL arbitration brought by a consortium of international energy and mining investors concerning the cancellation of a mining exploration license, including settlement discussions and mediation
- Represented an Austrian investor against Croatia in an ICSID arbitration relating to food business real estate projects and arms trade control
- Represented Montenegro in an ICSID arbitration brought by an Austrian banking and finance investor regarding foreign exchange and currency control legislation
- Represented Turkey in an ICSID arbitration brought by a Belgian investor claiming expropriation of a media business
- Represented a Middle Eastern investor against an Asian state in an OIC/UNCITRAL arbitration relating to expropriation of rights in steel manufacturing and mining sectors
- Advised Montenegro on early dispute resolution strategy and settlement opportunities regarding an UNCITRAL dispute brought by a consortium of UK-Cypriot foreign investors claiming expropriation of a private bank and real estate projects with the alleged value of EUR 0.5 billion
- Advised Albania in an ICSID arbitration brought by a German investor relating to privatization of a former “socially”-owned company and its license rights concerning food stamps
- Advised a Bosnian investor on BIT claims relating to expropriation of a medical facility and medical license in Croatia
- Advised a Middle Eastern banking and finance organization on its standing as a foreign investor in North America in relation to a complex set of foreign transfer banking relationships

Public International Law

- Advised a Southern European state on public international law aspects of a boundary dispute and the division of land and sea in the context of state succession
- Advised an Eastern European government on human rights issues relating to riots and freedom of speech in the context of ongoing European Court of Human Rights cases
- Advised a Central European state on public international law aspects of illegal arms trade

Selected Procedural Experience

- Emergency arbitration proceedings
- Provisional measures (including *ex parte* requests) to prevent destruction of evidence, to protect confidentiality, to prevent witness harassment, to suspend a criminal investigation over claimant and claimant's key officers, to prohibit extradition, to limit a tax investigation, and to prevent cancellation of a mining license and its issuance to a new investor
- Security for costs and applications to disclose financial arrangements with third parties
- Applications to compel witness testimony and to allow anonymized witness testimony
- Applications to exclude evidence obtained illegally (including through privacy breaches) and falsified audio and video recordings
- Applications for imposition of a daily penalty for non-compliance with tribunal orders
- Respondent non-participation
- Settlement, direct party negotiation and mediation

Selected Industry Experience

- **Energy, natural resources and mining:** multinational energy and local SPV companies, upstream and downstream, gold, copper, zinc, lead, and iron ore mining, oil and gas, concessions and licenses, powerplants, power purchase agreements, electricity transmission projects, liquefied natural gas (LNG), oil and gas pipelines, renewable energy, wind-powered electric generation facility (wind farm), solar plant, steel manufacturing
- **Construction:** highway, road tunnels, transportation corridors, waterways and other buried infrastructure, contamination of groundwater, port concession and operation, container terminals, manufacturing plant, subcontractor agreements, delay and defects, related geodata, cadaster and land registry conformity issues
- **Post-M&A, joint venture, commercial:** partnership agreement, joint venture agreement, share purchase agreement, hostile takeover, minority shareholder protection, cooperation and distribution agreement, working capital disputes, revenue sharing agreement, succession disputes regarding licenses and concessions, franchise agreement, trade secrets, questions of "touch and feel" conformity of products under cooperation and R&D agreements, first refusal option, asset purchase



agreement, real estate and development agreement, securities, supply agreement, luxury goods and commodities, waste management

- **Hospitality:** hotels and resorts, spa and golf resorts, restaurants, food and beverages, franchise
- **Technology:** technology companies, information technology companies and start-ups, share purchase agreement involving dispute over IP rights, licensing agreement, option agreement
- **Life sciences:** Health care, pharmaceutical, biopharmaceutical and biotechnology
- **Financial services:** financial agreements, loans (including issues of consumer protection legislation), liquidation sale and settlement
- **Public international law:** represented investors and states in almost 20 investment treaty arbitration cases, including issues related to mining, energy and natural resources, preferential tariffs and tax assessments, royalty calculation and payments, licenses and concessions, media, distribution, real estate, banking and finance, foreign exchange and currency control legislation, banking, hospitality, social ownership privatization transformations, illegality and corruption, fraud, illegal arms trade and international criminal law, territorial boundary disputes, state succession, and human rights issues relating to freedom of speech, riots, protection of ownership, and prosecution and prevention of terrorism

