

Emma Vidak Friedman Independent Arbitrator



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Emma Vidak Friedman is an international arbitrator based in New York. Before founding her independent practice, she practiced in leading international law firms **King & Spalding** (London and New York), **Baker McKenzie** (Vienna) and Omnia Strategy under Cherie Blair QC (London).

Ms Vidak Friedman has a mixed common and civil law background. She is triple-qualified in New York, England & Wales and Croatia. She holds degrees from **Harvard Law School** and University of Zagreb. She also holds the SCC Diploma for International Arbitrators.

Throughout her career, Ms Vidak Friedman has advised and represented clients in **over 50 complex, high-stakes, commercial and investment arbitrations** under all major arbitral rules, including ICC, LCIA, SCC, AAA, HKIAC, SAS HGK, ICSID, UNCITRAL, ECT and OIC.

Ms Vidak Friedman is frequently appointed as arbitrator in both *ad hoc* and institutional arbitrations. She is included on rosters/databases of all major institutions, including the ICSID Panel of Arbitrators. Many of her arbitrations included **joint venture or shareholder disputes** or disputes in the **energy, mining or sale and manufacturing industries**.

Ms Vidak Friedman's procedural approach and philosophy is described here: <https://www.vidakarbitration.com/arbitrator-philosophy>

Ms Vidak Friedman is recognized by **Who's Who Legal** as a member of the **Global Elite – Thought Leaders and Arbitration** (2018-2023). Her peers and clients call her *"a well-established arbitrator, excellent and effective with superb instincts"*, *"incredibly knowledgeable, experienced and innovative"*, *"an extremely bright and sharp mind"*, and *"one of the best arbitration lawyers of her generation"*. WWL 2022 recognized Ms Vidak Friedman as *"a role model for the new generation of arbitrators"*.

Ms Vidak Friedman is an **Adjunct Professor at McGill University**, where she teaches Advocacy and Strategy in International Arbitration. She frequently speaks and publishes on international disputes topics. Recently she spoke at Harvard Law School, Cambridge Arbitration Days, Vienna Arbitration Days and Paris Arbitration Week. For her article on arbitrator appointment (with McIlwrath and Greenwood), she was shortlisted for the **GAR Best Innovation Award** in 2017. She is the founder of **Mute Off Thursdays**, a virtual forum for senior arbitration women, which won the GAR Pledge Award in 2021, and again in 2023 for its Compendium of Unicorns – **A Global Guide to Women Arbitrators**.

Ms Vidak Friedman contributes to thought leadership in the international arbitration community. She is appointed to multiple Boards and Committees, including LCIA's North America Users' Council, VIAC's Advisory Board, ICC's Small Value Disputes Working Group, ICDR Y&I and CPR Y-ADR. She Co-Chairs the **IBA Arbitration Committee's** Working Group on Site Visit Model Protocol in the Mining, Energy and Construction Arbitrations.

Representative Experience

Commercial Arbitration

- Sole arbitrator in an ICC arbitration under Delaware law between an American tech developer and an Israeli start-up concerning intellectual property rights in relation to the source code and breach of contractual rights under a development and distribution license agreement
- Sole arbitration in an LCIA arbitration under English law concerning director and shareholder rights after a demerger and termination of a joint venture agreement between a French businessperson and an English company
- Sole arbitration in an SCC arbitration under Israeli law and the CISG concerning breaches of a contract for sale, manufacturing and distribution of food products between an Israeli claimant and a Polish respondent (expedited arbitration rules)
- Co-arbitrator in an LCIA arbitration under English law concerning a steel manufacturing dispute between an Estonian claimant and a Polish respondent
- Sole arbitrator in an LCIA arbitration under English law between an English energy company and a Ukrainian storage and shipping company concerning breaches of the onshore tanks storage and transshipment service contracts
- Co-arbitrator in a SAS HGK arbitration concerning EUR 20 million shareholder dispute under Croatian law between Central European joint venture partners in a luxury golf resort project
- 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 (non-participating respondent)
- Sole arbitrator in an ICC arbitration under Austrian law concerning a metal trading dispute in Central and Eastern Europe between an Austrian claimant and a Romanian respondent (expedited arbitration rules)
- Sole arbitrator in an LCIA arbitration under English law between a Singaporean claimant and an African respondent concerning offtaking and long-term export contracts for Natural Gas Liquids (NGL) purchased from a State-owned petroleum company
- Represented an international oil & gas company against a joint venture partner in Latin America in a USD 150 million LNG dispute under ICC rules and New York law concerning regasification, reloading and indexed gas pricing
- Represented a US company against a State-owned Chinese joint venture partner in a USD 1.2 billion dispute under HKIAC rules and English law concerning a polymetallic mining project in the Republic of Congo
- Represented a US-UK mining conglomerate against Sierra Leone in a USD 1.7 billion dispute under ICC rules and English law concerning expropriation of a mining license (initial Emergency Arbitrator proceedings with interim measures and full arbitral 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 in Croatia
- 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
- 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 and Public International Law