Selected Publications

- *UK Supreme Court Delivers Landmark Judgment on Arbitrator Bias and Duty of Disclosure*, 14 NYSBA New York Dispute Resolution Lawyer, Issue 1 (2021)
- *The COVID-19 Revolution: The Future Of International Arbitration Is Not Over Yet* (with Michael McIlwrath) in Scherer, Bassiri and Abdel Wahab (eds), *International Arbitration And The COVID-19 Revolution*, Kluwer Law International (2021)
- *The ICC's Guidance Note On Mitigating The Impact Of COVID-19*, Practical Law Blog (Apr. 23, 2020)
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- *The Medium Is The Message: Establishing A System Of Business And Human Rights Through Contract Law And Arbitration* (with Cherie Blair QC), 35 Journal of International Arbitration, Issue 4 (2018)
- *An Unlikely Tandem Of Criminal Investigations And Arbitral Proceedings: A Case Study Of The INA – MOL Oil & Gas Proceedings*, Kluwer Arbitration Blog (Jan. 26, 2017)
- *Puppies Or Kittens? How To Match Arbitrators With Parties' Expectations* (with Lucy Greenwood and Michael McIlwrath), Austrian Yearbook on International Arbitration 61 (2016)
- *The UNCITRAL Convention On Enforcement Of Conciliated Settlement Agreements – An Idea Whose Time Has Come?*, Kluwer Mediation Blog (Oct. 21, 2015)
- *Banking Disputes And Regulation In Croatia*, Getting the Deal Through (with Luka Rimac) (2014)
- *The Recent Amendments To The Croatian Constitution And Their Impact On The Effective Prosecution Of White Collar Crimes Committed In The Privatization Period*, The Lawyer (2010) (awarded The University Chancellor's Best Thesis Award in 2010)



Selected Conference Presentations

- *Tech Disputes – Lessons Learned From The Perspective Of Counsel And Arbitrator*, Joint YCAP/SVAMC-YP Conference on Tech, Start-ups and Dispute Resolution, Virtual/Zagreb (June 2021)
- *Arguments That Matter When Asking Investment Arbitration Tribunals To Stay Criminal Proceedings*, Mute Off Thursdays – Women’s Arbitration Forum, New York (Jan. 2021)
- *The Strategic Pathway In The “New Normal” Of International Arbitration: How Arbitral Institutions Faced The Covid Era*, ArbIt and Milan Chamber of Arbitration, Milan (Nov. 2020)
- *The Fragmentation Of International Law: Resolving The Conflict Between EU Law And International Investment Law*, ABILA International Law Weekend, Fordham Law School, New York (Oct. 2019)
- *Force Majeure & Hardship Clauses In Arbitration*, ICC YAF, Paris Arbitration Week (April 2019)
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- *Google Inspire: From A Bosnian Refugee To An International Arbitration Lawyer*, Keynote Talk, Google HQ, London (Jan. 2017)
- *Mandatory Rules and the Public Order – Comparison of Common Law and Civil Law Approaches*, ICAC/UNCITRAL III. International Arbitration Readings, Kiev (Nov. 2015)

Professional Associations

- Member, ICC YAF
- Member, LCIA YIAG
- Founder, YCAP - Young Croatian Arbitration Practitioners
- Member, American Society of International Law (ASIL)
- Member, Harvard Law School Alumni Network
- Member, International Bar Association (IBA)
- Member, New York State Bar Association (NYSBA)
- Founder, Mute Off Thursdays – Virtual Forum for Women in Arbitration



Accolades

“Ema is brilliant, insightful, and knowledgeable beyond her years” – Who’s Who Legal, Arbitration Future Leaders 2021

“She brought tremendous clarity to very complicated issues and showed deep understanding of client needs” – Who’s Who Legal, Arbitration Future Leaders 2021

“Ema is a true star – one of the best arbitration lawyers of her generation” – Who’s Who Legal, Arbitration Future Leaders 2020

“Ema combines an impeccable knowledge of arbitration law and legal cultures with passion and ethics” – Who’s Who Legal, Arbitration Future Leaders 2020

“Ema is a real star, combining sharp intellect with exceptional pragmatism and intuition. She will flourish from the start” – Gary Born (WilmerHale) in a comment for Global Arbitration Review, Dec 2020

“Ema is a formidable lawyer who has achieved a tremendous amount in her career” – Cherie Blair QC (Omnia Strategy) in a comment for Global Arbitration Review, Dec. 2020

“Ema is a real trailblazer [...] she’ll attain success through her energy, sharp mind and hard work” – Michael McIlwrath (Baker Hughes, a GE company) in a comment for Global Arbitration Review, Dec. 2020

“Ema is a brilliant lawyer” – Who’s Who Legal, Arbitration Future Leaders 2019

“She is capable of transforming complicated issues into simple and straightforward points” – Who’s Who Legal, Arbitration Future Leaders 2019