- Represented 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 a consortium of Canadian and Lebanese investors in an ICSID arbitration against Armenia concerning concession contracts for waste management in Yerevan
- 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 Montenegro in an ICSID arbitration brought by an Austrian banking and finance investor regarding foreign exchange and currency control legislation
- 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 Turkey in an ICSID arbitration brought by a Belgian investor claiming expropriation of a media business

- Represented renewable energy investors against Italy and Spain in multiple ICSID arbitrations under the ECT relating to tariff agreement cancellation
- Represented an Austrian investor against Croatia in an ICSID arbitration relating to food business real estate projects and arms trade control
- 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 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
- 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 a Central European state on public international law aspects of embargoed arms trade
- 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

Selected Procedural Experience

- Emergency arbitrations
- Expedited arbitrations
- Party non-participation
- Interim and provisional measures (including *ex parte*) to prevent destruction of evidence, to protect confidentiality, to prevent witness harassment, to suspend a criminal investigation, to prohibit extradition, to limit a tax investigation, and to prevent license cancellation
- 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
- Site visits (virtual and in person)
- Applications for imposition of a daily penalty for non-compliance with tribunal orders
- Settlement, direct party negotiation and mediation

Selected Industry Experience

- ***Mining, energy and natural resources:*** multinational energy and local SPV companies, upstream and downstream, gold, copper, zinc, lead, silver, nickel and iron ore mining, oil and gas, concessions and licenses, powerplants, power purchase agreements, electricity transmission projects, liquefied natural gas (LNG), reloading and regasification, oil and gas pipelines, renewable energy, wind-powered electric generation facility (wind farm), solar plant, steel manufacturing, metal trading
- ***Post-M&A, joint venture and company disputes:*** joint venture agreement, partnership agreement, share purchase agreement, minority shareholder protection, hostile takeover, cooperation and distribution agreement, working capital disputes, performance payment, 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
- ***Sale, manufacturing and distribution of goods:*** sale, manufacturing and distribution agreements, relationship with the wholesaler, assembler and importer, implied warranties, material and reasonable requirements, bankruptcy and insolvency of contractual partners and assignment of rights and benefits, voluntary abandonment of the business or agreement, termination, joint development agreement, packaging conformity, brand ‘touch and feel’ obligations, food products, food health and safety, efficiency of factory operations, agricultural products
- ***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
- ***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 and option agreement, source code
- ***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

- *Temporary Restraining Orders in ICSID Practice*, ICSID Review – Foreign Investment Law Journal (upcoming in 2023)
- *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)
- *WikiLeaks And Beyond: Discerning An International Standard For The Admissibility Of Illegally Obtained Evidence* (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* (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

- *Back to the Future or the New Normal – Procedural Disruptions in Energy Arbitrations*, 11th ITA-IEL-ICC Joint Conference on International Energy Arbitration, Houston (March 2023)
- *Implicit Bias and the Science of Decision Making*, CPR Annual Meeting, New Orleans (Jan. 2023)
- *Efficiency – Good In Itself Or Just One Consideration For A Successful Arbitration?*, ICC Canada Arbitration Committee Annual Conference 2022, Montreal (Oct. 2022)
- *Drafting An Arbitration Agreement – Law and Practice*, Arbitration Ireland, Virtual (April 2022)
- *The Unwritten Rules of A Career In International Arbitration*, ICC YAF, Virtual/Paris (Jan. 2022)
- *Procedural Innovation: New Solutions To Old Problems*, ICC YAF, Virtual/New York (Dec. 2021)
- *Reforming Investor-State Dispute Resolution*, Balkan Arbitration Conference, Virtual (July 2021)
- *Tech Disputes – Lessons Learned From The Perspective Of An 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)

- *The Art Of Advocacy: Tips, Tricks And War Stories*, ICDR Y&I 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)
- *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 and Teaching

- Adjunct Professor at McGill University, "*Strategy and Advocacy in International Arbitration*"
- Co-Chair of the IBA Working Group on Site Visit Model Protocol with IBA Arbitration Committee
- Founder of Mute Off Thursdays
- Faculty Member at FIAA Foundation for International Arbitration Advocacy
- Faculty Member at GAR Academy on International Arbitration
- VIAC Advisory Board and VIAC Legal Tech Think Tank
- ICC Task Force on Small to Medium Value Disputes
- LCIA North America Users' Council
- CPR Y-ADR Steering Committee
- ICDR Y&I Board

Accolades

"A well-established independent counsel and arbitrator, who is excellent and effective with superb strategic instincts."

– Who's Who Legal, Arbitration 2023

"She is a role model for the new generation of arbitrators and one to watch"

– Who's Who Legal, Arbitration 2022

"Ema is an extremely bright and sharp mind, and definitely one of the stars"

– Who's Who Legal, Arbitration 2022

"She is incredibly knowledgeable, experienced and innovative"

– Who's Who Legal, Arbitration 2022

"Ema is technically strong and ethically impeccable"

– Who's Who Legal, Arbitration 2022

"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 transforms complicated issues into simple and straightforward points"

– Who's Who Legal, Arbitration Future Leaders 2019